



# City of Cincinnati

801 Plum Street  
Cincinnati, Ohio 45202

## CALENDAR

### Cincinnati City Council

Wednesday, June 23, 2021

2:00 PM

Council Chambers, Room 300

#### ROLL CALL

#### PRAYER AND PLEDGE OF ALLEGIANCE

#### FILING OF THE JOURNAL

#### MR. GOODIN

1. [202102377](#) **RESOLUTION**, submitted by Councilmember Goodin, from Andrew W. Garth, City Solicitor, **ENCOURAGING** current City councilmembers, council candidates, and mayoral candidates to electronically file their campaign finance materials with the BOE-File Campaign Finance Portal website (<https://boefile.ohiosos.gov>).

**Recommendation** MAJOR PROJECTS & SMART GOVERNMENT COMMITTEE

**Sponsors:** Goodin

#### MS. KEARNEY

2. [202102299](#) **MOTION**, dated 6/15/2021, submitted by Councilmember Kearney, **WE MOVE** for City Council to establish a Division of Gender Equity in the Office of Human Relations (OHR), which will not immediately require additional staff or funding. The Division will implement recommendations compiled by the City of Cincinnati Gender Equality Task Force based on the Gender Study of City of Cincinnati Government Final Report for Phase One (2017-2018) and Two (2018-2019), executed by the University of Cincinnati Gender Equity Research Team and submitted to City of Cincinnati Gender Equality Task Force on January 24, 2020, pursuant to Ordinances 0091-2017 and 0092-2017. The Division's work can include but will not be limited to implementing policies that are centered on career advancement for women and people of color; increasing implicit bias and cultural competency training for all city employees; conducting assessments of employees' gender and racial biases in the Police and Fire departments; and improving ways to report discrimination or harassment city-wide. (STATEMENT ATTACHED).

**Recommendation** EQUITY, INCLUSION, YOUTH & THE ARTS COMMITTEE

**Sponsors:** Kearney

3. [202102306](#) **MOTION**, dated 6/15/2021, submitted by Councilmember Kearney, **WE MOVE** that the City of Cincinnati allocate \$2.5 million from the Fleet Replacement funds in the capital budget to remove the West Fork Incinerator in South Cumminsville. These bonded capital dollars should be allocated from the 40% portion of the fleet replacement funds that are not allocated to police and fire

vehicles.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** Kearney

4. [202102383](#) **RESOLUTION**, submitted by Councilmember Kearney, from Andrew Garth, City Solicitor, **EXPRESSING** the support of the Mayor and the Cincinnati City Council for the passage of S. Bill 1237, "Jaime's Law," currently pending in the 117th Congress, First Session, and their ratification of the City Administration's efforts to effectuate its swift passage to address gun-related injuries and deaths, on behalf of the City of Cincinnati and its residents.

**Recommendation** LAW AND PUBLIC SAFETY COMMITTEE

**Sponsors:** Kearney

### MR. LANDSMAN

5. [202102391](#) **MOTION**, dated 6/21/2021, submitted by Councilmember Landsman, **WE HEREBY MOVE** that \$50,000 be included in the administration's FY21 carry-over budget for the Citizen Complaint Authority (CCA). (STATEMENT ATTACHED).

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** Landsman

### MR. MANN

6. [202102292](#) **COMMUNICATION**, submitted by Councilmember Mann, from Melancthon W. Chatfield, regarding a property at 3500 Glenway Avenue, owned by The Hyde Park Lumber Company, requesting the City of Cincinnati forgive any and all current or back taxes.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** Mann

7. [202102310](#) **MOTION**, dated 6/16/2021, submitted by Councilmember Mann, **I MOVE** that the City Administration create a Master Plan for street calming and pedestrian safety. (STATEMENT ATTACHED)

**Recommendation** LAW AND PUBLIC SAFETY COMMITTEE

**Sponsors:** Mann

8. [202102369](#) **RESOLUTION**, submitted by Councilmember Mann, from Andrew W. Garth, City Solicitor, **URGING** the Ohio General Assembly to remove or otherwise defeat the amendment in the budget bill (Substitute House Bill 110) that would have a significant negative impact on tens of thousands of affordable apartments in Ohio and thousands of such apartments in Cincinnati occupied by low-income tenants by changing the property tax valuation of such properties to market rate properties, dramatically increasing the property tax on those properties, resulting in higher rents for those least able to afford them, and decreasing the availability of affordable housing.

**Recommendation** EQUITY, INCLUSION, YOUTH & THE ARTS COMMITTEE

**Sponsors:** Mann



**MR. SEELBACH**

9. [202102357](#) **RESOLUTION**, submitted by Councilmember Seelbach, from Andrew Garth, City Solicitor, **RECOGNIZING** and honoring John Curp, Aaron Herzig, and the City of Cincinnati's Law Department for their contributions to the City and their advocacy on behalf of the lesbian, gay, bisexual, transgender, queer, intersex, and asexual ("LGBTQIA") community.
- Recommendation PASS
- Sponsors: Seelbach
10. [202102363](#) **RESOLUTION**, submitted by Councilmember Seelbach, from Andrew Garth, City Solicitor, **RECOGNIZING** and honoring Ryan L. Messer for his advocacy on behalf of the lesbian, gay, bisexual, transgender, queer, intersex and asexual ("LGBTQIA").
- Recommendation PASS
- Sponsors: Seelbach
11. [202102389](#) **COMMUNICATION**, submitted by Councilmember Seelbach, from Joseph Pflum regarding parking on 15 St. in Over the Rhine.
- Recommendation FILE
- Sponsors: Seelbach
12. [202102397](#) **ORDINANCE (EMERGENCY)**, dated 6/21/2021, submitted by Councilmember Seelbach, from Andrew W. Garth, City Solicitor, **TO SUBMIT** to the electors of the City of Cincinnati an amendment to the Charter of the City that would establish a 0.1% earned income tax levy for financing affordable housing for low-income households, and otherwise providing for the housing needs of low-income households such that the overall City earnings tax rate is increased from 1.8% to 1.9% and that would remove obsolete language from the Charter, by amending existing Section 6c of Article VIII, "Taxation and Finance."
- Recommendation EDUCATION, INNOVATION & GROWTH COMMITTEE
- Sponsors: Seelbach
13. [202102405](#) **MOTION**, submitted by Councilmember Seelbach, **WE MOVE** that the Administration prepare for \$500,000 of the FY21 Closeout funds to be set aside for the stabilization of the First Lutheran Bell Tower on Race Street in Over-the-Rhine. These funds shall be appropriated in a future ordinance.
- Recommendation BUDGET AND FINANCE COMMITTEE
- Sponsors: Seelbach

**MR. SMITHERMAN**

14. [202102392](#) **RESOLUTION**, submitted by Vice Mayor Smitherman, from Andrew Garth, City Solicitor, **RECOGNIZING** and expressing the appreciation of the Mayor and the Council of the City of Cincinnati to Linda Marie Lee, a wonderful wife, marvelous mother, gracious grandmother, and fabulous friend and expressing love from her many family members and friends and the City of Cincinnati's support in supporting mothers and raising the awareness of her life, love, and legacy for the past 70 years.

Recommendation PASS

Sponsors: Smitherman

## CITY MANAGER

15. [202102262](#) **REPORT**, dated 6/23/2021 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 ROOTED CINCINNATI LLC, DBA ROOTED JUICERY & KITCHEN, 113 W. Elder Street, Cincinnati, Ohio 45202. (#7512584, D5J, D6, TRANSFER) [Objections: NONE]

Recommendation FILE

Sponsors: City Manager

16. [202102263](#) **REPORT**, dated 6/23/2021 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 CLUTCH HOSPITALITY GROUP LLC, DBA CLUTCH, 1107 Vine Street, 1st Fl Basement & Patio, Cincinnati, Ohio 45202. (#1548714, D5, D6, TRANSFER) [Objections: NONE]

Recommendation FILE

Sponsors: City Manager

17. [202102264](#) **REPORT**, dated 6/23/2021 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 TORTILLERIA GARCIA INC, DBA TORTILLERIA GARCIA, 5917 Hamilton Avenue, Cincinnati, Ohio 45224. (#9005917, D5J, NEW) [Objections: NONE]

Recommendation FILE

Sponsors: City Manager

18. [202102269](#) **REPORT**, dated 6/23/2021, submitted by Paula Boggs Muething, City Manager, regarding Motion for spin bicycles and Red Bike program expansion. (See Doc. #202101653)

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

19. [202102321](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **ACCEPTING AND CONFIRMING** the dedication of approximately 0.211 acres of real property as public right-of-way for street purposes, as portions of the public street designated as Kellogg Avenue located in the East End neighborhood of Cincinnati.

Recommendation ECONOMIC GROWTH & ZONING COMMITTEE

Sponsors: City Manager

20. [202102322](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **MODIFYING** the provisions of Title VII, "Business Regulations" of the Cincinnati Municipal Code by **ORDAINING** new Chapter 811, "e-Scooter Rental Franchises," and **AMENDING** Section 1501-9, "Class D Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code to establish e-scooter rental franchises for the rental of e-scooters in the City of Cincinnati.

**Recommendation** MAJOR PROJECTS & SMART GOVERNMENT COMMITTEE

21. [202102323](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **MODIFYING** Title VII, "General Regulations," of the Cincinnati Municipal Code by AMENDING the provisions of Chapter 719, "Wireless Communications Facilities in the Right of Way," to ensure that the City's regulation of wireless communication facilities in the public right-of-way is consistent with recent changes to applicable state and federal laws and regulations.

**Recommendation** MAJOR PROJECTS & SMART GOVERNMENT COMMITTEE

22. [202102324](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a Victims of Crime Act Grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit's Victims' Assistance Practitioner in the State Victims Assistance Act and the federal Victims of Crime Act grant programs; and **AUTHORIZING** the Director of Finance to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

23. [202102349](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **AUTHORIZING** the City Manager to accept and appropriate a grant in the amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

24. [202102350](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body armor expenditures, related to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is approximated to be \$292,000; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

25. [202102351](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **AUTHORIZING** the City Manager to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal

Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.

**Recommendation**

BUDGET AND FINANCE COMMITTEE

**Sponsors:**

City Manager

**BUDGET AND FINANCE COMMITTEE**

26. [202102064](#) **REPORT**, dated 6/9/2021, submitted by Paula Boggs Muething, City Manager, regarding HOCC Academy as part of the Community Police Partnering Center. (See Doc. #202100867)

**Recommendation** APPROVE & FILE

**Sponsors:**

City Manager

27. [202102116](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of bonds or notes in anticipation of such bonds, by the City of Cincinnati, Ohio in the principal amount of \$29,540,000 for the purpose of making street improvements.

**Recommendation** PASS EMERGENCY

**Sponsors:**

City Manager

28. [202102121](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of bonds or notes in anticipation of such bonds, by the City of Cincinnati, Ohio in the principal amount of \$6,365,000 for the purpose of making public building improvements.

**Recommendation** PASS EMERGENCY

**Sponsors:**

City Manager

29. [202102122](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of bonds or notes in anticipation of such bonds, by the City of Cincinnati, Ohio in the principal amount of \$13,845,000 for the purpose of making equipment improvements.

**Recommendation** PASS EMERGENCY

**Sponsors:**

City Manager

30. [202102123](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of bonds or notes in anticipation of such bonds, by the City of Cincinnati, Ohio in the principal amount of \$2,835,000 for the purpose of making stormwater improvements.

**Recommendation** PASS EMERGENCY

**Sponsors:**

City Manager

31. [202102124](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of notes in the principal amount of \$13,408,000 by the City of Cincinnati in anticipation of the issuance of bonds, and to provide funds for street improvements.

**Recommendation** PASS EMERGENCY

**Sponsors:**

City Manager

32. [202102125](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance notes in the principal amount of \$4,935,000 by the City of Cincinnati in anticipation of the issuance of bonds, and to provide funds for recreation improvements.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
33. [202102126](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of notes in the principal amount of \$2,055,000 by the City of Cincinnati in anticipation of the issuance of bonds, and to provide funds for park improvements.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
34. [202102127](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of notes in the principal amount of \$2,492,000 by the City of Cincinnati in anticipation of the issuance of bonds, and to provide funds for public building improvements.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
35. [202102128](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance, sale and delivery of (I) not to exceed \$70,000,000 of Water System Revenue bonds, Series 2021A, of the City of Cincinnati, County of Hamilton, State of Ohio, for the purpose of financing certain improvements; and (II) not to exceed \$190,000,000 of Water System Refunding Revenue bonds, Series 2021B of the City of Cincinnati, County of Hamilton, State of Ohio, for the purpose of refunding outstanding bonds; AUTHORIZING a pledge of and lien on Water System Revenues to secure such bonds and obligations; AUTHORIZING a supplemental trust agreement; and AUTHORIZING necessary documents to secure such bonds.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
36. [202102129](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance, sale and delivery of bonds in a principal amount not to exceed \$170,000,000 by the City of Cincinnati, County of Hamilton, State of Ohio, for the purpose of refunding all or a portion of certain outstanding general obligation bonds of the City, including, but not limited to, the outstanding general obligation bonds listed on Exhibit A hereto, and providing for a refunding savings threshold in connection therewith.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
37. [202102130](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance, sale and delivery of bonds in a principal amount not to exceed \$70,000,000 by the City of Cincinnati, County of Hamilton, State of Ohio, for the purpose of refunding all or a portion of certain outstanding economic development bonds of the City,



including, but not limited to, the outstanding economic development bonds listed on Exhibit A hereto, and providing for a refunding savings threshold in connection therewith.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

38. [202102131](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance of bonds or notes in anticipation of such bonds, by the City of Cincinnati, Ohio in the principal amount of \$1,800,000 for the purpose of making parks and recreation improvements.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

39. [202102132](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/9/2021, **REPEALING AND REORDAINING** the provisions of Chapter 401, "Water Works," Section 401-76, "Service Charges," Section 401-77, "Water Commodity Charges," Section 401-78, "Charges for Fire Protection Services," Section 401-81, "Charges to Political Subdivisions," and Section 401-89, "Direct Fire Protection Charges" of the Cincinnati Municipal Code for the purpose of revising the rates for water and related services furnished by the Greater Cincinnati Water Works, consistent with annual water rate increase of 3.75% in 2022 and 5.55% in each of 2023 through 2026.

**Recommendation** PASS

**Sponsors:** City Manager

40. [202102153](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/9/2021, **MODIFYING** Title VII, "General Regulations," of the Cincinnati Municipal Code by amending Section 723-16, "Sidewalk Vending," of Chapter 723, "Streets and Sidewalks, Use Regulations," to establish a new sidewalk vending district in proximity to TQL Stadium in the West neighborhood.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

41. [202102158](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/9/2021, **PROVIDING** for the appropriation of funds and authorization of expenditures from General Fund 050 in the amount of \$440,788,700 for the fiscal year beginning July 1, 2021 and ending June 30, 2022, reflecting a portion of the Recommended FY 2022 General Fund Operating Budget totaling \$441,113,700, per the attached Schedule of Appropriation, in order to provide for the current expenses and other expenses of the City of Cincinnati; **AUTHORIZING** the transfer of the sum of \$3,466,118 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Bond Retirement Fund 151 for the purpose of paying the City's FY 2022 General Fund debt service obligations related to the Ohio Police and Fire Pension Fund in the amount of \$2,526,858 and the Early Retirement Incentive Program (ERIP) in the amount of \$939,260; **AUTHORIZING** the transfer of the sum of \$16,568,110 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416 for the



purpose of providing for the FY 2022 General Fund Operating Budget portion of the expenses of the Cincinnati Health Department; AUTHORIZING the transfer and appropriation of the sum of \$150,000 from the unappropriated surplus of General Fund 050 to the Citizens Jobs Fund 308 Department of Recreation personnel operating budget account no. 308x199x7100 for the purpose of providing funding for youth employment opportunities; APPROVING the recommendation of the Mayor for an increase in the compensation of City Manager Paula Boggs Muething effective June 27, 2021; REVISING the Classification and Salary Range Schedule for all employment classifications in Divisions 0, 5, 7 (LAW), 8, and 9 of Chapter 307 of the Cincinnati Municipal Code to establish the new Classification and Salary Range Schedule for said classifications and to provide for a cost-of-living adjustment of 2.0% effective June 27, 2021; and further ESTABLISHING the annual inflationary amount applied to the fees charged for services related to permitting and property maintenance by the Department of Buildings and Inspections at 1.23% and instituting a new 1.0% training surcharge.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

42. [202102175](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/9/2021, **APPROVING AND ADOPTING** a Capital Improvement Program and Budget for Fiscal Year 2022, transferring and appropriating taxes and other revenue and existing funds for the purpose of carrying out certain parts of the Capital Improvement Program, and providing for the transfer and appropriation of notes to be issued and to be repaid from the lease proceeds of the Cincinnati Southern Railway to other parts of said Capital Improvement Program; AUTHORIZING the transfer and return to source Funds 757, 758, and 762 the sum of \$4,000,000 from various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; AUTHORIZING the transfer and appropriation of the sum of \$1,500,000 to various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; AUTHORIZING the transfer and appropriation of the sum of \$2,500,000, to be raised by the issuance of bonds by the City of Cincinnati, to various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; Authorizing the transfer and appropriation of resources from various existing funds to various project accounts; and further DECLARING certain projects to be for a public purpose, all for the purpose of carrying out the Capital Improvement Program.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

43. [202102188](#) **MOTION**, dated 6/9/2021, submitted by Councilmembers Kearney and Goodin, **WE MOVE** that the Division Manager of the Office of Human Relations, in consultation with the Mayor, Human Resources, and the office of Aging and Accessibility, select a task force to develop a diversity, equity, inclusion and accessibility policy for the City of Cincinnati. **WE MOVE** that the City of Cincinnati utilize the existing contract between the City of Cincinnati's Office of Human Relations and Kathy DeLaura, Managing Director, Partners In Change,

LLC as the consultant to lead the development of the policy. Payment shall be from the remaining funds under the existing contract with the Office of Human Relations in the amount of approximately \$4,000. WE MOVE that the individuals appointed are sent to City Council for confirmation.

**Recommendation** ADOPT

**Sponsors:** Kearney and Goodin

44. [202102195](#) **MOTION**, submitted by Councilmember Sundermann, Mann and Kearney, **WE MOVE** the City Administration, working in collaboration with the Cincinnati Police, to prepare a comprehensive report detailing a plan for establishing a new District 5 police station (D5). The current D5 is in a strip mall and was only meant to be temporary, but has been used for 3 years already, with funding intending to continue its use. It does not meet the needs of a police station. D5 shares a parking lot with a convenience food store and a day care. The combination of police cruisers, shoppers, and parents with babies in the parking lot creates possible liability for the city. The city does not own the current location, yet will spend millions of dollars this year to bring it up to code. The establishment of a new D5 is a priority of the Council. This report should include all of the following, and any further criteria deemed relevant and necessary by the City Administration: Timeline for planning, acquiring/building a station, and when officers will occupy the building, Reasonable and efficient budget, including initial costs and yearly funding, Workable locations. This report will be completed and presented to Council by September 15, 2021, to allow Council and the City to address these needs in the 2022/2023 biennial budget.

**Recommendation** ADOPT

**Sponsors:** Sundermann, Mann and Kearney

45. [202102203](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **PROVIDING** for the issuance, sale and delivery of not to exceed \$2,975,000 of economic development revenue bonds (Walworth Junction Project) of the City of Cincinnati, County of Hamilton, State of Ohio, for the purpose of providing a pledge of and lien on certain non-tax revenues and funds to secure such bonds; authorizing necessary documents to secure such bonds; and declaring an emergency.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

46. [202102205](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Curtis Street Investments, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 921-925 Curtis Street and 2363 St. James Avenue in the Walnut Hills neighborhood of Cincinnati, in connection with the remodeling of an existing building to create approximately 20,500 square feet of commercial office space and approximately 10,500 square feet of commercial warehouse space, at a total construction cost of approximately \$2,315,000.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

47. [202102235](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the City Manager to apply for financial assistance from the Ohio Department of Transportation for transit purposes under the Ohio Urban Transit Program for state fiscal year 2022.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

48. [202102236](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the City Manager to accept and appropriate a donation in an amount up to \$10,000 from the Cincinnati Recreation Foundation to the Cincinnati Recreation Commission for the purpose of funding swim admission passes at the Hirsch Recreation Center pool for Avondale community youth; and **AUTHORIZING** the Finance Director to deposit the grant funds in Fund 319, "Contributions for Recreation Purposes."

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

49. [202102237](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the acceptance and appropriation of a grant of \$170,998 from the U.S. Department of Housing and Urban Development to Community Development Block Grant Fund 304; and **ANNOUNCING** the City's intention to use said funds for various projects and operating allocations for the Community Development Block Grant Program for Calendar Year 2021 and to file the 2021 Annual Action Plan Amendment in accordance with the attached Appropriation Schedule.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

50. [202102238](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the City Manager to accept an in-kind donation of a slip space from the Four Seasons Marina for the purpose of docking the Cincinnati Fire Department's fire boat.

**Recommendation** PASS

**Sponsors:** City Manager

51. [202102239](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the City Manager to accept an in-kind donation from the Cincinnati Fire Foundation of an AisleMaster chair valued at up to \$2,500, for use at Cincinnati Fire Department Station 18 to transport patients onto and from aircraft.

**Recommendation** PASS

**Sponsors:** City Manager

52. [202102241](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the City Manager to accept, with gratitude, and appropriate a donation in an amount of up to \$2,920 from Clifton resident Timothy Maxey to existing capital improvement program project account no.

980x232x212383, "Pedestrian Safety Improvements," for the purpose of providing resources for the purchase of two new solar powered blinking stop signs requested by the Clifton Town Meeting for the intersection of Middleton Avenue and Resor Avenue.

**Recommendation** PASS

**Sponsors:** City Manager

53. [202102259](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the transfer and appropriation of the sum of \$1,368,235 from the unappropriated surplus of General Fund 050 to various operating budget accounts according to the attached Schedule of Transfer effective July 1, 2021, for the purpose of providing funds for leveraged support commitments, an economic development deal audit, and a tax abatement study previously approved by City Council in fiscal year 2021.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

54. [202102265](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with CLC 300 Main Street LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 300 Main Street, 304 Main Street, and 302 E. Third Street in the Central Business District of Cincinnati, in connection with the remodeling of the existing building into approximately 40,000 square feet of commercial office space, 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 \$7,000,000.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

55. [202102266](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Textile Partners LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 205 W. Fourth Street in the Central Business District neighborhood of Cincinnati, in connection with the remodeling of an existing building to create approximately 7,000 square feet of commercial retail space and approximately 215,595 square feet of residential space consisting of 282 residential units, at a total construction cost of approximately \$55,347,000; and further **AUTHORIZING** a 10-year historic extension of such 15-year tax exemption.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

56. [202102267](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **AUTHORIZING** the City Manager to execute a Development Agreement with East End Development LLC pertaining to the

redevelopment of property located south of Columbia Parkway along Walworth Avenue in the East End neighborhood of Cincinnati, pursuant to which the City will assign special assessment revenue and service payments in lieu of taxes received by the City to the Port of Greater Cincinnati Development Authority to facilitate the redevelopment project, which consists of environmental remediation and construction of various public improvements including public infrastructure, an extension of Walworth Avenue, and related improvements in support of a housing subdivision and related private improvements.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

57. [202102268](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **ESTABLISHING** priority order of property tax exemptions granted for parcels of real property located south of Columbia Parkway along Walworth Avenue in the East End neighborhood of Cincinnati, within Cincinnati's Eastern River Incentive District (Eastern River TIF District), in connection with a redevelopment project undertaken by East End Development LLC.

**Recommendation** PASS

**Sponsors:** City Manager

58. [202102280](#) **ORDINANCE (EMERGENCY)**, dated 6/14/2021, submitted by Mayor John Cranley, from Andrew W. Garth., City Solicitor, **AUTHORIZING** the transfer of \$50,000 from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050; and **AUTHORIZING** the transfer and appropriation of \$50,000 from the unappropriated surplus of General Fund 050 to City Manager's Office non-personnel operating budget account no. 050x101x7200 for the purpose of providing funds to the Film Commission for additional security for the film production of "Bones & All" which is currently being filmed in the City.

**Recommendation** PASS EMERGENCY

**Sponsors:** Mayor

59. [202102325](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the City Manager to execute a *Property Sale Agreement* between the City of Cincinnati and Greenwich on Garfield, LLC, for the sale of City-owned property located at 110 and 120 Garfield Place in downtown Cincinnati.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

60. [202102326](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of \$30,000 from the Ohio Association of Community Health Centers for the purpose of supporting improvement in the health of at-risk populations in the City of Cincinnati through prevention and management of diabetes and hypertension; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

**Recommendation** PASS

**Sponsors:** City Manager



61. [202102327](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the transfer of \$100,000 within the General Fund to the Department of Community and Economic Development's General Fund operating budget account no. 050x161x7400 for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget in order to provide additional one-time leveraged support funding for the African American Chamber of Commerce according to the attached Schedule of Transfer.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

62. [202102328](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the City Manager to execute a *Property Sale and Development Agreement* with 756 E McMillan, LLC, for the sale of City-owned property located at 750, 752, and 758 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati, for a residential development project consisting of approximately 62 residential units, at an estimated project cost of \$10,508,310.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

63. [202102329](#) **ORDINANCE (EMERGENCY)**, dated 06/16/2021, submitted by Councilmember Mann, **AUTHORIZING** the transfer and appropriation of the sum of \$40,000 from the unappropriated surplus of the Stormwater Management Fund to the Stormwater Management Utility's Stormwater Management Fund non-personnel operating budget account no. 107x311x7400 for the purpose of implementing Council's recommended changes to the FY 2022 Restricted Funds Operating Budget in order to provide one-time funding for the Millcreek Valley Conservancy District to implement flood control projects in the Millcreek Valley corridor.

**Recommendation**

PASS EMERGENCY

**Sponsors:** Mann

64. [202102330](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the transfer and return to source Funds 757 and 758 of the sum of \$1,000,000 from various capital improvement program project accounts for the purpose of decreasing certain existing capital improvement program project accounts and providing resources for the FY 2022 Capital Budget, according to Schedule A of the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Special Housing Trust Fund 761 to an existing capital improvement program project account for the purpose of providing resources for that capital improvement program project account, according to Schedule B of the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$1,000,000 from the unappropriated surplus of Funds 757 and 758 to



new capital improvement program project accounts for the purpose of providing resources for certain capital improvement program project accounts, according to Schedule C of the attached Schedule of Transfer; and DECLARING the Warsaw Avenue Creative Campus project to be for a public purpose, all for the purpose of carrying out the FY 2022 Capital Improvement Program.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

65. [202102331](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$50,000 from the Ohio Environmental Protection Agency 2021 Recycle Ohio Grant program to Office of Environment and Sustainability (OES) non-personnel operating budget account no. 050x104x7200 for the purpose of supporting the recycling cart relabeling project; **AUTHORIZING** the City Manager to accept and appropriate local matching resources in the amount of up to \$12,500 from Rumpke Recycling to OES non-personnel operating budget account no. 050x104x7200; **AUTHORIZING** the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8523; and **AUTHORIZING** the Finance Director to deposit the matching resources into General Fund revenue account no. 050x8571.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

66. [202102332](#) **RESOLUTION (LEGISLATIVE) (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, DECLARING by legislative resolution the necessity of the assessment project 221 E. 4th Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

67. [202102333](#) **ORDINANCE (B VERSION - One Year)**, dated 06/17/2021, submitted by Councilmember Mann, **REPEALING AND REORDAINING** the provisions of Chapter 401, "Water Works," Section 401-76, "Service Charges," Section 401-77, "Water Commodity Charges," Section 401-078, "Charges for Fire Protection Services," Section 401-81, "Charges to Political Subdivisions," and Section 401-89, "Direct Fire Protection Charges," of the Cincinnati Municipal Code for the purpose of revising the rate for water and related services furnished by the Greater Cincinnati Water Works, consistent with a water rate increase of 3.75% in 2022.

**Recommendation**

ON PURSUANT TO RULE 10.8

**Sponsors:** Mann

68. [202102334](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AMENDING** Ordinance No. 0340-2018 to increase the amount of funding the City Manager is authorized to accept from the Federal

Highway Administration (CFDA 20.205) through the Ohio Department of Transportation from \$1,852,293 to \$2,144,149.41, and to appropriate the additional amount of \$291,856.41 to existing capital improvement program project account no. 980x233x172348, "Street Rehabilitation Grants/Loans," for the purpose of providing resources for the rehabilitation of Riverside Drive and Vine Street.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

69. [202102335](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the transfer and return to source of the sum of \$2,423 from Councilmember Smitherman's General Fund personnel services operating budget account no. 050x024x7100 to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and return to source of the sum of \$3,392 from Councilmember Smitherman's General Fund contractual services operating budget account no. 050x024x7200 to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of the sum of \$3,896 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 for the purpose of providing resources in the amounts of \$1,977 for The Karen Wellington Memorial Foundation for Living with Breast Cancer and \$1,919 for Ennis Tait Ministries, Inc., for the Saving Our Youth Kings and Queens program; **AUTHORIZING** the transfer and appropriation of the sum of \$1,919 from the unappropriated surplus of the General Fund to the Department of Public Services' General Fund contractual services operating budget account no. 050x253x7200 for the purpose of providing resources in the amount of \$1,919 for Keep Cincinnati Beautiful, Inc.; **AUTHORIZING** the City Manager to enter into any necessary agreements for the distribution of these resources; and **DECLARING** the distribution of these resources to these local non-profit organizations to be for a public purpose.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

70. [202102337](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the transfer of the sum of \$15,320 within the General Fund from and to various operating budget accounts for the purpose of realigning the office budgets of various City Councilmembers in accordance with the attached Schedule of Transfer.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

71. [202102339](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **LEVYING** special assessments for the purpose of the assessment project at 221 E. 4th Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

72. [202102340](#) **ORDINANCE (EMERGENCY)**, dated 06/17/2021, submitted by Councilmember Goodin, **AUTHORIZING** the transfer and appropriation of the sum of \$10,000 from the unappropriated surplus of General Fund 050 to the City Manager's Office non -personnel operating budget account no. 050x101x7200, effective July 1, 2021, for the purpose of providing resources for the Community Oriented policing and Gun Violence Reduction in FY 2022.
- Recommendation** PASS EMERGENCY
- Sponsors:** Goodin
73. [202102342](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Gest Street Distributions, LLC, Nehemiah Manufacturing Company LLC, and the Port of Greater Cincinnati Development Authority, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 979 Berlin Street in the Lower Price Hill neighborhood of Cincinnati, in connection with the construction of approximately 46,961 square feet of industrial space and approximately 2,939 square feet of office space, at a total construction cost of approximately \$3,630,000.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
74. [202102345](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the City Manager to execute a *Property Sale and Development Agreement* with Gest Street Distributions, LLC, an affiliate of Nehemiah Manufacturing Company LLC, pursuant to which the City will vacate and sell approximately 0.2751 acres of real property designated as public right-of-way known as Summer Street and sell approximately 1.8591 acres of unimproved real property generally located south of Gest Street and west of Berlin Street in the Lower Price Hill neighborhood.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
75. [202102346](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **DECLARING** improvements to certain real property located at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, to be constructed pursuant to a *Development Agreement* between the City of Cincinnati and OTR Project Partners, LLC, to be a public purpose and exempt from real property taxation for a period of 30 years pursuant to Section 5709.41 of the Ohio Revised Code.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
76. [202102347](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **ESTABLISHING** priority order of property tax exemptions granted for parcels of real property located at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, within Cincinnati's

Downtown/OTR West District Incentive District, in connection with a development undertaken by OTR Project Partners, LLC.

**Recommendation** PASS

**Sponsors:** City Manager

77. [202102348](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **DETERMINING** to proceed with the assessment project at 221 E. 4TH Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

78. [202102341](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/21/2021, **AUTHORIZING** the transfer of \$695,000 within the General Fund to various operating budget accounts within the General Fund, according to the attached Schedule of Transfer, for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget to provide funding as follows: ongoing leveraged support for the Women Helping Women Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$250,000; leveraged support for the ArtsWave Black and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; and leveraged support for two Cintrifuse Hackathon events, \$20,000; ESTABLISHING new capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility; AUTHORIZING the transfer and appropriation of \$500,000 from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x7400 to capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million dollar project to replace the aging Marx Theatre with a modern, inclusive facility; and DECLARING expenditures from capital improvement program project account no. 980x164x221612, "Playhouse in the Park," to be for a public purpose.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

79. [202102398](#) **ORDINANCE (EMERGENCY)(B VERSION)**, submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **AUTHORIZING** the transfer of \$795,000 within the General Fund to various operating budget accounts within the General Fund, according to the attached Schedule of Transfer, for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget to provide funding as follows: ongoing leveraged support for the Women Helping Women Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$350,000; leveraged support for the ArtsWave Black and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; and

leveraged support for two Cintrifuse Hackathon events, \$20,000; ESTABLISHING new capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million dollar project to replace the aging Marx Theatre with a modern, inclusive facility; AUTHORIZING the transfer and appropriation of \$500,000 from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x7400 to capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million dollar project to replace the aging Marx Theatre with a modern, inclusive facility; and DECLARING expenditures from capital improvement program project account no. 980x164x221612, "Playhouse in the Park," to be for a public purpose.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

## NEIGHBORHOODS COMMITTEE

80. [202102212](#) **ORDINANCE (EMERGENCY)**, submitted by Councilmembers Kearney and Keating, from Andrew Garth, City Solicitor, **DECLARING** that the crosswalk across Vine Street at the intersection of Vine Street and Ehrman Street in the Avondale neighborhood shall hereby receive the honorary, secondary name of "Shareese 'ReRe' Crossing" in honor of Shareese Lattimore, a seven-year-old girl who was hit by a car while crossing Vine Street, and as a reminder of the necessity for both drivers and pedestrians to know and observe road and traffic regulations.

**Recommendation** PASS EMERGENCY

**Sponsors:** Kearney and Keating

81. [202102245](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, regarding **RENAMING** the Reeves Annex Building in the Linwood neighborhood the "Tony Yates Junior Golf Learning Center."

**Recommendation** PASS

**Sponsors:** City Manager

## SUPPLEMENTAL ITEMS

## ECONOMIC GROWTH & ZONING COMMITTEE

82. [202102032](#) **RESOLUTION** submitted by Paula Boggs Muething, City Manager, on 5/26/2021, **APPROVING** the *Mohawk Area Plan* as the planning guide for the Mohawk Area in the Over-the-Rhine neighborhood.

**Recommendation** PASS

**Sponsors:** City Manager

83. [202102135](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/9/2021, **AUTHORIZING** the existing building located at 2215 Fulton Avenue in the Walnut Hills neighborhood to be renovated and used as an office NOTWITHSTANDING the provisions of Section 1405-05, "Land Use Regulations," of Chapter 1405, "Residential Multi-Family," and Section



1425-19-A, "Off-Street Parking and Loading Requirements," of Chapter 1425, "Parking and Loading Regulations," of the Cincinnati Zoning Code and any other applicable provisions of the Cincinnati Zoning Code and the Cincinnati Municipal Code.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

84. [202102149](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/9/2021, **ESTABLISHING** Urban Parking Overlay District #2, "Camp Washington," in the Camp Washington neighborhood as an urban parking overlay district to lift minimum off-street parking requirements in the area.

**Recommendation** PASS

**Sponsors:** City Manager

85. [202102353](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/22/2021, **AUTHORIZING** the City Manager to design, install, and maintain a mural on the retaining wall located at the intersection of William Howard Taft Road and Woodburn Avenue in the East Walnut Hills neighborhood, notwithstanding any conflicting Department of Transportation and Engineering rules and regulations or any provision of the Cincinnati Municipal Code that would prohibit the installation and maintenance of the mural.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

## LAW & PUBLIC SAFETY COMMITTEE

86. [202102162](#) **MOTION**, submitted by Councilmember Kearney, **WE MOVE** for the City Administration to request information from the Cincinnati Police Department to identify the needs of the Cincinnati Police Department regarding the use of a new gun firing range. **WE FURTHER MOVE**, that the Administration prepare a report on negotiations with the City of Evendale regarding the existing range and the feasibility, including all costs, of removing training from the current firing range to a new facility.

**Recommendation** ADOPT

**Sponsors:** Kearney

## MAJOR PROJECTS & SMART GOVERNMENT COMMITTEE

87. [202102150](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/9/2021, **ESTABLISHING** the classification and salary range schedule for the new employment classification of Director of Procurement; and **ENACTING** Section 993 of Division 5, Chapter 307 of the Cincinnati Municipal Code, in order to establish a new salary schedule and classification title for the new classification consistent with the organizational changes described herein.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager



88. [202102250](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **MODIFYING** Title VII, "General Regulations," of the Cincinnati Municipal Code by **AMENDING** the provisions of Section 722-3, "Construction Permit," of Chapter 722, "Management and Control of the Use of the City Right-of-Way," and by **ORDAINING** new Section 723-79, "Streetcar Power-Down and Shutdown Work Permit," and Section 723-99-J, "Violation of Section 723-79," of Chapter 723, "Streets and Sidewalks, Use Regulations" to establish a clear and effective framework for ensuring the safety, security, and welfare of persons in the right of way whose work requires prolonged access to the streetcar system, including work that requires the shutdown of the electrified overhead catenary system; and further **MODIFYING** Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code by **AMENDING** the provisions of Section 1501-3, "Class A Civil Offenses," and Section 1501-9, "Class D Civil Offenses," to specify the penalties associated with violations of the framework established herein.

**Recommendation** PASS

**Sponsors:** City Manager

89. [202102258](#) **RESOLUTION (LEGISLATIVE) (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **DECLARING** the necessity of repairs to certain sidewalks, associated sidewalk spaces, curbs, and gutters in the Mount Washington neighborhood, and the necessity of assessing abutting properties to recover the cost of such repairs in accordance with Ohio Revised Code Chapter 729 and Cincinnati Municipal Code Chapter 721.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

90. [202102286](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/16/2021, **MODIFYING** Title I, "Council and Corporation Miscellany," by enacting new Chapter 121, "Remote Public Meetings," of the Cincinnati Municipal Code, to allow public bodies of the City, except Council and its committees, to conduct public meetings remotely.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

91. [202102343](#) **ORDINANCE**, dated 06/15/2021, submitted by Councilmember Landsman, **AMENDING** Ordinance 0008-2021 to increase the number of voting members of the City of Cincinnati Children and Families Cabinet by adding a member from Hamilton County Job & Family Services, a member from the Hamilton County Juvenile Court, and by increasing the number of each of the parent and youth representatives to two.

**Recommendation**  
PASS

**Sponsors:** Landsman

**EQUITY, INCLUSION, YOUTH, & THE ARTS COMMITTEE**

92. [202102417](#) **ORDINANCE (EMERGENCY)** submitted by Councilmember Kearney, from Andrew Garth, City Solicitor, **AUTHORIZING** the transfer and return to source of the sum of \$12,000 from Councilmember Kearney's General Fund personnel services operating budget account no. 050x029x7100 to the unappropriated surplus of the General Fund 050; **AUTHORIZING** the transfer and appropriation of the sum of \$12,000 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 for the purpose of providing resources in the amounts of \$4,000 for Childhood Food Solutions, \$4,000 for Women of Alabaster, and \$4,000 for the First Step Home; **AUTHORIZING** the City Manager to enter into any agreements necessary for the distribution of these resources; and **DECLARING** the distribution of these resources to these local non-profit organizations to be for a public purpose.

**Recommendation** PASS EMERGENCY

**Sponsors:** Kearney

**ANNOUNCEMENTS**

Adjournment



202107299

**Jan-Michele Lemon Kearney**  
*Councilmember*

June 15, 2021

## MOTION

WE MOVE for City Council to establish a Division of Gender Equity in the Office of Human Relations (OHR), which will not immediately require additional staff or funding. The Division will implement recommendations compiled by the City of Cincinnati Gender Equality Task Force based on the Gender Study of City of Cincinnati Government Final Report for Phase One (2017-2018) and Two (2018-2019), executed by the University of Cincinnati Gender Equity Research Team and submitted to City of Cincinnati Gender Equality Task Force on January 24, 2020, pursuant to Ordinances 0091-2017 and 0092-2017. The Division's work can include but will not be limited to implementing policies that are centered on career advancement for women and people of color; increasing implicit bias and cultural competency training for all city employees; conducting assessments of employees' gender and racial biases in the Police and Fire departments; and improving ways to report discrimination or harassment city-wide.

\_\_\_\_\_  
Councilmember Jan-Michele Lemon Kearney

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## STATEMENT

In 2017, Cincinnati City Council passed two ordinances to further gender equality in our city—one to establish the Gender Equality Task Force and the second to authorize and co-fund a study to evaluate gender equality in Cincinnati. This gender study, which consisted of two phases, studied local practices and policies regarding this issue. The research team discovered that while there are little to no wage disparities on the basis of gender or race across similar job titles at the City, there is still much work to be done. The report found that women and people of color predominate in lower-paying positions within the City. In addition, a majority of departments are predominately male (11), especially those such as Fire which are associated with technical competencies. Meanwhile, departments that are tied with caregiving roles are predominately female, but more males are found in higher paying positions.

The report concluded that there is still progress that must be made to ensure that the demographics of City employees reflect the makeup of Cincinnati residents. Males and white people are over-represented in the city employee sector when compared to the composition of Cincinnati's general population. To illustrate, Cincinnati is 52% female and 51% non-white, yet the city employee sector is 65.8% male and 63% white. The research team also noted that there is a disparity in City and departmental budgets: more funds are allocated to male-dominated departments versus majority female or gender balanced departments.

As asserted in the report, it is important for more institutionalized practices to be implemented in order to ensure that the push for gender equity withstands changes in leadership. The establishment of a Division of Gender Equity in the Office of Human Relations will help accomplish this goal and continue the momentum towards achieving gender equity in Cincinnati.



# City of Cincinnati



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Cincinnati, Ohio 45202

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Email Jan.Michele.Kearney@  
cincinnati.oh.gov  
Web www.cincinnati.oh.gov

202102306

**Jan-Michele Lemon Kearney**  
*Councilmember*

June 15, 2021

## MOTION

WE MOVE that the City of Cincinnati allocate \$2.5 million from the Fleet Replacement funds in the capital budget to remove the West Fork Incinerator in South Cumminsville. These bonded capital dollars should be allocated from the 40% portion of the fleet replacement funds that are not allocated to police and fire vehicles.

  
Councilmember Jan-Michele Lemon Kearney

_____	_____
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CAL → Budget & Finance  
J-MK

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15 JUN 21 PM 4:31

CLERK OF COUNCIL

202102383

**Date:** June 21, 2021

**To:** Councilmember Jan-Michele Lemon Kearney  
**From:** Andrew Garth, City Solicitor *AWG*  
**Subject:** **Resolution – Supporting Jaime’s Law**

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Transmitted herewith is a resolution captioned as follows:

**EXPRESSING** the support of the Mayor and the Cincinnati City Council for the passage of S. Bill 1237, “Jaime’s Law,” currently pending in the 117<sup>th</sup> Congress, First Session, and their ratification of the City Administration’s efforts to effectuate its swift passage to address gun-related injuries and deaths, on behalf of the City of Cincinnati and its residents.

AWG/CFG/(lnk)  
Attachment  
342333

## RESOLUTION NO. \_\_\_\_\_ - 2021

**EXPRESSING** the support of the Mayor and the Cincinnati City Council for the passage of S. Bill 1237, “Jaime’s Law,” currently pending in the 117<sup>th</sup> Congress, First Session, and their ratification of the City Administration’s efforts to effectuate its swift passage to address gun-related injuries and deaths, on behalf of the City of Cincinnati and its residents.

WHEREAS, under 18 U.S.C. § 922, it is unlawful to sell firearms or ammunition to persons prohibited from receiving a firearm, such as those who have been convicted of domestic violence, are a fugitive from justice, or have been committed to a mental institution; and

WHEREAS, following the passage of the Brady Handgun Violence Prevention Act of 1993, the Federal Bureau of Investigation established the National Instant Criminal Background Check System (“NICS”) which continues to operate as a nationwide system to check whether a person may lawfully purchase or own a firearm; and

WHEREAS, while there is a requirement for federally licensed firearms sellers to conduct an instant background check through the NICS for firearm sales, there is no parallel requirement for ammunition sales; and

WHEREAS, gun violence is a local and national crisis: in 2020 alone, 43,558 people in the United States died due to gun-related causes according to the Gun Violence Archive; and

WHEREAS, Senators Richard Blumenthal (D-CT), and Christopher Murphy (D-CT), along with Representatives Lucy McBath (D-GA), Debbie Wasserman Schultz (D-FL), Ted Deutch (D-FL), and Joe Neguse (D-CO) have reintroduced Jaime’s Law in the 117<sup>th</sup> Congress, for the purpose of preventing mass shootings, suicide, intimate partner murder, and other forms of gun violence; and

WHEREAS, Jaime’s Law honors the memory of Jaime Taylor Guttenberg, a 14-year-old student and joyful dancer, who was killed in 2018 by an AR-15 firearm at Marjory Stoneman Douglas High School in Parkland, Florida; and

WHEREAS, upon passage of Jaime’s Law, licensed importers, manufacturers, and dealers cannot transfer ammunition to a person before the completion of an instant background check via the FBI’s NICS, preventing already prohibited persons from purchasing bullets; now, therefore,

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

Section 1. That the Mayor and this Council support and ratify the City Administration's efforts to effectuate the swift passage of Jaime's Law in the 117<sup>th</sup> Congress, First Session in order to address gun-related injuries and deaths, on behalf of the City of Cincinnati and its residents.

Section 2. That this resolution be spread upon the minutes of Council and that copies of this resolution be transmitted to Senator Sherrod Brown, 503 Hart Senate Office Building, Washington, D.C. 20510; Senator Robert Portman, 448 Russell Senate Office Building, Washington, D.C. 20510; Representative Steve Chabot, 2408 Rayburn House Office Building, Washington, D.C. 20515; and Representative Brad Wenstrup, 2419 Rayburn House Office Building, Washington, D.C. 20515, through the office of Councilmember Jan-Michele Lemon Kearney.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Submitted by Councilmember Jan-Michele Lemon Kearney



**Greg Landsman**  
*Councilmember*

June 21, 2021

## MOTION

We hereby move that \$50,000 be included in the administration's FY21 carry-over budget for the Citizen Complaint Authority (CCA).

## STATEMENT

The CCA was established in 2003 as an independent body to investigate allegations of police misconduct, and is the *cornerstone* of the Collaborative Agreement. It has been underfunded and understaffed for years, and thus has struggled to get through their backlog of cases. Maintaining the utmost standard of accountability and transparency in all issues of public safety and government is critical; we can only achieve this by funding the CCA to the full amount they have determined is needed to complete their operations.

Councilmember Greg Landsman

_____	_____
_____	_____
_____	_____
_____	_____



# CHATFIELD LAW OFFICE

An Association of Independent Attorneys At Law

## THE CINCINNATI CLUB BUILDING

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Cincinnati, Ohio 45202

+ also licensed in Mississippi

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Of Counsel

JEANNETTE P. MAXEY\*

\*also licensed in Kentucky

jmaxey@lawyer.com

June 15, 2021

Vice Mayor David Mann

801 Plum St., Suite 349 Cincinnati,

OH 45202

[david.mann@cincinnati-oh.gov](mailto:david.mann@cincinnati-oh.gov)

Re: 3500 Glenway Ave / Parcel No.: 173-00030131-00

Dear Mr. Mann,

We are writing you concerning the above stated property owned by The Hyde Park Lumber Company. This property has been in the possession of The Hyde Park Lumber Co. since the early 1900s and was part of several parcels that were divided and sold to a developer to create housing on Fairbanks Ave. This stated parcel is the land that Fairbanks Avenue is situated on. The parcel was never transferred thus causing our client to be the owner of Fairbanks Avenue.

The Hyde Park Lumber Company would like to relinquish their possession of the parcel to the City of Cincinnati. Prior to executing the deed, The Hyde Park Lumber Company is requesting that the City of Cincinnati and or Hamilton County Tax Commission in return forgive any and all current or back taxes and/or any other funds owed to the city or county. Also, The Hyde Park Lumber Co. request an Agreed Release be signed by all parties clearing them of any obligations relating to this parcel.

Please contact me to discuss this matter further and to assure all parties have a positive result.

Very truly yours,

*Melancthon W. Chatfield*

Melancthon W. Chatfield, Esq.

## Dusty Rhodes, Hamilton County Auditor

generated on 6/15/2021 11:41:51 AM EDT

## Property Report

Parcel ID  
173-0003-0131-00Address  
3500 GLENWAY AVEIndex Order  
Parcel NumberTax Year  
2020 Payable 2021

Property Map



CAL - DT - 6/15

15 JUN 21 PM 2:27

CLERK OF COUNCIL

# City of Cincinnati



801 Plum Street, Suite 349  
Cincinnati, Ohio 45202

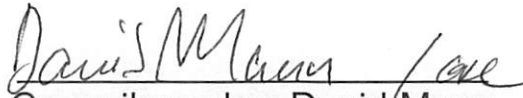
Phone (513) 352-4610  
Email david.mann@cincinnati-oh.gov  
Web www.cincinnati-oh.gov

202102310

David S. Mann  
Councilmember

June 16, 2021

I move that the City Administration create a Master Plan for street calming and pedestrian safety

  
Councilmember David Mann

Statement:

Requests for Street Calming/ Pedestrian Safety continue to be sent to Council offices. We need a comprehensive global approach instead of this scattered one that deals with the problem based on complaints. Street Calming is not just about physical changes, but should also include enforcement, technology deployment, legal issues, PR campaign, and others.

It would be very helpful if the City Administration and the appropriate council committee developed a plan for dealing with this city wide challenge in a systematic fashion.

Greene Chase

CAL

018001000

16 JUN 21 PM 12:04

CLERK OF COUNCIL



202102369

Date: June 16, 2021

**To:** Councilmember David Mann  
**From:** Andrew W. Garth, City Solicitor *AWG*  
**Subject:** Resolution – Opposing Property Tax Impacting Affordable Housing

---

Transmitted herewith is a resolution e captioned as follows:

**URGING** the Ohio General Assembly to remove or otherwise defeat the amendment in the budget bill (Substitute House Bill 110) that would have a significant negative impact on tens of thousands of affordable apartments in Ohio and thousands of such apartments in Cincinnati occupied by low-income tenants by changing the property tax valuation of such properties to market rate properties, dramatically increasing the property tax on those properties, resulting in higher rents for those least able to afford them, and decreasing the availability of affordable housing.

AWG/CMZ/(lnk)  
Attachment  
342195

## RESOLUTION NO. \_\_\_\_\_ - 2021

**URGING** the Ohio General Assembly to remove or otherwise defeat the amendment in the budget bill (Substitute House Bill 110) that would have a significant negative impact on tens of thousands of affordable apartments in Ohio and thousands of such apartments in Cincinnati occupied by low-income tenants by changing the property tax valuation of such properties to market rate properties, dramatically increasing the property tax on those properties, resulting in higher rents for those least able to afford them, and decreasing the availability of affordable housing.

WHEREAS, on June 1, 2021, an amendment was added to the Ohio Senate substitute budget bill that proposes changes to Ohio Revised Code 5715.01 and 5713.03 that would require county auditors to value Low Income Housing Tax Credit (LIHTC) properties and other properties receiving federal subsidies to be valued as market rate properties without regard to governmental use restrictions; and

WHEREAS, county auditors consider the contractual and land use agreements with federal, state, and local governments that limit the rents that can be charged and require occupancy by low-income families; and

WHEREAS, this bill would result in unfair and devastating property tax increases on affordable housing, increased rents for tenants, and higher landlord property costs that may result in deferred maintenance, loan defaults, and eventual foreclosure on those properties resulting in potential displacement of vulnerable families; and

WHEREAS, City Council has enacted a number of initiatives aimed at addressing the lack of affordable housing in the City, including the following:

- Creation of an independent Affordable Housing Board to guide the city;
- Creation of a revolving loan pool of \$34,000,000 uniquely dedicated to affordable housing;
- Creation of a “Blue Ribbon” development review committee;
- Creation of an Affordable Housing Trust Fund; and
- Reform of tax abatement.

WHEREAS, penalizing owners of affordable units by increasing their property tax burden goes in the opposite direction of these efforts by City Council and would negate the difficult progress carefully and creatively made in Cincinnati; and

WHEREAS, the passage of the amended Ohio budget bill would have a devastating and immediate impact upon the availability of affordable housing in the City of Cincinnati and the State of Ohio and would undermine all of the City’s efforts to create, support, and sustain affordable housing in the City; now, therefore,

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

Section 1. That the Mayor and this Council hereby call upon the Ohio General Assembly to remove or defeat the amendment to the substitute budget bill that would amend Ohio Revised Code Sections 5715.01 and 5713.03 to require county auditors to value Low Income Housing Tax Credit properties and other properties receiving federal subsidies as market rate properties without regard to governmental use restrictions.

Section 2. That this resolution be spread upon the minutes of Council and that copies be sent to Governor Mike DeWine; Lieutenant Governor Jon Husted; Speaker of the Ohio House of Representatives Robert R. Cupp; Senate President Larry Obhof; Senate Minority Leader Kenny Yuko; State Senator Steve Wilson; State Senator Cecil Thomas; State Senator Lou Terhar; House Minority Leader Emilia Sykes; State Representative Bill Seitz; State Representative Catherine Ingram; State Representative Thomas Brinkman; State Representative Brigid Kelly; State Representative Sedrick Denson; and State Representative Jessica Miranda.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Submitted by Councilmember Mann

202102357

Date: June 17, 2021

**To:** Councilmember Chris Seelbach  
**From:** Andrew Garth, City Solicitor *AWG*  
**Subject:** Resolution – Pride John Curp, Aaron Herzig and the City of Cincinnati's Law Department

---

Transmitted herewith is a resolution captioned as follows:

**RECOGNIZING** and honoring John Curp, Aaron Herzig, and the City of Cincinnati's Law Department for their contributions to the City and their advocacy on behalf of the lesbian, gay, bisexual, transgender, queer, intersex, and asexual ("LGBTQIA") community.

AWG/CFG/(Ink)  
Attachment  
341947



**RESOLUTION NO. \_\_\_\_\_-2021**

**RECOGNIZING** and honoring John Curp, Aaron Herzig, and the City of Cincinnati's Law Department for their contributions to the City and their advocacy on behalf of the lesbian, gay, bisexual, transgender, queer, intersex, and asexual ("LGBTQIA") community.

WHEREAS, June is LGBTQ+ Pride Month, which celebrates the LGBTQ+ community and recognizes the impact of LGBTQ+ individuals and their allies on the City of Cincinnati; and

WHEREAS, John Curp was the City Solicitor and leader of the Cincinnati Law Department Office from 2008 to 2014; and

WHEREAS, Aaron Herzig was Deputy City Solicitor from 2012 to 2014; and

WHEREAS, Cincinnati's City Charter once institutionalized discrimination against the LGBTQ+ community; and

WHEREAS, in 2004 the State of Ohio enacted statutory prohibitions against the recognition of lawful marriages between members of the LGBTQ+ community; and

WHEREAS, during their service to the City, attorneys Curp and Herzig advised City Council and the City Administration concerning advances in LGBTQ+ rights that provided benefits coverage to partners of LGBTQ+ City employees; and

WHEREAS, on July 19, 2013, James Obergefell filed a federal lawsuit demanding that the City of Cincinnati Health Commissioner, as the registrar of public health records, recognize his marriage to John Arthur on Mr. Arthur's death certificate; and

WHEREAS, with the full support of City Manager Milton Dohoney, Mayor Mark Mallory, and Assistant Health Commissioner Dr. Camille Jones, the City Solicitor refused to defend the State of Ohio's immoral and prejudiced opposition to same-sex marriage; and

WHEREAS, in a landmark moment in the history of the City of Cincinnati, the State of Ohio, and the United States, Deputy Solicitor Herzig announced the City's official position to the U.S. District Court, Southern District of Ohio: "The City will not defend Ohio's discriminatory ban on same-sex marriages...."; and

WHEREAS, the Honorable Timothy Black enjoined the State of Ohio from refusing to recognize the marriage of Messrs. Obergefell and Arthur; and

WHEREAS, on June 26, 2015, the U.S. Supreme Court affirmed Judge Black's ruling, and recognized that the Constitution bestowed on same-sex couples the fundamental right to have their

marriages legally recognized throughout the United States (*Obergefell, et al. v Hodges, et al.*, 576 U.S. 644 (2015)); and

WHEREAS, on that day James Obergefell said, “[T]he Supreme Court affirms what millions across the country already know to be true in our hearts: that our love is equal”; and

WHEREAS, President Barack Obama praised the decision as a “victory for America”; and

WHEREAS, in 2018 the State of Ohio reaffirmed its opposition to the *Obergefell* decision by adopting HB 511, declaring it state policy to oppose same-sex unions with the intent of depriving the benefits of legal marriage to the LGBTQ+ community; and

WHEREAS, attorneys John Curp and Aaron Herzig have remained publicly vigilant in support of LGBTQ+ rights, supported by their respective firms Blank Rome LLP and Taft, Stettinius & Hollister LLP; and

WHEREAS, the current leadership of the City Solicitor’s Office continues to defend the rights of the LGBTQ+ community and enforce the City’s antidiscrimination laws, including by working in 2021 with Councilmember Seelbach to enhance the City’s ability to prosecute hate crimes and expand hate crime statutes to include crimes based on gender identity and gender expression; now, therefore,

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

Section 1. That the Mayor and Council of the City of Cincinnati recognize John Curp, Aaron Herzig, and the City of Cincinnati Law Department for their advocacy on behalf of the LGBTQIA community.

Section 2. That this resolution be spread upon the minutes of Council and copies be provided to John Curp, Aaron Herzig, and the City of Cincinnati Law Department through the office of Councilmember Chris Seelbach.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Submitted by Councilmember Chris Seelbach



**Date:** June 17, 2021

**To:** Councilmember Chris Seelbach  
**From:** Andrew Garth, City Solicitor *AWG*  
**Subject:** Resolution – Pride Ryan L. Messer

---

Transmitted herewith is a resolution captioned as follows:

**RECOGNIZING** and honoring Ryan L. Messer for his advocacy on behalf of the lesbian, gay, bisexual, transgender, queer, intersex, and asexual (“LGBTQIA”) community.

AWG/CFG/(lnk)  
Attachment  
342327

## RESOLUTION NO. \_\_\_\_\_ -2021

**RECOGNIZING** and honoring Ryan L. Messer for his advocacy on behalf of the lesbian, gay, bisexual, transgender, queer, intersex, and asexual ("LGBTQIA") community.

WHEREAS, June is LGBTQ+ Pride Month, which celebrates the LGBTQ+ community and recognizes the impact of LGBTQ+ individuals on the City of Cincinnati; and

WHEREAS, in 1995 on his first visit to a gay bar, Mr. Messer was the victim of a hate crime which left him hospitalized, and that ultimately set the stage for his life's calling in the area of equity & inclusion; and

WHEREAS, Mr. Messer has worked nationally to help pass the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, as well as locally throughout the greater Cincinnati area; and

WHEREAS, for the past twenty-five years, Mr. Messer has led community-based advocacy and activism in the areas of equality, arts, social justice, and community leadership, serving on the boards of the National Underground Railroad Freedom Center, Over-the-Rhine Community Council, Future Leaders OTR, Cincinnati Children's Theater, the Botanical Committee of the Cincinnati Zoo & Botanical Garden, the Cincinnati Opera Board, and many others representing the LGBTQ+ community and families; and

WHEREAS, Mr. Messer has worked tirelessly for twenty-three years at Johnson & Johnson, where he co-founded the LGBTQ+ affinity group and led the way for the company's establishment of same-sex partner benefits, paid paternity leave for all parents, and made Johnson & Johnson the first company in the world to offer in-vitro and surrogacy coverage to same sex couples; and

WHEREAS, Mr. Messer served as an early founder of the Cincinnati chapter of the Human Rights Campaign, serving as the first Federal Club co-chair and later serving on the National Board of Governors; and

WHEREAS, Mr. Messer has served for nearly twenty years on the boards of Stop Aids & Caracole, chairing countless fundraisers and events over the years; and

WHEREAS, Mr. Messer founded the Cincinnati Opera's "Pride Night," which many other arts organizations have emulated; and

WHEREAS, Mr. Messer was elected as the first openly LGBTQ+ member of the Cincinnati Board of Education, and served as its Vice President, the first openly LGBTQ+ parent to serve in this capacity on a school board in Ohio; and

WHEREAS, Mr. Messer is a champion for Cincinnati and a tireless advocate for equality, inclusion, and fairness for all; now, therefore,

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

Section 1. That the Mayor and Council of the City of Cincinnati recognize Ryan L. Messer for his advocacy on behalf of the LGBTQIA community.

Section 2. That this resolution be spread upon the minutes of Council and copies be provided to Mr. Messer through the office of Councilmember Chris Seelbach.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Submitted by Councilmember Chris Seelbach

## Crawford, Nicole

---

**From:** Seelbach, Chris  
**Sent:** Monday, June 21, 2021 10:14 AM  
**To:** Crawford, Nicole  
**Subject:** Fwd: [External Email] Parking on 15 St. in Over the Rhine

Please file as a communication

Thank you  
Chris

Sent from my iPhone

Begin forwarded message:

**From:** Joseph Pflum [REDACTED]  
**Date:** June 21, 2021 at 10:03:06 AM EDT  
**To:** #COUNCIL <#COUNCIL@cincinnati-oh.gov>, "Seelbach, Chris" <Chris.Seelbach@cincinnati-oh.gov>, "Smitherman, Christopher" <Christopher.Smitherman@cincinnati-oh.gov>, "Sundermann, Betsy" <Betsy.Sundermann@cincinnati-oh.gov>, "Landsman, Greg" <Greg.Landsman@cincinnati-oh.gov>, "Kearney, Jan-Michele" <Jan-Michele.Kearney@cincinnati-oh.gov>, "Young, Wendell" <Wendell.Young@cincinnati-oh.gov>, "Mann, David" <david.mann@cincinnati-oh.gov>, "Mosby, Stephen" <stephen.mosby@cincinnati-oh.gov>, "Keating, Liz" <liz.keating@cincinnati-oh.gov>, CityManagerEmail <CityManager@cincinnati-oh.gov>  
**Subject:** [External Email] Parking on 15 St. in Over the Rhine

External Email Communication

To Cincinnati City Council members and the City Manager:

I must comment on the willful removal of resident parking on 15th St. between Vine St. and Race St. Resident parking in Over the Rhine is a scarce resource. Everyone should be aware of this.

Around June 5, I was talking with my neighbors at 15th and Republic Sts. They stated they were told by a City of Cincinnati worker that he would be back to replace the "Resident Only" parking signs with "No Parking" signs. 15th St. has been permanently closed at Vine and Race to allow for expanded outdoor dining. This permanent closure caused the loss of 12 residential parking places.

During the public hearing presentations about the permanent closure of the streets in Over the Rhine, the removal of additional residential parking was never mentioned.

On June 7 I contacted Mr. Peppers at the City Planning Department about the possibility of planned parking changes. He replied within 24 hours. He stated that he had been in contact with the City Manager's office as well as DOTE. He relayed to me that they informed him that no loss of residential parking was planned.

On June 9 I contacted the City Manager's office to confirm what Mr. Peppers had said to me. I received a reply from Ms. Martindale that my inquiry had been received. She stated that the DOTE would reply to

me directly. One week later I had heard nothing. I sent her an email directly to inquire about receiving a reply from DOTE. As of this date I have had no reply from her or the DOTE.

On June 19 I was walking north on Republic St. My neighbors called me over to see the new "No Parking" signs. All the residential parking signs on 15th between Vine and Race had been removed. The signs on the north side of the street had been replaced with "No Parking" signs. The south side of the street has no signs at all.

So far 10 more residential parking spots have been eliminated from use on 15th St.

In 2015, during the ongoing development of Over the Rhine, parking became a significant issue. The residential parking plan was implemented. There has continued to be residential and commercial development in Over the Rhine. In the past year 16 apartments have been added in the 1500 block of Republic St. By the end of 2021 ,thirty-four more apartments will be added in the 1500 block of Republic St. Twelve more apartments will be added on 15th St. in between Republic and Race this year also. The residents of Over the Rhine realize it is a huge challenge to create more parking. Why are we removing existing residential parking?

With 15th St. permanently closed, it has certainly become a safer street. Cars are traveling at less than 5 miles an hour to go in and out of parking spots. Electric scooters are traveling at a higher rate of speed than the cars do.

As my one neighbor said "they don't care about us down here. They just want to make it so that people can come down here, party, and then go back to their houses in the suburbs." This type of behavior on the part of the city government only reinforces that belief. People have many opinions about Over the Rhine. It is viewed as an entertainment district by many. But people do live and work in this neighborhood too. The removal of the residential parking on 15th St is just another example to add to the list where development takes priority over the needs of the residents.

I would ask that the residential parking be restored to 15th St ASAP.


Best Regards,

Joseph J Pflum MD

[REDACTED]  
[REDACTED]

202102397

**Date:** June 21, 2021

**To:** Councilmember Chris Seelbach  
**From:** Andrew W. Garth, City Solicitor   
**Subject:** **Emergency Ordinance – Affordable Housing Charter Amendment**

---

Transmitted herewith is an emergency ordinance captioned as follows:

**TO SUBMIT** to the electors of the City of Cincinnati an amendment to the Charter of the City that would establish a 0.1% earned income tax levy for financing affordable housing for low-income households, and otherwise providing for the housing needs of low-income households such that the overall City earnings tax rate is increased from 1.8% to 1.9% and that would remove obsolete language from the Charter, by amending existing Section 6c of Article VIII, “Taxation and Finance.”

AWG/KMB/(lnk)  
Attachment  
340968



EMERGENCY

City of Cincinnati

KMB

BWB

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

- 2021

**TO SUBMIT** to the electors of the City of Cincinnati an amendment to the Charter of the City that would establish a 0.1% earned income tax levy for financing affordable housing for low-income households, and otherwise providing for the housing needs of low-income households such that the overall City earnings tax rate is increased from 1.8% to 1.9% and that would remove obsolete language from the Charter, by amending existing Section 6c of Article VIII, "Taxation and Finance."

WHEREAS, prior to 1972, earned income in Cincinnati was taxed at a rate of 1.7 percent; and

WHEREAS, in 1972 the total earned income tax rate rose to 2.0 percent with the creation of a 0.3 percent Transit Tax; and

WHEREAS, in 1988 the total earned income tax rate rose to 2.1 percent with the inclusion of a 0.1 percent Infrastructure Tax; and

WHEREAS, in 2020 the total earned income tax rate fell to 1.8 percent with the termination of the 0.3 percent Transit Tax; and

WHEREAS, City Council finds that there is an existing shortage of affordable housing units in the City of Cincinnati and that additional financial resources are necessary in order to create additional affordable housing units for the residents of the City of Cincinnati; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City by providing money for the provision of housing; and

WHEREAS, Ohio Revised Code Chapter 176, as codified in Chapter 209 of the Cincinnati Municipal Code, establishes the City's Housing Advisory Board; and

WHEREAS, Ordinance No. 121-2021, passed April 14, 2021, designated the Housing Advisory Board to establish affordable housing policy priorities of the City and to advise the City's affordable housing loan pool administrator of those priorities; and

WHEREAS, City Council finds that (i) there is an existing shortage of affordable housing units in the City of Cincinnati; (ii) that additional financial resources are necessary in order to create additional and maintain affordable housing units for the residents of the City of Cincinnati; and (iii) additional financial resources are needed to assist the City's residents with limited income and those experiencing or at risk of experiencing homelessness to secure and retain housing; and

WHEREAS, it is in the best interest of the citizens of the City of Cincinnati to create a dedicated revenue source that is perpetual through a charter amendment for the purposes of creating and retaining affordable housing units and providing direct assistance to residents of the City of Cincinnati with a limited income and those experiencing or at risk of experiencing homelessness; and

WHEREAS, the passage of this charter amendment to increase earned income taxes on those who reside or work in the City of Cincinnati is mutually beneficial and in the best interests of the citizens of Cincinnati; and

WHEREAS, Ordinance No. 364-2018, passed December 12, 2018, (i) established a new special revenue fund, Fund 439, "Affordable Housing Trust Fund," (the "Affordable Housing Trust Fund") for the purpose of receiving and disbursing funds to preserve and develop affordable housing and prevent homelessness in the City of Cincinnati, and to fund any of the City of Cincinnati's administrative costs associated therewith; and (ii) contemplated the designation of an advisory board by a separate ordinance; and

WHEREAS, the increase to the earned income taxes shall be deposited in the existing Affordable Housing Trust Fund or a similar city fund for purposes of creating and retaining affordable housing units and providing direct assistance to residents of the City of Cincinnati with a limited income and those experiencing or at risk of experiencing homelessness; and

WHEREAS, following approval by the electorate of this charter amendment, City Council intends to simultaneously enact a corresponding chapter to the Cincinnati Municipal Code to further operationalize the provisions herein; and

WHEREAS, City Council finds that the language referencing the Transit Tax is now obsolete and should be removed for clarity; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio, two-thirds of the members elected thereto concurring:

Section 1. That there shall be submitted to the vote of the qualified electors of the City of Cincinnati for their approval or disapproval at the general election to be held on November 2, 2021, an amendment to the Charter of the City of Cincinnati, amending existing Section 6c of Article VIII, "Taxation and Finance," to read as follows:

**Article VIII. – Taxation and Finance.**

**Section 6c.**

If the council shall at any time levy a tax on earned income, such tax may be at a uniform rate or at a graduated rate, with exemptions, and deductions to the extent such may be allowed by

the constitution of the state of Ohio and laws enacted pursuant thereto. Such earned income tax shall not be at a rate in excess of one and fifty-five one-hundredths percent (1.55%) for current operating expenses and permanent improvement purposes plus fifteen-hundredths of one percent (.15%) for permanent improvement purposes only, ~~and three-tenths of one percent (.3%) for public transit purposes generally and without limitation and including both capital and current operating expenses for the remainder of the calendar year 1972 and thereafter without having obtained the approval of any tax in excess of that stated herein by the electors voting on the question at a general election or at a special or primary election.~~

~~In the event that at an election on or before November 3, 2020 the Southwest Ohio Regional Transit Authority passes a resolution, pursuant to Ohio Revised Code § 5739.023 or any successor section, to levy a sales and use tax to provide general revenues for the Southwest Ohio Regional Transit Authority and the electors of the county of Hamilton, state of Ohio approve the sales and use tax levy, so long as such levy or successor levies to it remain in effect the three-tenths of one percent (.3%) earned income tax levied for public transit purposes generally shall not be levied. If the sales and use tax levy is approved, the levy of the .3% earnings tax for public transit purposes generally shall be stopped as of the first day following the collection of the sales and use tax to provide general revenues for the Southwest Ohio Regional Transit Authority.~~

In addition to the earned income tax provided above, there shall be an earned income tax at a rate of a one-tenth of one percent (0.1%) per annum to finance affordable housing for low-income households and otherwise to provide for the housing needs of low-income households, referred to as the “Cincinnati Housing Levy,” consistent with the following requirements:

- 1) All tax revenue collected under the Cincinnati Housing Levy shall be allocated to finance housing for low-income households and provide for the housing needs of low-income households as follows: (a) 50% of the Cincinnati Housing Levy annual revenue shall be used for the Rental Housing Preservation and Production Program (the “Rental Program Funds”); (b) 20.5% of the Cincinnati Housing Levy annual revenue shall be used for the Homeownership and Home Repair Program; and (c) 20.5% of the Cincinnati Housing Levy annual revenue shall be used for the Homelessness Prevention and Housing Stability Program.
- 2) The city’s Housing Advisory Board as codified in Chapter 209 of the Cincinnati Municipal Code, or its successor board, shall make funding recommendations in its advisory role for each program, as established in Article VIII, Section 6c(1), to City Council and the City Manager for each fiscal year (“FY”), beginning FY 2023, consistent with the following:
  - a. At least 50% of the Rental Program Funds should be used to support housing and rents affordable to individuals and families with a Household Income at or below 30% of the AMI and no less than 40% of the Rental Program Funds should support housing and rents affordable to individuals and families with household income at or below 60% of AMI, provided that when funding the construction, rehabilitation, or acquisition of a project that includes affordable rental housing, such project is deemed as satisfying the foregoing

when it serves individuals and families with an average Household Income not exceeding 60% AMI.

- b. The Cincinnati Housing Levy annual revenue allocated to the Homeownership and Home Repair Program should be used to provide assistance to homeowners and first-time homebuyers with a Household Income at or below 80% of AMI through forgivable loans, grants, or other similar financial assistance.
  - c. Cincinnati Housing Levy annual revenue allocated to the Homelessness Prevention and Housing Stability Program should be used to provide temporary rental assistance, shelter diversion assistance, and stability services for individuals and families with a Household Income of at or below 60% of AMI.
- 3) By the end of each fiscal year, the city administration, in collaboration with the Housing Advisory Board, shall prepare a report that details the Cincinnati Housing Levy revenue, allocated uses, and programs.
  - 4) Nine percent (9%) of the Cincinnati Housing Levy annual revenue shall be made available for the associated costs of administering affordable housing programs consistent with the purposes of this Article, but cannot be used for payment of debt service.
  - 5) The Cincinnati Housing Levy tax shall begin on January 1, 2022, and apply to income earned from January 1, 2022, through December 31, 2030. City Council shall take the action necessary to put a renewal of the 0.1% earned income tax for the Cincinnati Housing Levy to commence on January 1, 2031, on the ballot in 2030 for consideration of the electors
  - 6) City Council intends to enact a corresponding chapter to the Cincinnati Municipal Code to specify additional parameters on the programs described in this Article and further operationalize this Article.
  - 7) For the purpose of Section 6c of Article VIII, "Taxation and Finance," the words and phrases defined in this section shall have the meanings respectively ascribed to them, unless a different meaning is clearly indicated by the context, as follows:
    - a. "AMI" means the average median income of the Cincinnati, OH-KY-IN HUD Metro Fair Market Rent Area, as established annually by the U.S. Department of Housing and Urban Development.
    - b. "Household Income" means the combined gross income (except as noted herein) of all individuals living in the home who are 18 years old or older, regardless of whether they are related or not, including salaries, wages, tips, net income from self-employment, interest income, dividend income, rental

income, pension payments, spousal support payments, child support payments, social security payments, food stamps, and any other welfare payments.

Section 2. That the tax on income and the withholding tax authorized by this ordinance is authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this ordinance are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Chapter 718 of the Ohio Revised Code.

Section 3. That Council shall file with the Board of Elections at least ninety (90) days before the day of the election a copy of this ordinance requesting the Board of Elections to place the charter amendment on the ballot for approval by the electors. The submission of the proposed amendment to the electors shall be substantially as follows:

<b>CHARTER AMENDMENT</b> <b>A majority vote is necessary for passage.</b>	
<b>FOR THE INCOME TAX</b>	Shall the Ordinance providing for a 0.1 per cent levy on income for financing affordable housing for low-income households, and otherwise to provide for the housing needs of low-income households, by amending existing Section 6c of Article VIII, "Taxation and Finance" be passed?
<b>AGAINST THE INCOME TAX</b>	

Section 4. That the Clerk of Council shall give notice of the proposed Charter Amendment in the manner provided by Sections 8 and 9 of Article XVIII of the Ohio Constitution and Section 731.211 (B) of the Ohio Revised Code.

Section 5. That the Board of Elections of Hamilton County shall certify to the Council the result of the vote upon said amendment, and if said amendment is approved by a majority of the electors voting thereon, the amended Section 6c of Article VIII, "Taxation and Finance," shall become a part of the Charter of the City of Cincinnati.

Section 6. That Council authorizes the proper City officials to take all necessary and proper actions to implement this ordinance including, without limitation, to begin collecting the 0.1% earned income tax for affordable housing purposes (the "Cincinnati Housing Levy") upon satisfaction of the conditions in Section 5 of this ordinance.

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, be effective immediately. The reason for the emergency is the immediate necessity to authorize the Clerk of Council to certify and transmit this ordinance to the Board of Elections at least ninety days prior to the November 2, 2021 election.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

\_\_\_\_\_  
Deletions are struck through. Additions are underlined.

202102405

## MOTION

June 21, 2021

We MOVE that the Administration prepare for \$500,000 of the FY21 Closeout funds to be set aside for the stabilization of the First Lutheran Bell Tower on Race Street in Over-the-Rhine.

These funds shall be appropriated in a future ordinance.





202102392

**Date:** June 21, 2021

**To:** Vice Mayor Christopher Smitherman

**From:** Andrew Garth, City Solicitor *AWG*

**Subject:** Resolution – Linda Marie Lee

---

Transmitted herewith is an emergency resolution captioned as follows:

**RECOGNIZING** and expressing the appreciation of the Mayor and the Council of the City of Cincinnati to Linda Marie Lee, a wonderful wife, marvelous mother, gracious grandmother, and fabulous friend and expressing love from her many family members and friends and the City of Cincinnati's support in supporting mothers and raising the awareness of her life, love, and legacy for the past 70 years.

AWG/AKS/(lnk)  
Attachment  
342258

BWB

## RESOLUTION NO. \_\_\_\_\_ - 2021

**RECOGNIZING** and expressing the appreciation of the Mayor and the Council of the City of Cincinnati to Linda Marie Lee, a wonderful wife, marvelous mother, gracious grandmother, and fabulous friend and expressing love from her many family members and friends and the City of Cincinnati's support in supporting mothers and raising the awareness of her life, love, and legacy for the past 70 years.

WHEREAS, Linda M. Lee was born Linda M. Bell in McComb, Mississippi on June 16, 1951; and

WHEREAS, she met, fell in love with, and married Billie L. Lee in 1968; and

WHEREAS, while being married for over 50 years, they added to their union five sons: Kenny, Kevin, Christopher, Carl, and Kyle and one daughter, KeAnna; and

WHEREAS, when Linda and Billie Lee relocated to Cincinnati and began to raise their family, Linda Lee became the mom of the neighborhood, to the school, and to the youth at church while taking care of her family and providing for the needs of her children; and

WHEREAS, Linda Lee was active in PTA meetings, provided homework assistance, assisted community members with personal growth and development as well as creating a spiritual foundation for all her children and was and still remains a praying wife, mother, and grandmother; and

WHEREAS, Linda Lee became a grandmother for the first time on January 27, 1993 and as of today she has been blessed to have 19 grandchildren and 12 great grandchildren, and has countless children whose lives she has impacted in a manner that they affectionately call her "Mom"; and

WHEREAS, Linda M. Lee has become a household name in the greater Cincinnati area for her famous homemade dressing that she learned from her beloved mother, Eula Jackson, and she has since passed the recipe down to her children; and

WHEREAS, she continues to serve as a woman of God, a caretaker, and loving supporter of her husband and entire family in all times; and

WHEREAS, on June 16, 2021, Linda reached the milestone of 70 years and has remained extremely loving at all times and is the epitome of a moral and virtuous woman who serves as a role model for many driven by the love of God and the virtue of patience and who never carries bitterness in her heart; and

WHEREAS, Linda Lee continues to create and cultivate her legacy through her witness, work and worship of God and high character and integrity towards all she comes in contact with; now, therefore,

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

Section 1. That the Mayor and this Council recognize the wonderful and continuing life and commitment of Linda Marie Lee, a model of love and respect, a light in a world whose light is dim but her light burns brighter day by day.

Section 2. That this resolution be spread upon the minutes of Council and copies be provided to Linda Marie Lee through the office of Vice Mayor Smitherman.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Submitted by Vice Mayor Smitherman

**Date:** June 23, 2021

**To:** Mayor and Members of City Council  
**From:** Paula Boggs Muething, City Manager  
**Subject:** **Liquor License – Transfer of Ownership**

---

***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:** 7512584  
**PERMIT TYPE:** TRFO  
**CLASS:** D5J D6  
**NAME:** ROOTED CINCINNATI LLC  
**DBA:** ROOTED JUICERY & KITCHEN  
113 W ELDER ST  
1<sup>ST</sup> FL & BSMT  
CINCINNATI, OH 45202

On May 21, 2021 Over-the-Rhine Community Council was notified of this application and do not object.

---

Police Department Approval

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

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

**Date:** June 23, 2021

**To:** Mayor and Members of City Council  
**From:** Paula Boggs Muething, City Manager  
**Subject:** **Liquor License – Transfer (Exempt)**

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***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:** 1548714  
**PERMIT TYPE:** TREX  
**CLASS:** D5 D6  
**NAME:** CLUTCH HOSPITALITY GROUP LLC  
**DBA:** CLUTCH  
1107 VINE ST  
1<sup>ST</sup> FL BSMT & PATIO  
CINCINNATI, OH 45202

On May 13, 2021 Over-the-Rhine Community Council was notified of this application and do not object.

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Police Department Approval

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

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: July 6, 2021

**Date:** June 23, 2021

**To:** Mayor and Members of City Council  
**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:** 9005917  
**PERMIT TYPE:** NEW  
**CLASS:** D5J  
**NAME:** TORTILLERIA GARCIA INC  
**DBA:** TORTILLERIA GARGIA  
5917 HAMILTON AVE  
CINCINNATI, OH 45224

On May 18, 2021 College Hill Forum was notified of this application and do not object.

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Police Department Approval

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

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: July 9, 2021

6/23/2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

**202102269**

Subject: Motion for Spin Bicycles and Red Bike Program Expansion

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**REFERENCE DOCUMENT # 202101653**

On May 19, 2021, the Budget & Finance Committee referred the following for report:

MOTION, submitted by Vice Mayor Smitherman, WE MOVE that the Cincinnati Recreation Commission (CRC) get \$100,000 for three of their recreation centers that offer spin classes to purchase 15 new spin bicycles. The Cincinnati Recreation Commission is committed to helping all residents maintain a healthy lifestyle. CRC is designed to provide fitness opportunities to all ages. Spin class is one such activity offered at Hirsch Recreation Center (Avondale), College Hill Recreation Center, and at the Mt. Washington Recreation Center. WE FURTHER MOVE that the Red Bike program be expanded by \$500,000 to include Bond Hill, Roselawn, Evanston, and Avondale for fitness, transportation, and healthy living. (STATEMENT ATTACHED).

**Spinning Equipment for Recreation Centers**

CRC currently offers spinning classes at various recreation centers. The replacement cost of a spin bicycle is about \$1,600 on average. Based on an assessment by CRC, adding a total of 33 new spin bicycles at the three recreation centers would cost \$55,000 and can be funded with the FY 2022 Capital Budget so long as a reduction to an existing recommended project is approved.

**Red Bike Expansion**

Red Bike provided Administration with costs to install and operate a Red Bike system. For each neighborhood, Red Bike proposes one traditional Red Bike station (13 docks) to serve as the hub, along with 2 hubs of 6 of the new “single-serving” individual docks. Red Bike would work with stakeholders in each community to determine the best locations for the stations and dock hubs.



The equipment and installation cost of the above system for Avondale, Bond Hill, Evanston, and Roselawn is \$560,000 with an annual operating cost of \$60,000 per year. If this plan were to be approved, Red Bike would seek a multiyear commitment for operating support.

Red Bike indicated that they have capacity for this project if funding were provided by the City to operationalize the expansion to serve these new neighborhoods.

Since the City would not own any part of the Red Bike system, the equipment and installation cost would need to be funded with 'cash capital' as a source in the FY 2022 Capital Budget. Subsequent recommended projects would need to be identified on Schedule E of the General Capital Budget Ordinance to fund the request. The operations support would need to be funded as part of the FY 2022 General Fund budget and an offsetting reduction would be needed to fund this program.

Copy: Andrew Dudas, Director, Budget Office

Date: June 23, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

**202102321**

Subject: EMERGENCY ORDINANCE – DEDICATION OF PORTIONS OF KELLOGG AVENUE

---

Attached is an emergency ordinance captioned as follows:

ACCEPTING AND CONFIRMING the dedication of approximately 0.211 acres of real property as public right-of-way for street purposes, as portions of the public street designated as Kellogg Avenue located in the East End neighborhood of Cincinnati.

The Tri-State Improvement Company (“Dedicator”) holds title to 0.211 acres of property along Kellogg Avenue in the East End. They would like to dedicate this property to public use for right-of-way purposes to be included as portions of Kellogg Avenue.

The City Engineer has examined the Dedication Plat as to its technical features and found it to be correct.

The City Planning Commission approved the Dedication Plat and the dedication of the 0.054-acre portion of the property to public use at its meeting on September 18, 2020.

The reason for the emergency is the immediate need to dedicate the property to street purposes so that the City may realize the corresponding benefits at the earliest possible date.

The Administration recommends passage of the attached emergency ordinance.

Attachment I – Kellogg Avenue Dedication Plat

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

EMERGENCY

City of Cincinnati

CHM

BWL

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

- 2021

**ACCEPTING AND CONFIRMING** the dedication of approximately 0.211 acres of real property as public right-of-way for street purposes, as portions of the public street designated as Kellogg Avenue located in the East End neighborhood of Cincinnati.

WHEREAS, by virtue of two deeds recorded in OR 13440, Page 01930, Hamilton County, Ohio Records, and OR 13440, Page 01943, Hamilton County, Ohio Records, Tri-State Improvement Company, an Ohio corporation (“Dedicator”), holds title to four tracts of land totaling approximately 0.211 acres of real property generally located along Kellogg Avenue in the East End neighborhood, which tracts are more particularly identified as Hamilton County Auditor’s Parcel ID Nos.: (i) 011-0003-0024-00, (ii) 011-0003-0026-00, (iii) 011-0003-0028-00, and (iv) 011-0003-0030-00 (collectively, the “Dedication Property”); and

WHEREAS, Dedicator desires to dedicate the Dedication Property to public use for right-of-way purposes to be included as portions of the public street known as Kellogg Avenue and has prepared and executed a plat entitled “*Kellogg Avenue Dedication Plat*,” attached to this ordinance as Attachment A for such purpose (the “Dedication Plat”); and

WHEREAS, the City Engineer has examined the Dedication Plat as to its technical features and found it to be correct; and

WHEREAS, the City Planning Commission, at its meeting on September 18, 2020, approved the Dedication Plat and the dedication of the Dedication Property to public use for right-of-way purposes to be included as portions of the Kellogg Avenue public right-of-way; and

WHEREAS, the City Manager, upon consultation with the City’s Department of Transportation and Engineering, recommends that the Council accept and confirm the dedication of the Dedication Property for right-of-way purposes for inclusion as portions of the Kellogg Avenue public right-of-way; now, therefore,

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

Section 1. That the City hereby accepts and confirms the dedication of an approximately 0.211-acre portion of real property located along Kellogg Avenue to public use for right of way purposes as portions of the public street designated as Kellogg Avenue, as depicted on the plat entitled “*Kellogg Avenue Dedication Plat*” (the “Dedication Plat”), which Dedication Plat is attached hereto as Attachment A and incorporated herein by reference. The real property hereby

accepted and confirmed as public right-of-way is more particularly described as follows (the "Dedication Property"):

**Tract 1:**

Auditor's Parcel No.: 011-0003-0024-00

The land herein described is located in Section 23, Town 5 Range 1 City of Cincinnati, County of Hamilton, State of Ohio.

Being part of a 43.024-acre tract of land described in O.R. 12366 Pg. 2634 of the records of Hamilton County, Ohio, as deeded to 4601 Kellogg LLC an Ohio limited liability company and being described as follows:

Beginning in the westerly right of way of Kellogg Avenue at the southeast corner of parcel "A," as defined in certificate number 64799 of the Hamilton County, Ohio registered land records; thence along westerly right of way of Kellogg Avenue, South 23° 55' 51" East for a Distance of 993.89 feet to a cross notch found at a grantors northwest corner and being a southeast corner of a 0.496-acre tract described in O.R. 12717 Pg. 1186 of the records of Hamilton County, Ohio and being the True Point of Beginning for this description;

Thence with the grantors east line and the westerly right of way of Kellogg Avenue South 23° 55' 51" East for a Distance of 201.22 feet to a set 5/8" rebar;

Thence thru the grantors lands on a new division line on a curve to the right having a long chord of North 28° 05' 35" West for a Distance of 122.84 feet having a radius of 1420.35 for a deflection angle of 4° 57' 25" to a set 5/8" rebar;

Thence continuing thru the grantors lands on a new division line North 25° 36' 58" West for a Distance of 78.74 feet to a set 5/8" rebar in the grantors north line;

Thence with the said grantors north line North 66° 03' 23" East for a Distance of 11.23 feet to the True Point of Beginning of this description;

Containing 0.033 Acres.

Being subject to all easements and restrictions of record.

**Tract 2:**

Auditor's Parcel No.: 011-0003-0026-00

The land herein described is located in Section 23, Town 5, Range 1 City of Cincinnati, County of Hamilton, State of Ohio.

Being part of a 0.496-acre tract of land described in O.R. 12717 Pg. 1186 of the records of Hamilton County, Ohio, as deeded to 4601 Kellogg LLC an Ohio limited liability company and being described as follows:

Beginning in the westerly right of way of Kellogg Avenue at the southeast corner of parcel "A", as defined in certificate number 64799 of the Hamilton County, Ohio registered land records; thence along westerly right of way of Kellogg Avenue, South 23° 55' 51" East for a Distance of 821.88 feet to a rebar found at the grantors northeast corner and being the southeast corner of a 3.4019-acre tract described in O.R. 9993 Pg. 1324 parcel 2 of the records of Hamilton County, Ohio and being the True Point of Beginning for this description;

Thence with the grantors east line and the westerly right of way of Kellogg Avenue South 23° 55' 51" East for a Distance of 172.01 feet to cross notch found at the grantors southeast corner and being a northeast corner of a 43.024-acre tract of land described in O.R. 12366 Pg. 2634 of the records of Hamilton County, Ohio as deeded to 4601 Kellogg LLC;

Thence with the grantors south line and the north line of said 43.024-acre tract South 66° 03' 23" West for a Distance 11.23 feet to a set 5/8" rebar;

Thence thru the grantors lands on a new division line North 25° 36' 58" West for a Distance of 31.05 feet to a set 5/8" rebar;

Thence continuing thru the grantors lands on a new division line North 23° 55' 29" West for a Distance of 140.98 feet to a set 5/8" rebar in the grantors north line;

Thence with the said grantors north line North 66° 03' 19" East for a Distance of 12.13 feet to the True Point of Beginning of this description;

Containing 0.048 Acres.

Being subject to all easements and restrictions of record.

**Tract 3:**

Auditor's Parcel No.: 011-0003-0028-00

The land herein described is located in Section 23 & 24, Town 5, Range 1 City of Cincinnati, County of Hamilton, State of Ohio.

Being part of a 3.4019-acre tract of land described in O.R. 9993 Pg. 1324 parcel 2 of the records of Hamilton County, Ohio, as deeded to The Kellogg Group, LLC an Ohio limited liability company and being described as follows:

Beginning in the westerly right of way of Kellogg Avenue at the southeast corner of parcel "A", as defined in certificate number 64799 of the Hamilton County, Ohio registered land records; thence along westerly right of way of Kellogg Avenue, South 23° 55' 51" East for a Distance of 370.85 feet to a point at the grantors northeast corner and being the southeast corner of a 1.0881-acre tract described in O.R. 9993 Pg. 1324 parcel 1 of the records of Hamilton County, Ohio and being the True Point of Beginning for this description;

Thence with the grantors east line and the westerly right of way of Kellogg Avenue South 23° 55' 51" East for a Distance of 451.03 feet to found rebar at the grantors southeast corner and being the northeast corner of a 0.496-acre tract of land described in O.R. 12717 Pg. 1186 of the records of Hamilton County, Ohio as deeded to The 4601 Kellogg LLC;

Thence with the grantors south line and the north line of said 0.496-acre tract South 66° 03' 19" West for a Distance 12.13 feet to a set 5/8" rebar;

Thence thru the grantors lands on a new division line North 23° 55' 29" West for a Distance of 265.59 feet to a set 5/8" rebar;

Thence continuing thru the grantors lands on a new division line North 22° 13' 35" West for a Distance of 185.44 feet to a set 5/8" rebar in the grantors west line;

Thence with the said grantors north line North 65° 23' 09" East for a Distance of 6.58 feet to the True Point of Beginning of this description;

Containing 0.114 Acres.

Being subject to all easements and restrictions of record.

**Tract 4:**

Auditor's Parcel No.: 011-0003-0030-00

The land herein described is located in Section 24, Town 5, Range 1 City of Cincinnati, County of Hamilton, State of Ohio.

Being part of a 1.0881-acre tract of land described in O.R. 9993 Pg. 1324 parcel 1 of the records of Hamilton County, Ohio, as deeded to the Kellogg Group, LLC an Ohio limited liability company and being described as follows:

Beginning at a rebar found in the westerly right of way of Kellogg Avenue at the southeast corner of parcel "A", as defined in certificate number 64799 of the Hamilton County, Ohio registered land records; thence along westerly right of way of Kellogg Avenue, South 23° 55' 51" East for a Distance of 186.84 feet to a found rebar at the grantors northeast corner and being the southeast corner of a 0.75-acre



tract described in O.R. 11014 Pg. 142 of the records of Hamilton County, Ohio and being the True Point of Beginning for this description;

Thence with the grantors east line and the westerly right of way of Kellogg Avenue South 23° 55' 51" East for a Distance of 184.01 feet to a point at the grantors southeast corner and being the northeast corner of a 3.4019-acre tract of land described in O.R. 9993 Pg. 1324 parcel 2 in the records of Hamilton County, Ohio as deeded to The Kellogg Group LLC;

Thence with the grantors south line South 65° 23' 09" West for a Distance 6.58 feet to a set 5/8" rebar;

Thence thru the grantors lands on a new division line North 22° 13' 35" West for a Distance of 184.16 feet to a point in the grantors north line and the south line of said 0.75-acre tract;

Thence with the said grantors north line and the south line of said 0.75-acre tract North 65° 23' 09" East for a Distance of 1.11 feet to the True Point of Beginning of this description;

Containing 0.016 Acres.

Being subject to all easements and restrictions of record.

Section 2. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the terms of this ordinance, including execution of all necessary real estate documents.

Section 3. That the City Solicitor shall cause an authenticated copy of this ordinance to be filed with the Hamilton County, Ohio Auditor's Office, and recorded in the Hamilton County, Ohio Recorder's Office.

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

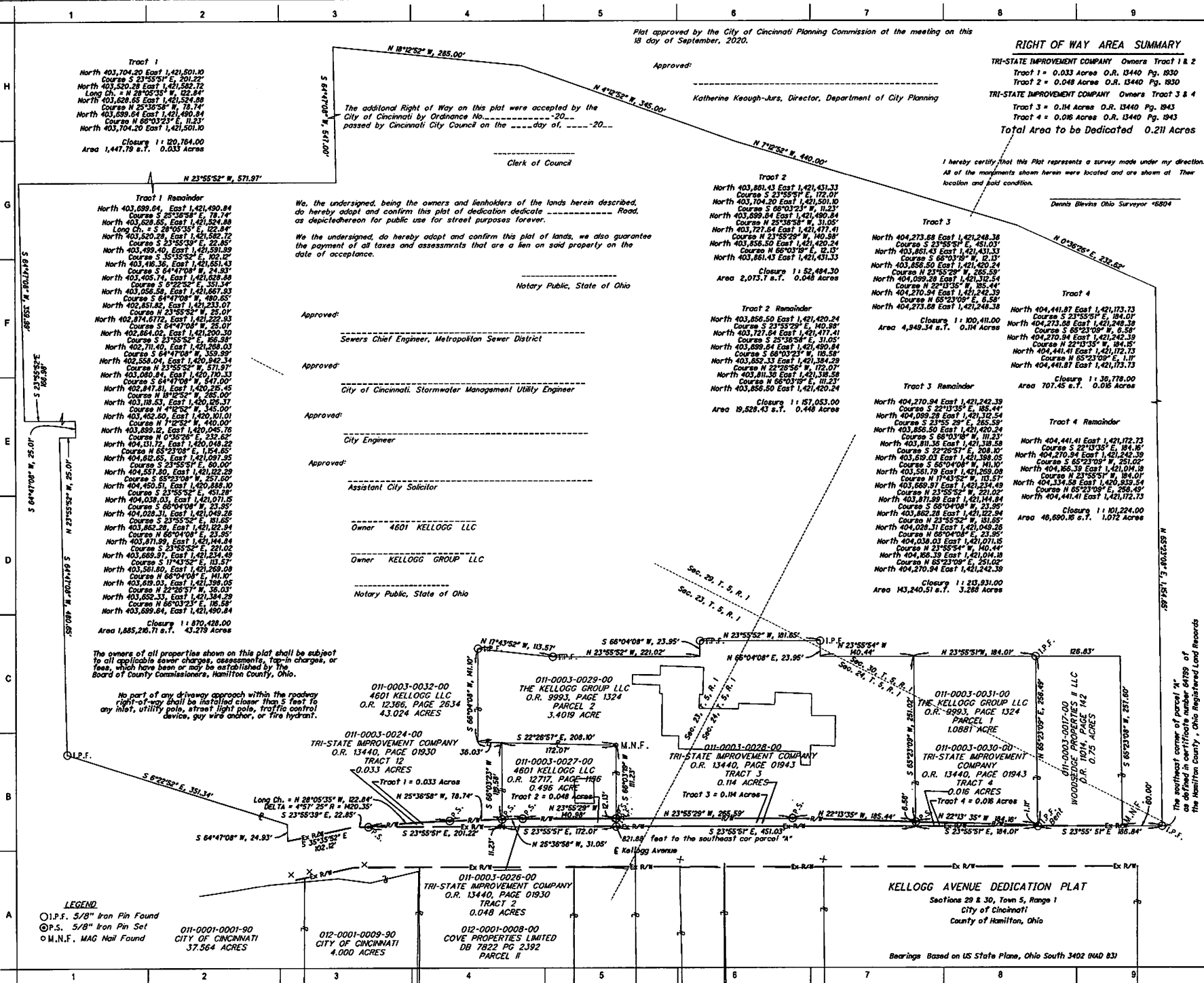
the immediate need to dedicate the Dedication Property to street purposes so that the City may realize the corresponding benefits at the earliest possible date.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

## ATTACHMENT A



**RIGHT OF WAY AREA SUMMARY**

TRI-STATE IMPROVEMENT COMPANY Owners Tract 1 & 2  
Tract 1 = 0.033 Acres O.R. 13440 Pg. 1930  
Tract 2 = 0.048 Acres O.R. 13440 Pg. 1930

TRI-STATE IMPROVEMENT COMPANY Owners Tract 3 & 4  
Tract 3 = 0.14 Acres O.R. 13440 Pg. 1943  
Tract 4 = 0.016 Acres O.R. 13440 Pg. 1943

Total Area to be Dedicated 0.211 Acres

DRAWING NO.

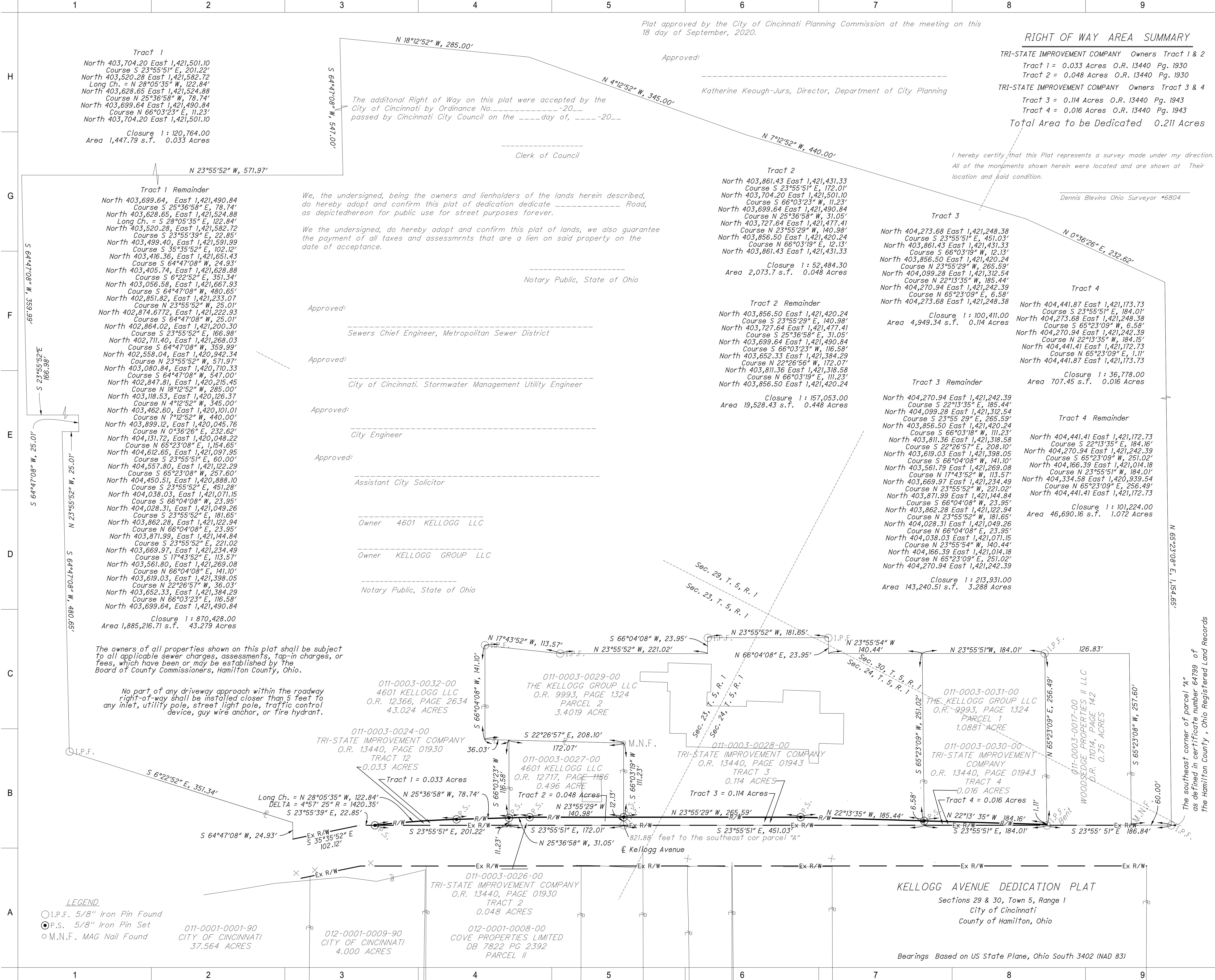
**TEC** Engineering, Inc.  
ENGINEERS  
PLANNERS  
SURVEYORS

7288 Central Parke Blvd.  
Mason, Ohio 45040  
(513) 771-8828

0 10 20  
HORIZONTAL  
SCALE IN FEET

15/19

ET SIZE DWG: PLOT SIZE (130x42)



ENGINEERS  
PLANNERS  
SURVEYORS

7288 Central Parke Blvd.  
Mason, Ohio 45040  
(513) 771-8828



A horizontal scale bar labeled "HORIZONTAL SCALE IN FEET". The scale ranges from 0 to 100 feet, with major markings at 0, 25, 50, and 100. The bar is divided into four equal segments of 25 feet each.

SEA

MARK	DATE	SPN BY	REVISION
19			
6			
7			
6			
5			
4			
3			
3			
2			
15/01	TEC	Permit to City of Cincinnati	
10/04/16	TEC	Bidding and Estimating	

PROJECT NO:

DRAWING NUMBER

ELECTRONIC FILE NAME

DRAWN BY: KLL 3/8/17

CHK'D BY: BMR 3/8/17

E-MAIL: [BBENDER@TECFENG.COM](mailto:BBENDER@TECFENG.COM)

SHEET TITLE:

SHEET NO. \_\_\_\_\_

19/19



EMERGENCY

City of Cincinnati

JRS

AWB

An Ordinance No. \_\_\_\_\_ - 2021

**MODIFYING** the provisions of Title VII, "Business Regulations" of the Cincinnati Municipal Code by **ORDAINING** new Chapter 811, "e-Scooter Rental Franchises," and **AMENDING** Section 1501-9, "Class D Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code to establish e-scooter rental franchises for the rental of e-scooters in the City of Cincinnati.

WHEREAS, the City established a pilot program for shared active transportation in the City, which included agreements with Bird and Lime allowing for the operation of low-speed micromobility devices, otherwise known as electronic scooters or e-scooters ("e-scooters"); and

WHEREAS, the City issued a request for proposals for consideration of a permanent program for the rental of e-scooters in the City, and the Administration reviewed proposals and is in the process of finalizing agreements with those vendors who will be most advantageous to the City; and

WHEREAS, the Ohio General Assembly recently passed House Bill 295, codified in Ohio Revised Code Chapter 4511, allowing for e-scooters to operate and park in the City's right-of-way subject to regulations and prohibitions established by the City; and

WHEREAS, the City has a significant interest in protecting the safety and welfare of the pedestrian public and preventing City streets and rights of way from being flooded by e-scooters or rented without proper safeguards to account for the public health, safety, and welfare; and

WHEREAS, the establishment of a e-scooter rental franchise program will encourage e-scooter rental companies to regulate their own riders and operators and further provide resources for the repair and maintenance of the City's roads and rights-of-way where such e-scooters operate; and

WHEREAS, by providing for a limited number of franchises, the City intends to prevent the cluttering of City streets, sidewalks, and other rights-of-way by e-scooter rental companies and provide an effective means to regulate and oversee the regulations of e-scooter rentals; and

WHEREAS, the City Council accordingly wishes to establish regulations for e-scooter scooter rental companies that operate within the City of Cincinnati in order to provide for the safety, security, and welfare of the public and the City's infrastructure assets; now, therefore,

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



Section 1. That Title VII, “Business Regulations,” of the Cincinnati Municipal Code is hereby modified by enacting new Chapter 811, “e-Scooter Rental Franchises,” to read as follows:

**CHAPTER 811. e-SCOOTER RENTAL FRANCHISES.**

**Sec. 811-01. – Applicability.**

- (a) e-Scooter shall have the same meaning as defined in Cincinnati Municipal Code Section 501-1-E3, “e-Scooter.”
- (b) This chapter applies to any person engaged in the business of providing e-scooter rental or sharing services to the public within the city.
- (c) The requirements of this chapter shall supplement the provisions of Title V, “Traffic Code,” of the Cincinnati Municipal Code.
- (d) No person shall engage in the business of e-scooter rental or sharing services to the public within the city unless that person has obtained a franchise from the city to engage in such a business.
- (e) No person shall obtain a franchise from the city until that person has complied with the following:
  - (1) Submitted a timely and complete application for a franchise or timely and complete response to a request for proposals conducted by the city;
  - (2) Paid the application fee established by the city manager, if applicable;
  - (3) Posted a bond and obtained the insurance required by Sec. 811-07; and
  - (4) Executed a franchise agreement with the city for the provision of e-scooter rental or sharing services.

**Sec. 811-03. - General Provisions.**

- (a) It is unlawful for any person to commence or engage in the business of providing e-scooter rental or sharing services within the city without first obtaining a franchise and entering into a franchise agreement with the city.
- (b) Each franchisee shall comply with all laws of the city of Cincinnati, the state of Ohio, and the federal government. Each franchisee shall obtain and maintain all applicable licenses and permits required by federal, state, and local laws, rules, regulations, and orders of regulatory bodies.

- (c) Each franchisee shall comply with all rules and regulations established by the city manager or his or her designee for the safe and effective administration, operation, and enforcement of the e-scooter rental and sharing services pursuant to Sec. 811-09.
- (d) A franchisee shall not be relieved of the obligation to comply with all requirements of this chapter and the franchise agreement by failure of the city to enforce compliance with such requirements.
- (e) The city reserves its right to grant franchises and similar rights to more than one (1) person.
- (f) Each franchisee shall identify and mark each of its e-scooters located within the city with the franchisee's name so that they are easily identifiable.
- (g) A franchisee providing e-scooter rental or sharing services is not and shall not be deemed to be an agent or employee of the city. A franchisee shall be solely responsible for any losses or damages of any kind arising from its performance or nonperformance under its franchise. A franchisee shall indemnify, defend, and hold the city harmless against any and all claims and suits brought against the city resulting from the franchisee's performance or nonperformance under the franchise agreement.
- (h) The execution of the franchise agreement and the issuance of a franchise, and the renewal thereof, is at the sole discretion of the city manager and shall not be construed as creating any vested rights in the franchisee. Each franchise is revocable in accordance with the terms of this chapter and the terms of the franchise agreement.
- (i) A franchise may not be assigned or transferred to another person.
- (j) A franchise authorizes a franchisee to provide e-scooter rental or sharing services within the city.
- (k) All of the franchisee's equipment, including e-scooters and other vehicles used in connection with e-scooter rental or sharing services, shall be subject at all times to inspection by the city, and the city manager or his or her designee may require the cleaning, repair, replacement, or retirement of any equipment, including e-scooters and other vehicles used in connection with e-scooter or sharing services.

**Sec. 811-05. – Award of e-Scooter Franchisees.**

- (a) Any person wishing to obtain a franchise to engage in the business of providing e-scooter rental or sharing services within the city shall submit an application to the city manager in compliance with the process established for awarding franchises.

- (b) Where appropriate, the city manager may choose to conduct a request for services pursuant to Cincinnati Municipal Code Section 321-1-R6 to solicit qualified franchisees in lieu of an application process.
- (c) An applicant for a franchise shall provide the city with satisfactory evidence demonstrating that:
  - (1) The applicant has the experience, personnel, equipment, and other resources to provide e-scooter rental or sharing services in the city and the management of such; and
  - (2) The applicant has the capacity and willingness to comply with all local, state, and federal laws, and all rules and regulations of the city for the rental, sharing, and operation of rental e-scooters.
- (d) Applicants for a new franchise and applicants for the renewal of an existing franchise shall provide information requested by the city manager and other relevant information. The application and supporting materials shall be submitted under oath. At a minimum, the application shall include the following information:
  - (1) The name and mailing address of the applicant; contact information for the applicant's designated representative; the name of the person to be granted the franchise; if the applicant is a corporation, the names of the corporation's principal officers; the names of the local operating managers who will be responsible for the rental or sharing services for the applicant, together with the business address and telephone number of each manager;
  - (2) If the applicant is a corporation, proof that the corporation is in good standing in the state of Ohio and, if the applicant is not an Ohio corporation, proof that the applicant is authorized to do business in the State of Ohio. If the applicant is operating under a fictitious name, the applicant shall be required to submit information that such fictitious name is registered and held by the applicant;
  - (3) A statement of whether the applicant operates or has operated an e-scooter rental or sharing business in Ohio or any other state or territory. If the applicant has provided or is providing e-scooter rental or sharing services, the applicant shall describe all cases where and when it provided such services (but not more than ten (10) communities), and whether any of the applicant's permits, approvals, or licenses to provide such services have ever been revoked or suspended within the last five (5) years;
  - (4) A complete record of all felony convictions, and all misdemeanor convictions within the last five (5) years, involving the applicant's e-scooter rental and sharing services. If the applicant is not an individual, the applicant also shall provide the complete record of such convictions for any person who is an officer, majority shareholder, or partner in the applicant, and any person having a controlling interest in the applicant;

- (5) A complete record of all civil penalties and liquidated damages in excess of five thousand dollars (\$5,000.00) assessed against the applicant by local, state, and federal governmental entities within the last five (5) years involving the e-scooter rentals or sharing services;
  - (6) The types of e-scooters or other vehicles which the applicant has in its inventory and their capabilities, including any e-scooters that are adapted to expand access for people with physical limitations;
  - (7) A list of the e-scooters, vehicles, equipment, and containers that will be used by the applicant to provide e-scooter rental or sharing services. At a minimum, the list shall identify the make, model, and year of each e-scooter or vehicle. The city manager may inspect any of the e-scooters, vehicles, equipment, and containers identified by the applicant and thereby determine whether the applicant possesses the e-scooters, vehicles, equipment, and containers that are capable of providing safe and efficient e-scooter rental and sharing services in compliance with this chapter; and
  - (8) A chart identifying the maximum rates that the applicant charges customers for various types of e-scooter rental or sharing services.
- (e) When applicable, each applicant shall submit a nonrefundable application fee to the city in the amount established by the city manager. The application fee is due and payable when the application is submitted. This fee shall not apply to responses to a request for services.
- (f) New applications must be submitted to the city manager at least sixty (60) days before the applicant wishes to begin providing e-scooter rental or sharing services. Renewal applications must be submitted to the city manager at least thirty (30) days before the applicant's existing franchise expires.
- (g) A franchise for e-scooter rental or sharing services may be granted to a person when the city manager concludes that the applicant has satisfied the requirements in this chapter. This includes successfully responding to the request for services or completing the application and the city rating the person's proposal or application as most advantageous.
- (h) The city manager retains the sole discretion to approve or deny an application. Among others, an application for a franchise for e-scooter rental or sharing services may be denied for the following reasons:
- (1) The applicant has not submitted a complete application with all of the required supporting documents or paid the application fee;
  - (2) The applicant has submitted false or materially misleading statements in the application;
  - (3) The applicant or a partner, director, or officer of the applicant has been convicted of a felony within the past five (5) years, or has been convicted of a misdemeanor within the past three (3) years, involving provision of scooter rental or sharing services;

- (4) The applicant has failed to satisfy one or more of the requirements of this chapter or the Cincinnati Municipal Code;
- (5) Any reason that would justify the suspension or revocation of a franchise, as described in Sec. 811-11; and
- (6) The addition of further franchises would exceed either the total number of allowable e-scooters in the city or the number of franchises determined by the city manager to be needed by the city.

**Sec. 811-07. - Requirement to Execute a Franchise Agreement with the City; Payment of Franchise Fees.**

- (a) Each applicant awarded a franchise for e-scooter rental or sharing services shall execute a franchise agreement, including all required attachments, in the form prescribed by the city manager or his or her designee.
- (b) In connection with the execution of a franchise agreement, each franchisee shall submit the required franchise fees and documentation to the city, including but not limited to the following:
  - (1) An annual fee of two thousand five hundred dollars (\$2,500) for the administrative costs of oversight of the franchise, which fee shall be due and payable on the commencement date of the franchise and on each anniversary of the commencement date during the term of the franchise agreement.
  - (2) Monthly franchise fees as compensation for the rights and benefits granted by the franchise, including but not limited to the right to operate an e-scooter rental or sharing business in the city. The franchise fee shall be equal to twenty-five cents (\$0.25) per trip or activation of an e-scooter (which shall equal the total number of trips or activations of an e-scooter within a calendar month multiplied by \$0.25) for each e-scooter maintained by the franchisee within the city. A trip shall mean anytime a person activates or uses the e-scooter and pays a fee for such use. The franchisee shall submit its monthly franchise fee payments to the city no later than five business days after the end of each month.
  - (3) A statement of the franchisee's total number of trips in the city that accompanies each monthly franchisee fee payment, which statement shall be submitted on a form prescribed by the city manager or his or her designee. The statement shall include the number of e-scooters deployed or available in the city and the amount of trips and fees per day for each e-scooter. Statements and remittances shall be accepted as timely if postmarked within five days after the end of the month; if the fifth day falls upon a Saturday, Sunday, or federal or state holiday, statements and remittances shall be accepted as timely if postmarked on the next business day. Payments not received by the due date shall be assessed (1) an administrative fee to reimburse the city for the reasonable administrative costs associated with collecting such monies; and (2) interest for each day of delinquency at the rate of eighteen (18) percent per annum or the maximum allowed by law, whichever is less, for each day of delinquency, until

the total unpaid amount due and owing is paid in full. The administrative fee shall be equal to six (6) percent of the amount owed by the franchisee to the city or fifteen dollars (\$15.00), whichever is greater.

- (4) An annual report concerning the franchisee's total trips for the year. This annual report shall be examined by an independent reviewer, who shall confirm that the franchisee's computations concerning trips and franchise fees were performed in accordance with the requirements of this chapter. The report of the reviewer shall state that its examination of the franchisee's records was performed in accordance with professional standards. Each franchisee shall notify the city of the date its fiscal year ends. Each franchisee shall file the auditor's report with the city within one hundred twenty (120) days after the end of the franchisee's fiscal year. Franchisee shall be solely responsible for retaining the independent auditor and paying for his or her services.
- (5) A certificate evidencing insurance coverage for the following types of insurance coverage and specified limits of coverage is in effect for the same term as the franchise agreement, and naming the city as an additional insured (except with regard to the workers compensation and employers liability insurances), issued by an insurance company licensed to do business in the state of Ohio, acceptable to the city, and as required and set forth in greater specificity in the franchise agreement:
  - (a) Comprehensive general liability insurance with a limit of a one million dollar (\$1,000,000) per occurrence and a two million dollar (\$2,000,000) general aggregate. This policy must include the following coverages: premises and operations liability, independent contractors, products and completed operations, personal injury, contractual liability, and fire damage;
  - (b) Automotive liability insurance coverage providing a combined single limit of not less than one million dollars (\$1,000,000) per occurrence. This policy must include the following coverages: bodily injury and property damage including premises and operations;
  - (c) Workers compensation insurance shall be provided for all of franchisee's employees as required under Ohio law; and
  - (d) Employer's liability insurance providing a single limit of not less than one million dollars (\$1,000,000), bodily injury by each accident, and providing a single limit of not less than one million dollars (\$1,000,000), bodily injury disease per each employee, and providing a single limit of not less than one million dollars (\$1,000,000) bodily injury by disease policy limit.
- (6) A bond in the amount of twenty percent (20%) of the franchisee's gross revenues for the quarter immediately preceding the execution date of the franchise agreement. For franchisees who did not hold a franchise in the quarter immediately preceding the execution date of the franchise agreement, the bond shall be in the amount of fifty thousand dollars (\$50,000). The bond shall conform with the requirements of CMC Chapter 304.

- (a) All amounts paid by the franchisee shall be subject to confirmation and re-computation by the city. An acceptance of payment shall not be construed as an accord that the amount paid is the correct amount, nor shall acceptance of payment be construed as a release of any claim the city may have for further or additional sums payable.
- (b) Billing methods that have the effect of reducing or avoiding the payment of franchise fees are prohibited and will be cause for termination of the franchise. Any person who uses false, misleading, or fraudulent billing methods for the purpose of reducing or avoiding the payment of franchise fees may be subject to the penalties provided by this chapter.
- (c) Payment of the franchise fee shall not exempt the franchisee from the payment of any other fee, tax, or charge on the business, occupation, property, or income of the franchisee that may be imposed by the city, the county, the state, or the federal government.
- (d) The franchisee shall notify the city in writing by registered or certified mail thirty (30) days in advance of any cancellation, intent not to renew, or any other changes in the insurance coverage required by this section. Upon the cancellation or lapse of any policy of insurance required by this chapter or the franchise agreement, the franchisee's license to operate as a franchisee in the city under its franchise agreement shall be deemed to be immediately revoked unless, before the expiration date of the policy of insurance, another policy of insurance containing all the requirements of the original policy of insurance is obtained and a new certificate is provided to the city.
- (e) The bond required by this section shall be used to insure the franchisee's performance under this chapter and the franchise agreement. Among other things, the bond shall be used to ensure the franchisee's payment of franchise fees and other sums that are due and owing to the city. The bond shall also be used to indemnify the city from any damages that may be suffered by the city in any manner as a result of the city's award of a franchise to the applicant, including but not limited to damages resulting from the franchisee's performance or nonperformance of the conditions and requirements of the franchise agreement, the franchisee's use of the city's streets, the failure of the franchisee to conform with applicable laws, and any negligent, reckless or intentional wrongful act or omission of the franchisee or the franchisee's employees, agents, officers, or representatives. The bond shall be kept in full force at all times during the term of the franchise. The bond shall be released by the city within one year following the expiration or termination of the franchise agreement.
- (f) A franchisee's failure to remit fees and documentation required by this chapter shall be grounds for the suspension or revocation of the franchise.
- (g) The city may seek judicial relief to recover all fees, costs, and interest due and owing by a franchisee. The franchisee shall pay the city's court costs, reasonable attorney fees, accounting and auditing costs, and other collection costs incurred by the city as a result of franchisee's failure to remit the fees and documentation required by this chapter and the franchise agreement.



**Sec. 811-09. – Rules and Regulations for Franchisee Operations.**

- (a) The city manager or his or her designee is authorized to establish rules and regulations for the safe and effective administration, operation, and enforcement of the e-scooter rental and sharing services program. The regulations may include but are not limited to the following categories:
- (1) Required notices and information to be provided to e-scooter renters and users;
  - (2) Required management and enforcement tools so the city and franchisees may effectively control, monitor, and manage rented e-scooters;
  - (3) Required maintenance obligations and abatement obligations regarding retrieval of e-scooters which are determined by the city to be in disrepair, in need of service, or located outside of permissible areas of operation;
  - (4) Identification requirements to ensure rented e-scooters are identifiable and ensure the payment of fees and costs associated with such rentals;
  - (5) Restrictions on parking in the city right-of-way;
  - (6) Environmental concerns and regulations based on the weather;
  - (7) Rider education and public health concerns regarding safety;
  - (8) Restrictions on fleet size or the number of shared or rentable e-scooters owned or operated by a franchisee;
  - (9) Allowances for accessibility e-scooters or similar devices which are intended to allow those persons with physical limitations access to similar rentable devices;
  - (10) Curfew restrictions and boundaries for permanent and temporary restricted areas of operation; and
  - (11) All regulations necessary for the safe and effective management and control of e-scooters in the city's streets, paths, roads, rights-of-way, and other public grounds.
- (b) The rules and regulations established pursuant to this section shall promote the safe and orderly operation of e-scooters within the city, and shall promote the safety and welfare of pedestrians, residents, businesses, city staff, and right-of-way users. All e-scooter rental franchises shall agree to abide by such rules and regulations.
- (c) Each franchisee shall prepare, keep, and maintain current, accurate records demonstrating its compliance with the requirements of this chapter and the franchise agreement.

- (d) The city shall have the right to inspect and review a franchisee's records concerning its franchise. The city shall provide fifteen (15) days advance written notice of any such inspection. The city also may copy and audit the franchisee's records, at the city's expense. The records shall be readily accessible for review by the city.

**Sec. 811-11. - Suspension or Revocation of Franchise.**

- (a) The city manager may suspend or revoke a franchise and the corresponding franchise agreement if the city manager concludes that:
- (1) The franchise was issued due to a mistake of law or fact;
  - (2) The franchise was issued based upon a false statement or misrepresentation by the franchisee;
  - (3) The franchisee has violated an applicable provision of the Cincinnati Municipal Code, state law, or federal law;
  - (4) A necessary permit, approval, or license of the franchisee has become invalid;
  - (5) The franchisee is no longer engaged in providing e-scooter rental or sharing services in the city;
  - (6) The services and other activities authorized under the franchise are not being performed in accordance with the requirements of this chapter, the franchise agreement, or the application for a franchise;
  - (7) Timely and full payment of the franchise fee has not been accomplished by the franchisee in compliance with this chapter;
  - (8) The franchisee or one (1) of its principals has been convicted under a local, state, or federal law for a crime involving scooter rental or sharing services;
  - (9) The franchisee failed to provide, pay for, and maintain the coverage in accordance with the requirements of this chapter;
  - (10) The franchisee violated a requirement of this chapter or the franchise agreement;
  - (11) The franchisee failed to comply with a lawful order of the city manager or his or her designee; or
  - (12) The franchisee's actions or inactions demonstrate that the franchisee is not competent or fit to provide services to the public.

- (b) Before the city manager suspends or revokes a franchise, the city manager or his or her designee shall provide notice to the franchisee and an opportunity to be heard in the manner set forth in Sec. 811-13.
- (c) A franchise that has been suspended or revoked under this chapter shall not be reinstated or reissued unless, at a minimum, the franchisee has complied with all of the requirements of this chapter, submitted a complete application, paid the application fee, executed a franchise agreement, and been approved by the city manager.
- (d) The revocation of a franchise shall automatically terminate the corresponding franchise agreement.

**Sec. 811-13. - Right to Appeal the Denial, Suspension, or Revocation of a Franchise.**

- (a) Prior to the denial of an application or the suspension or revocation of a franchise, the applicant or franchisee shall be given reasonable notice of the city manager's proposed action and shall be given an opportunity to present evidence to the city manager or his or her designee explaining why the franchise should not be denied, suspended, or revoked. The city manager shall consider any evidence presented by the applicant or franchisee that the city manager determines is relevant to the appeal before the city manager issues a final decision. Notice of the city's proposed action, and notice of the city's final decision, shall be served upon the applicant or franchisee by certified mail.
- (b) The applicant or franchisee may appeal the city's final decision by filing a notice of appeal with the office of administrative hearings pursuant to Chapter 1501 of the Cincinnati Municipal Code within fifteen (15) days after written notice of the city manager's decision is issued. An appeal to the office of administrative hearings shall not act as a stay of the city manager's decision to suspend or revoke a franchise.

**Sec. 811-15. - Penalties.**

A violation of any section of this chapter shall constitute a Class D civil offense.

Section 2. That Section 1501-9, "Class D Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code is hereby amended as follows:

**Sec. 1501-9. - Class D Civil Offenses.**

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for

the subsequent offense provided below, which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

(a) Class D Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 720-13	Private Facilities	Class E
(2)	§ 720-45	Notice of Violations	Class E
(3)	§ 720-69	Notice to Correct Drainage	Class E
(4)	Chapter 855	Rooming Houses	Class D
(5)	Chapter 895	Outdoor Advertising Signs	Class D
(6)	Chapter 1101	Administration, Cincinnati Building Code	Class E
(7)	Chapter 1106	General and Specialty Contractors	Class E
(8)	Chapter 1107	Elevator and Conveyor Equipment	Class E
(9)	Chapter 1117	Housing Code	Class E
(10)	Chapter 1119	Building Hazard Abatement Code	Class E
(11)	Chapter 1127	General Inspection Programs Code	Class E
(12)	Title XIV	Zoning Code	Class E
(13)	§ 1201-21	Maintenance	Class D
(14)	§ 1201-33	Evacuation	Class D
(15)	§ 1201-35	Spills and Leaks	Class D
(16)	Chapter 1235	Detectors, Early Fire Warning Systems	Class D
(17)	§ 1123-11(a)	Vacant Foreclosed Property Registration - Failure to register a vacant, foreclosed property.	Class E
(18)	§ 874-07(a)	Failure to Register Residential Rental Property	Class D

(b) Class D Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 718-25	Secret Street Uses	Class E
(2)	§ 721-59	Taking Material from Streets	Class E
(3)	§ 729-71(c)(2)	Personal Property Left Abandoned on Streets and Sidewalks - 4 or more items	Class D
(4)	§ 761-14	Eviction or Retaliation by Landlord	Class E
(5)	Chapter 891	Home Improvement	Class E
(6)	§ 1201-47	Failure to Comply with Orders	Class D
(7)	§ 1219-21	Causing Fire Through Negligence	Class D
(8)	Chapter 1251	Fire Starting Apparatus	Class D
(9)	§ 759-4	Use of a Motor Vehicle to Facilitate a Drug Related Crime	Class D
(10)	Chapter 722	Management and Control of the Use of the City Right-of-Way	Class E
(11)	Chapter 730	Commercial Waste Franchises	
(12)	§ 856-25(c)	Violation of Limitations on Operators or Operation of Short Term Rentals	Class D
(13)	§ 1125-17(1)	Failure to Register a Vacant Building	Class E
(14)	§ 1601-57	Enforcement of Emergency Orders	Class D
(15)	§ 1601-59	Enforcement of Health Orders	Class D
(16)	<u>Chapter 811</u>	<u>e-Scooter Rental Franchises</u>	<u>Class D</u>

Section 3. That existing Section 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code is hereby repealed.

Section 4. That the City Manager and the proper City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including by updating applicable rules and regulations and policies and procedures in accordance with the modifications to the Cincinnati Municipal Code provided for herein.

Section 5. That, notwithstanding the provisions of new Chapter 811, “e-Scooter Rental Franchises” concerning the manner in which the City Manager is authorized to solicit and award franchises, the City Manager is authorized to negotiate, finalize, and execute franchise agreements with those e-scooter rental companies whose responses to Request for Proposals (RFP729ENGSCOOTERS) the City has determined to be most advantageous to the City, provided that the franchise agreements are consistent with the provisions of new Chapter 811, “e-Scooter Rental Franchises.”

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 establish franchise regulations for e-scooter scooter rental companies who operate within the City of Cincinnati as such devices and companies are presently operating within the city, in order to immediately provide for the safety and welfare of pedestrians, residents, businesses, city staff, and right-of-way users.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

\_\_\_\_\_  
Additions indicated by underline; Deletions indicated by strikethrough.

Date: June 23, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

**202102323**

Subject: EMERGENCY ORDINANCE – MODIFYING CMC CHAPTER 719, “WIRELESS COMMUNICATIONS FACILITIES IN THE RIGHT OF WAY”

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Attached is an emergency ordinance captioned as follows:

MODIFYING Title VII, “General Regulations,” of the Cincinnati Municipal Code by AMENDING the provisions of Chapter 719, “Wireless Communications Facilities in the Right of Way,” to ensure that the City’s regulation of wireless communication facilities in the public right-of-way is consistent with recent changes to applicable state and federal laws and regulations.

In light of recent changes in state and federal laws and regulations concerning the installation of small cells in the right of way, the City wishes to update the Cincinnati Municipal Code to ensure the provisions of the Cincinnati Municipal Code remain consistent with state and federal laws.

The reason for the emergency is the immediate need to modify Chapter 719, “Wireless Communications Facilities in the Right of Way,” of the Cincinnati Municipal Code to ensure it is consistent with applicable state and federal laws and regulations.

The Administration recommends passage of the attached emergency ordinance.

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



EMERGENCY

City of Cincinnati

JRS

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

- 2021

**MODIFYING** Title VII, “General Regulations,” of the Cincinnati Municipal Code by **AMENDING** the provisions of Chapter 719, “Wireless Communications Facilities in the Right of Way,” to ensure that the City’s regulation of wireless communication facilities in the public right-of-way is consistent with recent changes to applicable state and federal laws and regulations.

WHEREAS, Cincinnati Municipal Code Chapter 719, “Wireless Communications Facilities in the Right of Way,” authorizes and governs wireless communication facilities in the City’s right-of-way, including facilities commonly referred to as “small cells” that rely upon 5G technology, the fifth generation of digital cellular network technology; and

WHEREAS, in light of recent changes in state and federal laws and regulations concerning the installation of small cells in the right of way, the City Council wishes to update the Cincinnati Municipal Code to ensure the provisions of the Cincinnati Municipal Code remain consistent with state and federal laws; and

WHEREAS, in authorizing the use of the public right-of-way for wireless communication facilities, the Council wishes to establish a clear and effective regulatory framework for managing wireless communication in the public right-of-way, including small cells, that promotes the public health, safety, and welfare, and the uniformity of wireless communication throughout the City of Cincinnati; now, therefore,

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

Section 1. That Chapter 719, “Wireless Communications Facilities in the Right of Way,” of the Cincinnati Municipal Code is hereby modified to read as follows:

**Chapter 719 - WIRELESS COMMUNICATIONS FACILITIES IN THE RIGHT OF WAY**

**Sec. 719-1. - Purpose and Goals.**

The purpose of this chapter is to establish general procedures and standards, consistent with all applicable federal and state laws, for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the right of way. The goals of this chapter are to:

- (a) Provide standards for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the

city's right of way and for payment of fees and charges to be uniformly applied to all applicants and owners of wireless communications facilities or support structures for such facilities.

- (b) Establish basic criteria for applications to site wireless communications facilities in the right of way and authorize the director of the department of transportation and engineering to develop, publish, and from time to time amend applications and other associated materials to provide clear guidance to applicants.
- (c) Ensure that wireless communications facilities will conform to all applicable health and safety regulations and will blend into their environment to the greatest extent possible.
- (d) Enhance the ability of wireless communications carriers to deploy wireless infrastructure in the city quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability. Promote the rapid deployment of small cell infrastructure and related capital investment in the city by ensuring that the city grants or denies consent to install, operate, modify, or replace wireless communications facilities in a timely manner.
- (e) Preserve the character of the city's neighborhoods and historic districts. Protect the integrity of the residential areas and historic assets and ensure that access to and occupancy or use of public ways in such districts is technologically and aesthetically appropriate.
- (f) Comply with, and not conflict with or preempt, all applicable state and federal laws, including without limitation Section 101(a) and Section 704 of the Telecommunications Act, Pub. L. 104-104, 101 Stats. 56, 70 (Feb. 8, 1996) (codified as 47 U.S.C. §§ 253(a), 332(c)(7)), as may be amended or superseded, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, Pub. L. 112-96, 126 Stat. 156 (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)), as may be amended or superseded, and all Federal Communications Commission ("FCC") rules and regulations to interpret and implement applicable federal statutes.

#### **Sec. 719-2. - Applicability.**

- (a) *Existing wireless communications facilities.* Wireless communications facilities for which a permit has been issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter, except as set forth in Section 719-17, Nonconforming Wireless Communications Facilities.
- (b) *Exclusion for amateur radio facilities.* This chapter shall not govern the installation of any amateur radio facility that is owned or operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

- (c) *Exclusion for certain over-the-air receiving devices.* This chapter shall not govern the installation of any OTARD antennas covered under FCC regulations codified in 47 C.F.R. §§ 1.4000 et seq., as may be amended or superseded. OTARD antennas include, without limitation, direct-to-home satellite dish antennas less than one meter in diameter, television antennas and wireless cable antennas.
- (d) *Exclusion for handsets and user equipment.* This chapter shall not govern the use of personal wireless devices (e.g., cell phones) or other consumer-grade mobile user equipment used in the public right-of-way.
- (e) *Wireline backhaul facilities.* The permitting procedures and authorizations set forth in this chapter do not authorize the construction and operation of a wireline backhaul facility.
- (f) *Relationship to other chapters.* This chapter shall supersede all conflicting requirements of other titles and chapters of this the Cincinnati Municipal Code regarding the locating and permitting of wireless communications facilities in the right of way.

### **Sec. 719-3. - General Definitions.**

For the purposes of this Chapter 719, ~~and except where expressly provided in Section 719-4, "Definitions Applicable to Type I Applications for Minor Modifications,"~~ the following words and phrases used in this Chapter 719 shall have the meanings ascribed to them in this Section 719-3, regardless of whether or not the words and phrases are capitalized. Several defined terms are identical to those found in Ohio Revised Code Section 4939.01, 47 U.S.C. § 1455, or 47 C.F.R. § 1.6100.

When the definitions contained herein conflict with identical terms contained in the Ohio Revised Code, the United States Code, the Code of Federal Regulation, or other applicable state or federal laws, rules, or regulations, the conflict shall be resolved by giving precedence to the federal definition or, in the absence of a federal definition, the state definition.

### **Sec. 719-3-A1. - Abandoned.**

"Abandoned" means any wireless communications facility that is unused for a period of three hundred sixty-five days without the operator otherwise notifying the city and receiving the city's approval.

### **Sec. 719-3-A1-2. - Antenna.**

~~"Antenna" means any apparatus designed for the purpose of the transmission and/or reception of radio frequency ("RF") radiation, to be operated or operating from a fixed location to facilitate wireless communications services including but not limited to~~

~~the transmission of writings, signs, signals, data, images, pictures, and sounds of all kinds. “Antenna” means communications equipment that transmits or receives radio frequency signals in the provision of wireless service.~~

**Sec. 719-3-A13. - Applicant.**

“Applicant” means any person, including an operator, that who submits an application to the city to site, install, construct, collocate, modify, and/or operate a Wireless Communications Facility in the right of way.

**Sec. 719-3-B. - Base Station.**

“Base Station” means the same as defined by the FCC in 47 C.F.R. § ~~1.40001(b)(1)~~ 1.6100, as may be amended and interpreted by the FCC and any other authority with competent jurisdiction, ~~which defines that term as follows:~~

~~A structure or equipment at a fixed location that enables FCC licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a Tower as defined in 47 C.F.R. § 1.40001(b)(9) or any equipment associated with a Tower.~~

- ~~(i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.~~
- ~~(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small cell networks).~~
- ~~(iii) The term includes any structure other than a Tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.~~
- ~~(iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in paragraphs (b)(1)(i) — (ii) of this section.~~

~~As an illustration and not a limitation, the FCC’s definition refers to any structure that actually supports wireless equipment even though it was not originally intended for that purpose. Examples include, but are not limited to, wireless facilities mounted on~~

~~utility poles and other structures in the right of way, light standards, or traffic signals when such structure is approved by the city as an appropriate support for wireless transmission equipment. An existing structure without wireless equipment replaced with a new one designed to bear the additional weight from wireless equipment constitutes a base station.~~

**Sec. 719-3-C. - Collocation or Collocate.**

~~“Collocation” means the mounting or installation of a Wireless Communications Facility on an existing Eligible Support Structure or Potential Support Structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, as more specifically defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be amended or superseded. “Collocation” or “Collocate” means to install, mount, maintain, modify, operate, or replace wireless facilities on an existing wireless support structure, tower, base station, utility pole, or decorative pole.~~

**Sec. 719-3-D1. - Decorative Pole.**

“Decorative Pole” means a pole, arch, or structure other than a street light pole placed in the public way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for the following attachments:

- (a) Electric lighting;
- (b) Specially designed informational or directional signage;
- (c) Temporary holiday or special event attachments;
- (d) Regulatory signage; or
- (e) Parking meters or parking meter supports.

**Sec. 719-3-D12. - Design Guidelines.**

“Design Guidelines” means those detailed design guidelines and examples promulgated by the department of transportation and engineering for the design and installation of structures supporting wireless communications facilities in the right of way, which are effective insofar as they do not conflict with FCC rules and regulations, applicable state law, or the design standards established in section 719-11 of this chapter.

**Sec. 719-3-D23. - Design Standards.**

“Design Standards” means those standards established in section 719-11 of this chapter, approved by the city planning commission and adopted by city council, for the design, construction, and installation of wireless communications facilities in the right of

way, which are supplemented by ~~D~~design ~~G~~guidelines, and which are effective insofar as they do not conflict with state or federal law, including without limitation any applicable FCC rules and regulations.

**Sec. 719-3-E1. - Eligible Support Structure.**

“Eligible Support Structure” means the same as defined by the FCC in 47 C.F.R. § ~~1.40001(b)(4)~~ 1.6100, as may be amended, which defines that term as “[a]ny tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.”

**Sec. 719-3-E2. - Eligible Support Structure Request or Eligible Facilities Request.**

“Eligible Support Structure Request” or “Eligible Facilities Request” means the same as defined in 47 U.S.C. 1455(a)(2) and by the FCC in 47 C.F.R. § 1.6100, as may be amended, which defines that term as “[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) [c]ollocation of new transmission equipment; (ii) [r]emoval of transmission equipment; or (iii) [r]eplacement of transmission equipment.”

**Sec. 719-3-E3. - Existing.**

“Existing” means the same as defined by the FCC in 47 C.F.R. § 1.6100, as may be amended, which provides that “[a] constructed tower or base station is existing for purposes of [the FCC’s Section 6409(a) regulations] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.”

**Sec. 719-3-H. - Historic District.**

“Historic District” means a building, property, or site, or group of buildings, properties, or sites that are either of the following:

- (a) Listed in the national register of historic places or formally determined eligible for listing by the keeper of the national register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C; or
- (b) A registered historic district as defined in O.R.C. Section 149.311, including existing locally designated historic districts, landmarks, and sites governed by Cincinnati Municipal Code Chapter 1435, “Historic Preservation.”

**Sec. 719-3-O1. - Operator.**

“Operator” means a wireless service provider, cable operator, or a video service provider that operates a wireless communications facility and provides wireless service. For the purpose of this chapter, “operator” includes a wireless service provider, cable operator, or a video service provider that provides information services as defined in the “Telecommunications Act of 1996,” 110 Stat. 59, 47 U.S.C. § 153(20), and services that are fixed in nature or use unlicensed spectrum.

**Sec. 719-3-O2. - O.R.C.**

“O.R.C.” means the Ohio Revised Code.

**Sec. 719-3-P1. - Potential Support Structure.**

“Potential Support Structure” means an existing building or structure, other than a tower as defined in this section, that may be transformed into a base station through the mounting or installation of an antenna or transmission equipment after ~~that~~ the city approves it as a support structure and the permittee installs transmission equipment pursuant to such approval; ~~Ppotential Ssupport Sstructures~~ include but are not limited to buildings, steeples, water towers, utility poles, light poles, ~~C~~city-owned structures in the right of way, and outdoor advertising signs.

**Sec. 719-3-P2. - Person.**

“Person” means; any natural person, corporation, or partnership and also includes any governmental entity. without limitation, a natural person, a corporation, whether nonprofit or for profit, a partnership, a limited liability company, an unincorporated society or association, and two or more persons having a joint or common interest.

**Sec. 719-3-R. - Right of Way or Public Way.**

“Right of Way” or “Public Way” means real property for or devoted to (1) public transportation purposes; or (2) the placement of the city’s municipal utility easements and other traditional uses along a transportation route, whether by dedication, prescription, or otherwise, as well as the spaces above and below. In addition to the foregoing, the definition of right of way includes, without limitation, public highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, and viaducts within the city.



**Sec. 719-3-S1. - Site.**

“Site” means the same as defined by the FCC in 47 C.F.R. § 1.6100, as may be amended, which provides that “[f]or towers other than towers in the public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.”

**Sec. 719-3-S2. - Small Cell Facility.**

“Small Cell Facility” means transmission equipment or a wireless facility that meets both of the following requirements:

- (a) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume; and
- (b) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- (c) The term includes a micro wireless facility as defined in O.R.C. Section 4929.01(H).

**Sec. 719-3-S3. - Substantial Change.**

“Substantial eChange” means the same as defined by the FCC in 47 C.F.R. §1.40001(b)(7) 1.6100, as may be amended, and as applicable to facilities in the public right-of-way, which defines that term as a collocation or modification that:

- (a) Increases the overall height more than 10% or 10 feet (whichever is greater);
- (b) Increases the width more than 6 feet from the edge of the wireless tower or base station;
- (c) Involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets;
- (d) Involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted equipment cabinets;

- (e) Involves excavation or deployment of equipment outside the area in proximity to the structure and other transmission equipment already deployed on the ground;
- (f) Would defeat the existing concealment elements of the support structure as determined by the Department; or
- (g) Violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change.

Note: For clarity, the definition in this Chapter includes only the definition of a substantial change as it applies to facilities in the public right-of-way. The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the ~~originally-permitted~~ originally permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date that Congress passed Section 6409(a) of the Middle Class Tax Relief and Job Creation Act.

#### **Sec. 719-3-T1. - Tower.**

“Tower” means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities; that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site, as more specifically defined by the FCC in 47 C.F.R. § ~~1.40001(b)(9)~~ 1.6100, as may be amended or superseded.

#### **Sec. 719-3-T2. - Transmission Equipment.**

“Transmission Equipment” means any equipment that facilitates transmission of any FCC licensed or authorized wireless communications service, including but not limited to radio transceivers, and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply, as more specifically defined by the FCC in 47 C.F.R. § ~~1.40001(b)(8)~~ 1.6100. This definition includes equipment in any technological configuration associated with any FCC authorized wireless transmission, licensed or unlicensed, commercial mobile, private mobile, fixed wireless microwave backhaul, and fixed broadband.

**Sec. 719-3-U. - Utility Pole.**

“Utility Pole” means a structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric or telecommunications service. “Utility pole” excludes street signs and decorative poles.

**Sec. 719-3-W1. - Wireless Facility**

(a) “Wireless Facility” means transmission equipment at a fixed location that enables wireless communications between user equipment and a communications network, including all of the following:

1. Equipment associated with wireless communications; and
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(b) The term includes small cell facilities and micro wireless facilities as defined in O.R.C. Section 4929.01(H).

(c) The term does not include any of the following:

1. The structure or improvements on, under, or within which the equipment is collocated; or
2. Coaxial or fiber-optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

**Sec. 719-3-W1-W2. - Wireless Communications Facility.**

“Wireless Communications Facility” means any unstaffed installation for the transmission and/or reception of radio frequency signals for wireless communications services, typically consisting of a tower or base station, transmission equipment, equipment cabinets, and all materials or techniques used to conceal the installation.

**Sec. 719-3-W3. - Wireless ROW Permit.**

“Wireless ROW Permit” means a wireless facility right-of-way occupancy permit as further defined in Section 719-9(c).

**Sec. 719-3-W2-W4. - Wireless Communications Service.**

“Wireless Communications Service” means any FCC-licensed or authorized wireless communication service including, without limitation, any personal wireless

services, as defined in 47 U.S.C. § 332(e)(7)(D). any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided to the public using wireless facilities.

**Sec. 719-3-W3. Wireless ROW Permit.**

“Wireless ROW Permit” means a wireless facility right of way occupancy permit as further defined in Section 719-9(e).

**Sec. 719-3-W3W5. - Wireless Service Provider.**

“Wireless Service Provider” means a person who provides wireless service as defined in O.R.C. Section 4927.01(A)(20).

**Sec. 719-3-W4W6. - Wireless Support Structure.**

“Wireless Support Structure” means a tower, a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole that is capable of supporting small cell facilities. As used this chapter, “wireless support structure” excludes all of the following:

- (a) A utility pole or other facility owned or operated by a municipal electric utility;
- (b) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses; and
- (c) A decorative pole.

**Sec. 719-3-W7. - Wireline Backhaul Facility.**

“Wireline Backhaul Facility” is a facility used for the transport of communications service or any other electronic communications by coaxial, fiber-optic cable, or any other wire.

**Sec. 719-3-W7 W8 – Work Permit**

“Work Permit” means a permit issued by the city that must be obtained in order to perform any work in, on, above, within, over, below, under, or through any part of the public way, including, but not limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, or installing, as well as the act of opening and cutting into the surface of any paved or improved surface that is part of the public way.

**Sec. 719-4. Definitions Applicable to Type I Applications for Minor Modifications.**

For Type I applications for minor modifications, the following words and phrases

~~shall have the meanings ascribed to them below, regardless of whether or not the words and phrases are capitalized. In the event that any defined term conflicts with any applicable federal law or regulation, the federal law or regulation shall control.~~

**~~Sec. 719-4 E1. -- Eligible Support Structure Request.~~**

~~"Eligible Support Structure Request" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(3), as may be amended, which defines that term as "[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) [c]ollocation of new transmission equipment; (ii) [r]emoval of transmission equipment; or (iii) [r]eplacement of transmission equipment."~~

**~~Sec. 719-4 E2. -- Existing.~~**

~~"Existing" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended, which provides that "[a] constructed tower or base station is existing for purposes of [the FCC's Section 6409(a) regulations] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition."~~

**~~Sec. 719-4 S. -- Site.~~**

~~"Site" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(6), as may be amended, which provides that "[f]or towers other than towers in the public right of way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground."~~

**Sec. 719-5. - Applications.**

- (a) *Requirement.* Anyone seeking making an eligible facilities request or seeking consent to site, install, construct, modify, repair, or collocate a ~~W~~wireless ~~C~~ommunications ~~F~~acility in the right of way shall first duly file a written application with the city's department of transportation and engineering, in accordance with the requirements in this section and the application requirements set forth in the ~~D~~esign ~~G~~uidelines as modified from time to time by the director of the department of transportation and engineering by the authority granted in Section 719-11(c) of this chapter.
- (b) *Single facility per application.* A single application shall propose the siting, installation, construction, modification, repair, or collocation of no more than one existing ~~E~~ligible ~~S~~upport ~~S~~tructure or wireless support structure, installation on a ~~P~~otential ~~S~~upport ~~S~~tructure, or construction of a new tower or base station.

Applications and eligible facilities requests may be consolidated as permitted by O.R.C. Section 4939.0312 but without any reduction in applicable fees.

(c) *Owner information.* Applications shall include the name of the person who owns or will own the wireless communications facility, wireless facility, wireless support structure, base station, tower, or potential support structure for an eligible facilities request or for which consent is requested. A permit or record of consent issued by the city shall include the name of the person who owns or will own the facility or structure.

(e-d) *Recovery of additional costs incurred in processing application.* The department of transportation and engineering is authorized to charge the applicant for recovery of additional, reasonable costs incurred in its analysis, evaluation, and response to an application for an eligible facilities or request for consent under this chapter if the actual costs of review exceed the application fee. Nothing in the reasonableness limitation on additional costs shall be construed to bar or limit the city's authority to incur costs it deems necessary or appropriate in connection with the application. Additional costs may include unforeseen city staff review costs and the costs of third-party technical experts hired to assist with review application. No city construction work permits or ROW wireless occupancy permits shall issue until and unless the applicant pays the nonrefundable application fees and such additional costs as are authorized to be recovered under this paragraph.

1. *Authorization to retain independent consultants.* The director of the department of transportation and engineering may, in his or her discretion, and at any time in the review process, select and retain an independent consultant with expertise in telecommunications satisfactory to the department of transportation and engineering in connection with any permit application. In the event that the department of transportation and engineering decides to retain an independent consultant for technical review, it shall send written notice to the applicant including a nonbinding estimate of the cost for such review. The applicant shall have five business days from the date of mailing of notice to elect to withdraw the application without any liability for any costs or expenses in connection with the independent technical review.

2. *Scope.* The department of transportation and engineering may request independent consultant review on any issue that involves specialized or expert knowledge in connection with the permit application. Technical review issues may include, but are not limited to:

- i. ~~Permit a~~ Application completeness or accuracy;
- ii. Whether and where a significant gap exists or may exist, and whether such a gap relates to service coverage or service capacity;

- iii. The applicability, reliability, and/or sufficiency of analyses or methodologies used by the applicant to reach conclusions about any issue within this scope; and
  - iv. Any other issue that requires expert or specialized knowledge identified by the department of transportation and engineering.
3. *No permit until payment.* The applicant must pay for the cost of consultant technical review and for the technical consultant's testimony in any hearing as requested by the department of transportation and engineering. No permit shall issue to an applicant where that applicant has not timely paid any fee required under the Cincinnati Municipal Code or if the applicant owes payment on outstanding invoices for costs recoverable by the City under this Chapter 719.
4. *Application Fees.* The nonrefundable fee charged by the city for an application for consent or an eligible facilities request shall not exceed two hundred and fifty dollars per each small cell facility covered by the application. This limit shall be increased by ten percent, rounded to the nearest five dollars, every five years commencing July 1, 2021. During each five-year period, the adjustment may be applied incrementally or as a single adjustment as determined by the department of transportation and engineering. For Type I applications, the department of transportation and engineering may, in its discretion, allow for multiple locations from a single applicant to be listed under a single application. Additionally, providers shall pay all fees as required for work permits and ROW occupancy permits.

#### **Sec. 719-7. - Categories of Applications; Review Timelines.**

In accordance with FCC regulations, the department of transportation and engineering shall classify every application to locate a ~~W~~wireless ~~C~~ommunications ~~F~~acility in the right of way as one of the following ~~three~~ four types:

(a) A Type I application is for a minor modification that:

- 1. Involves collocation, removal, or replacement of transmission equipment or a wireless facility, including a small cell facility, on an existing wireless support structure, tower, or base station; and ~~2. —Does not substantially change the physical dimensions of the existing wireless support structure, tower, or base station.~~
- 2. 60-day period for review. The city shall approve a Type I application within sixty days, upon confirming that the requested modification constitutes an eligible facilities request and does not constitute a substantial change under 47 CFR § 1.6100. The period for review may be tolled in accordance with 47 CFR § 1.6100.

(b) A Type II application is for a modification that:



1. Involves collocation, removal, or replacement of transmission equipment or a wireless facility, including a small cell facility, on an existing wireless support structure, tower, or base station; and 2.—Ssubstantially changes the physical dimensions of the existing wireless support structure, tower, or base station or does not qualify for approval pursuant to 47 U.S.C. § 1455(a) for any lawful reason.
2. 90-day period for review. The city shall review and approve or deny a Type II application within ninety days, in accordance with O.R.C. Section 4939.031.

(c) A Type III application is one that proposes:

1. Siting new transmission equipment or a new wireless facility, including a small cell facility, on an existing wireless support structure a Potential Support Structure in the right of way that does not already support transmission equipment or a wireless facility. ; or
2. 90-day period for review. The city shall review and approve or deny a Type III application within ninety days, in accordance with O.R.C. Section 4939.031. Siting a new wireless communication facility on a new tower or other support structure in the right of way.

(d) A Type IV application is one that proposes:

1. Siting new transmission equipment or a new wireless facility, including a small cell facility, on a new wireless support structure, tower, base station, utility pole, decorative pole, or potential support structure in the right of way.
2. 120-day period for review. The city shall review and approve or deny a Type IV application within one hundred twenty days, in accordance with O.R.C. Section 4939.031.

The timelines for review of Type II, Type III, and Type IV applications established in this section may be tolled under certain circumstances, in accordance with O.R.C. Section 4939.036.

When the timelines for review contained herein conflict with the timelines for review mandated by the Ohio Revised Code, the United States Code, the Code of Federal Regulation, or other applicable state or federal laws, rules, or regulations, the conflict shall be resolved by giving precedence to the federal timeline or, in the absence of a federal timeline, the state timeline.

#### **Sec. 719-9. - Application Review and Wireless Facility Right-of-Way Occupancy Permit.**

- (a) *General standard of review for wireless communications facilities.* All wireless communications facilities in the right of way shall conform to the provisions of this chapter and to the ~~D~~design ~~G~~guidelines as modified from time to time by the director

of the department of transportation and engineering. The department of transportation shall review and consider each application according to the application classifications, review processes, and deployment standards described in the ~~D~~design ~~G~~guidelines.

- (b) *Notice to residents.* Within 10 days of filing a ~~Type II~~ or Type III or Type IV application, the applicant shall provide the department of transportation and engineering with proof of notice to the owners of all real property located within a 2100-foot ~~feet~~ of the site of the proposed ~~W~~wireless ~~C~~communications ~~F~~facility or as further provided in the design guidelines. as well as Separate notice including a list of impacted streets shall be sent to the corresponding community council(s) and a copy provided to the department of transportation and engineering. The intent of the notices is to allow persons who live or work nearest the site the opportunity to ask questions and educate themselves and to apprise the department of transportation and engineering of conditions that may not be readily apparent from otherwise available information. The notices shall inform interested persons of the opportunity to file written comments to be submitted to the department of transportation and engineering, which comments should address whether the application conforms to the provisions of this chapter. The applicant shall provide the department with proof that the notices required under this section has been given, including a mailing list for all recipients and a copy of the mailed notices. Notwithstanding the above, the department of transportation and engineering may, at its discretion, ~~provide~~ require additional public notice if it determines such notice is in the best interests of the public. Notice shall not be required for Type I or Type II applications.
- (c) *Written decision.* Within five working days after the department of transportation and engineering renders a decision on an application, it shall send written notice to the applicant. Any denial shall include the reasons for the denial and information regarding the process for an administrative appeal under Section 719-9.
- (d) *Approval.* Approval of an application shall include the following permissions:
1. *Permit to construct.* A work permit to construct the approved wireless communications facility, subject to any conditions established by the department of transportation and engineering to carry out the purposes and intent of this chapter and the Cincinnati Municipal Code.
  2. *Wireless facility right-of-way occupancy permit.* A wireless right-of-way occupancy permit (~~“Wireless ROW Permit”~~) granting the applicant permission to occupy the right of way at the proposed site and subject to (a) the standard conditions required by Section 719-10 and (b) any additional conditions required by the director of the department of transportation and engineering to carry out the purposes and intent of this chapter and the Cincinnati Municipal Code. The ~~W~~wireless ROW ~~P~~permit shall not convey title, equitable or legal, in the right of way.

- (e) *Restrictions on Wireless ROW Permits.* A ~~W~~ireless ROW ~~P~~ermit may be transferred upon notification to the city and acceptance by the transferee to allow the transferee to site wireless facilities in the same location on the same supporting structure as the transferor. Such a transfer may be made only to a wireless service provider who possesses a current ~~W~~ireless ROW ~~P~~ermit from the city for siting wireless facilities elsewhere in the right of way.
- (f) *Denial.* The city reserves the right to deny an application if any one of the following conditions exist:
1. The applicant has not demonstrated that its application conforms to the provisions of this chapter and the Cincinnati Municipal Code, including the ~~D~~esign ~~G~~uidelines established pursuant to this chapter;
  2. The applicant is not authorized to conduct business in the State of Ohio;
  3. For any Type I application, the applicant has failed to show that the project qualifies for approval as an eligible facilities request, pursuant to 47 U.S.C. § 1455(a) and the related FCC regulations at 47 C.F.R. § ~~1.40001~~ 1.6100 et seq.;
  4. For any Type II, ~~or~~ Type III, or Type IV application, the applicant has failed within the prior three years to comply or is presently not in full compliance with the requirements of this chapter with regard to another ~~W~~ireless ~~C~~ommunications ~~F~~acility that is not the subject of the application in question;
  5. The applicant is in default of its obligation to pay to the city fees imposed by this chapter;
  6. The design or location does not comply with the relevant standards promulgated by the American Association of State Highway and Transportation Officials (AASHTO) and utilized by the department of transportation of engineering for construction in the right of way;
  7. The design or location does not comply with current or proposed Americans with Disabilities Act Accessibility Guidelines (ADAAG) promulgated by the United States Access Board.
- (g) Multiple requests for same or nearby location. If multiple requests are received by the city to install two or more wireless facilities or wireless support structures that would violate applicable spacing requirements under the design guidelines, or to collocate two or more wireless facilities on the same wireless support structure, the city may resolve conflicting requests through whatever reasonable and nondiscriminatory manner the city deems appropriate.
- (gh) *Appeal of denial on the merits.* Upon denial of an application for failure to meet the requirements of this chapter, the applicant may appeal the decision to the director of

the department of transportation and engineering for reconsideration. The appeal must be in writing and delivered to the director no later than 5:00 p.m. (EST) on the tenth business day after issuance of written notification by the city of denial of the permit. An appeal must provide a detailed explanation, in writing, of the reasons the applicant contends the proposed wireless facility satisfies the requirements of Chapter 719 (including if the application qualifies for a limited exemption for personal wireless service facilities under Section 719-9(h)). The appeal should include all relevant supporting documentation. The director shall review the written appeal together with other evidence in the record and grant the permit if the director determines that, based on substantial evidence in the application record, the permit complies with the requirements of Chapter 719. The director shall issue a written decision within ten business days of the filing of the appeal. Failure by applicant to appeal and request reconsideration under this section shall constitute a failure to exhaust administrative remedies for purposes of any subsequent appeal in a court of law.

(h) *Limited exemption for personal wireless service facilities.* Federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services. Due to wide variation among wireless facilities and technical service objectives, and due to changed circumstances over time, a limited exemption for proposals in which strict compliance with this chapter would effectively prohibit personal wireless services serves the public interest. Circumstances in which an effective prohibition may occur are extremely difficult to discern, and specified findings to guide the analysis promotes clarity and the City's legitimate interest in well-planned wireless facilities deployment. Therefore, in the event that any applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed wireless communications facility, would effectively prohibit the provision of personal wireless services, the director of the department of transportation and engineering may grant a limited, one-time exemption from strict compliance, subject to the following provisions:

1. *Required findings.* The director of the department of transportation and engineering shall not grant any exemption unless the applicant provides each of the following:
  - i. Evidence that the proposed wireless facility qualifies as a "personal wireless services facility" as defined in 47 U.S.C. § 332(c)(7)(C)(ii);
  - ii. A clearly defined and reasonable technical service objective and a clearly defined potential site search area; and
  - iii. A meaningful comparative analysis that includes the factual reasons why (1) any alternative location(s) or design(s) suggested by the City or otherwise identified in the administrative record are not technically feasible and (2) the proposed location and design deviation is the least noncompliant location and design necessary to reasonably achieve the applicant's technical service objective.

2. *Scope of exemption.* The director of the department of transportation and engineering shall limit the exemption to the extent to which the applicant demonstrates such exemption is necessary to reasonably achieve its reasonable technical service objectives. The department of transportation and engineering may adopt conditions of approval specific to a permit issued as a limited exemption pursuant to this section, as reasonably necessary to promote the purposes in this chapter and protect the public health, safety, and welfare.

#### **Sec. 719-10. - Standard Conditions of Permit Approval.**

- (a) *Standard conditions of approval.* Permission to site wireless communications facilities in the right of way shall be conditioned on compliance with the standard conditions of approval provided in this Section 719-10. The department of transportation and engineering may add or modify conditions of approval as necessary or appropriate to protect and promote the public health, safety, and welfare.
- (b) *Wireless ROW Permit duration; term.* For Type II, ~~and~~ Type III, ~~and~~ Type IV permits, the ~~W~~wireless ROW ~~P~~permit will automatically expire ten years from the issuance date, except when federal or state law authorizes the ~~C~~city to issue a permit with a shorter term. Any request for a permit renewal shall be reviewed as request for a new permit subject to all applicable procedures and standards in effect at the time the request is received. An operator may remove a wireless communications facility at any time subject to applicable work permit and city requirements.
- (c) *Standard conditions of approval for Type I permits.* Any Type I permit approved or deemed granted by the operation of law shall be automatically subject to the following conditions of approval:
  1. *~~Permit d~~Duration for Type I approvals.* The city's grant or grant by operation of law of a Type I eligible facilities request ~~permit~~ constitutes a ~~federally-mandated~~ federally mandated modification to the underlying permit or approval of the subject wireless support structure, tower, and/or base station. The ~~c~~City's grant or grant by operation of law of a Type I ~~permit~~ eligible facilities request will not extend the permit term for any underlying permit or other regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject wireless support structure, tower, and/or base station.
  2. *Accelerated permit terms due to invalidation.* In the event that any court of competent jurisdiction invalidates any portion of 47 U.S.C. § 1455(a) or any FCC rule that interprets 47 U.S.C. § 1455(a) such that federal law would not mandate approval of any Type I permit, such permit shall automatically expire one year from the effective date of the judicial order, unless the decision specifically does not authorize accelerated termination of previously approved Type I permits. A permittee shall not be required to remove its improvements approved under the invalidated Type I permit if it submits an application for a Type II, ~~or~~ Type III, or

Type IV permit for those improvements before the one-year period ends. The director of the department of transportation and engineering, at his or her discretion, may extend beyond one-year the time in which a permittee may apply for a Type II, or Type III, or Type IV permit for an invalidated Type I permit.

3. *No waiver of standing.* The City's grant or grant by operation of law of a Type I permit does not waive, and shall not be construed to waive, any standing by the City to challenge 47 U.S.C. § 1455(a), any FCC rules that interpret 47 U.S.C. § 1455(a), or any particular Type I permit eligible facilities request.
- (d) *Standard conditions of approval for all ~~W~~wireless ROW ~~P~~permit.* All applications for all four types Type I, II, and III of wireless ROW permits shall be subject to the following standard conditions of approval by operation of law:
1. *Compliance with all applicable laws.* Permittee shall at all times maintain compliance with all applicable federal, state, and local laws, regulations, ordinances, or other rules.
  2. *Inspections; emergencies.* The City or its designee may inspect a Wwireless Ecommunications Ffacility in the right of way upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The City reserves the right to support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
  3. *Contact information for responsible parties.* Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address, and email address for at least one natural person and emergency contact information. All such contact information for responsible parties shall be provided to the department of transportation and engineering promptly upon request.
  4. *Indemnities.* To the fullest extent permitted by law, all ~~The~~ the permittees, operators, and, if applicable, ~~the~~ non-government owners of a Wwireless Ecommunications Ffacility shall defend, indemnify, and hold harmless the City and its agents, officers, officials, and employees from:
    - i. Any and all damages, liabilities, injuries, losses, costs, and expenses arising out of any claims, demands, lawsuits, writs of mandamus, or other actions or proceedings brought against the City to challenge, attack, seek to modify, set aside, void, or annul the City's approval of the applicable Wwireless ROW Ppermit; and

- ii. Any and all damages, liabilities, injuries, losses, costs, and expenses and any claims, demands, lawsuits, or other actions or proceedings of any kind, whether for personal injury, death, or property damage, arising out of or in connection with the activities or performance of the permittee or its agents, employees, licensees, contractors, subcontractors, or independent contractors.
  - iii. In the event the City becomes aware of any such actions or claims, the City shall promptly notify the permittee and shall reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the permittee (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.
- 5. *Interference with public safety radio services.* In the event that the City has reason to believe that permittee's radio communications operations are causing interference with the City's radio communications operations, then the permittee shall, at its cost, immediately cooperate with the City to either rule out permittee as the interference source or eliminate the interference. Cooperation with the City may include, but shall not be limited to, temporarily switching the transmission equipment on and off for testing.
- 6. *Adverse impacts on adjacent properties.* Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.
- 7. *General maintenance.* The site and the facility, including but not limited to all landscaping, fencing, and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
- 8. *Good condition required.* Wireless communications facilities shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not menace or endanger the life or property of any person. In the event any damages occur to a non-city-owned wireless support structure, tower, or base station, the wireless support structure, tower or base station shall be repaired within 20 days.
- 9. *Graffiti abatement.* Permittee shall remove any graffiti on the wireless facility at permittee's sole expense in a timely manner.
- 10. *RF exposure compliance.* All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards.



11. *Relocation for public improvement projects.* Permittee shall remove and relocate the permitted ~~W~~wireless ~~C~~ommunications ~~F~~acility at permittee's sole expense to accommodate construction of a public improvement project by the ~~C~~ity as required under Chapter 722 of the Cincinnati Municipal Code.
12. *Removal if discontinued use.* In the event that the use of a ~~W~~wireless ~~C~~ommunications ~~F~~acility is discontinued or abandoned, the owner shall provide written notice to the city of its intent to discontinue use or abandon, and the date when the use shall be discontinued or is abandoned. If a ~~W~~wireless ~~C~~ommunications ~~F~~acility is not removed within ninety (90) days of discontinued use, or is determined abandoned by the city, the city may remove it at the owner's expense irrespective of the notice requirement under this section.
13. *Taxes and assessments.* To the extent taxes or other assessments are imposed by taxing authorities on the use of city property as a result of an applicant's use or occupation of the right of way, the applicant shall be responsible for payment of such taxes, payable annually unless otherwise required by the taxing authority.
14. *Completion within 180 days.* The collocation of a wireless facility or the construction of a new wireless support structure, tower, or base station for which a permit is granted shall be completed within one hundred eighty days after issuance of the permit. The city and the operator may agree in writing to extend this period if a delay is caused by make-ready work for a city-owned wireless support structure or decorative pole or by the lack of commercial power or backhaul availability at the site, provided that the operator has made a timely request within sixty days after the issuance of the permit for commercial power or backhaul services and the additional time to complete installation does not exceed three hundred sixty days after issuance of the permit. If the collocation or construction is not accomplished with the designated time period without a prior extension having been granted by the city, the permit shall be void.

#### **Sec. 719-11. - Design Standards and Siting Preferences.**

- (a) *General design principles.* Every Type II, ~~and Type III, and Type IV~~ ~~W~~wireless ~~C~~ommunications ~~F~~acilities must conform to the following design principles:
  1. The proposed wireless communications facility, its support structure, equipment, and all associated improvements, shall be designed and sited in a manner that is sympathetic to the particular architectural character of the buildings and compatible with the streetscape in the vicinity of the proposed project site;
  2. Design elements of the proposed wireless communications facility, its support structure, equipment, and all associated improvements, shall be sensitively selected to reflect the detailing and materials associated with the buildings and streetscape in the vicinity of the proposed project site;

3. The proposed wireless communications facility, its support structure, equipment, and all associated improvements, shall be designed and sited in a manner that does not adversely impact right-of-way circulation, accessibility, or obstruct existing or planned-future uses of the right-of-way; and
  4. When sited in a Historic District, the proposed wireless communications facility shall be designed or concealed to mitigate adverse impacts on the historic environment based upon reasonable, technically feasible, and nondiscriminatory design criteria. No design or concealment criteria so imposed shall have the effect of prohibiting any operator's technology, nor may any such measures be considered a part of a small cell facility for purposes of the size restrictions in the definition of small cell facility.
  45. The proposed wireless communications facility shall comply with all applicable design, construction and location provisions in the Ddesign Gguidelines.
- (b) *Design guidelines.* The department of transportation and engineering shall promulgate additional detailed Ddesign Gguidelines for the design and installation of wireless communications facilities in the right of way, which the department shall consider in reviewing an application. The Ddesign Gguidelines will accord with this section but will provide greater detail, description, and examples of acceptable wireless facilities including visual depictions. In addition, the Ddesign Gguidelines shall provide administrative and procedural guidance to applicants such as, for example, a list of minimum application requirements. The provisions in this section shall not limit or prohibit the department's discretion to promulgate and make publicly available other information, materials or requirements in addition to, and separate from, the Ddesign Gguidelines.
- (e)1. The Ddesign Gguidelines shall be reviewed and approved by the city planning commission before being finalized. The director of the department of transportation and engineering shall have authority to update or supplement the Ddesign Gguidelines to address relevant changes in law, technology, or administrative processes. Any revisions to the Ddesign Gguidelines that would materially modify the physical design requirements for wireless communications facilities to make them more obtrusive or materially modify the standard and minor review locations for wireless facilities shall be presented to the city planning commission for review and recommendation at a duly-noticed hearing prior to adoption by the director. The notice shall be transmitted, at minimum, to all community councils and any person holding a Wwireless ROW Ppermit under Chapter 719 or having an active permit application for the same. In the event of any conflict between the Ddesign Gguidelines and the standards articulated in this chapter of the Cincinnati Municipal Code, the language of this chapter takes precedence over the language of the Ddesign Gguidelines.

- (d)2. For revisions to the ~~D~~design ~~G~~guidelines required to be presented to the city planning commission under Section 719-11~~(e)~~~~(b)~~(1), the city shall provide notice of the proposed revisions to all community councils and any person who holds a permit under this Chapter 719, and shall provide reasonable time (not less than 14 days) for those persons to review and comment on the proposed modifications.

(c) Alternate location. The city may propose an alternate location to the proposed location of a new wireless communications facility that is within one hundred feet of the proposed location or within a distance that is equivalent to the width of the public way in or on which the new wireless communications facility is proposed, whichever is greater, which the operator shall use if it has the right to use the alternate location on reasonable terms and conditions and the alternate location does not impose technical limits or additional costs.

#### **Sec. 719-13. - Recovery of Costs; Use of Revenue.**

All costs recovered under this chapter shall be used to reimburse the department of transportation and engineering for its costs incurred in responding to applications and monitoring installation and maintenance of wireless communications facilities in the right of way pursuant to this chapter.

#### **Sec. 719-15. - Safety Requirements.**

Nothing in this chapter precludes the city from applying its generally applicable health, safety, and welfare regulations to an eligible facilities request or when granting consent for a wireless communications facility, a wireless facility, including a small cell facility, a wireless support structure, a tower, or a base station. These standards include, but are not limited to, the following specific requirements:

- (a) *Prevention of failures and accidents.* Any person who owns a ~~W~~wireless ~~E~~communications ~~F~~facility sited in the right of way shall at all times employ ordinary and reasonable care and install and maintain in use nothing less than the best available technology for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public.
- (b) *Compliance with fire safety and FCC regulations.* Wireless communications facilities, wires, cables, fixtures, and other equipment shall be installed and maintained in substantial compliance with the requirements of the National Electric Code, all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- (c) *Surety bond or equivalent financial tool for cost of removal.* All owners must procure and provide to the city a bond, or ~~must provide proof of~~ an equivalent financial mechanism, in an amount determined by the department of transportation and engineering, to ensure compliance with all provisions of this section and to cover

costs of damage to public property caused by the wireless communications facility. The bond or equivalent financial method must specifically cover the cost of removal of each ~~W~~wireless ~~C~~ommunications ~~F~~acility which the owner installs in the right of way in case the city has to remove or pay for removal of the wireless facility. Two acceptable alternatives to a bond include a funds set-aside and a letter of credit.

- (d) Relocation or adjustment for safety purpose. If requested by the city, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety, and welfare of the public, an operator shall relocate or adjust its facilities within the public way at no cost to the city, as long as such request similarly binds all users in or on such public way. Such relocation or adjustment shall be completed in accordance with local law.

**Sec. 719-17. - Nonconforming Wireless Communications Facilities.**

- (a) Any ~~W~~wireless ~~C~~ommunications ~~F~~acility sited in the right of way that is legally in existence on the date of the adoption of this chapter but that does not comply with the requirements of this chapter shall be permitted to remain in the right of way but shall be considered a nonconforming ~~W~~wireless ~~C~~ommunications ~~F~~acility.
- (b) As of the effective date of the ordinance establishing this chapter, the owner of the nonconforming facility and the facility itself are subject to the standard conditions found in Section 719-10 and the maintenance requirements found in Section 719-15 of this Chapter.
- (c) If a nonconforming ~~W~~wireless ~~C~~ommunications ~~F~~acility is hereafter damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this chapter of the Cincinnati Municipal Code and the ~~D~~esign ~~G~~uidelines.
- (d) The provisions in this section shall not be applied to prohibit or deny any collocation or modification pursuant to a Type I application or eligible facilities request, as required by FCC regulations.

**Sec. 719-19. - Severability.**

The provisions of any part of this chapter are severable. If any provision or subsection, or the application of any provision or subsection to any person or circumstances, is held invalid, the remaining provisions, subsection, and applications of such ordinance to other persons or circumstances shall not be made invalid as well. It is declared to be the intent of this section that the remaining provisions would have been adopted had such invalid provisions not been included in this chapter when originally adopted by Council.

**Sec. 719-99. - Penalties.**

- (a) Any person who shall erect, construct, reconstruct, alter, repair, convert, attach, or maintain any ~~W~~ireless ~~C~~ommunications ~~F~~acility in violation of any of the terms of this chapter, or who, being the owner or agent of the owner of any lot, tract, or parcel of land, shall suffer or permit another to erect, construct, reconstruct, alter, repair, convert, attach, or maintain any such facility, shall be deemed to have violated the provisions hereof and commits a Class D Civil Offense as defined by § 1501-9(a) of the Cincinnati Municipal Code each day during the period such violation continues.
- (b) If any ~~W~~ireless ~~C~~ommunications ~~F~~acility is erected, constructed, reconstructed, altered, repaired, converted, attached, or maintained in violation of this chapter or of any regulations made pursuant hereto, the proper officer of the city, in addition to other remedies, may institute in the name of the city any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, attachment, or use, to restrain, correct, or abate such violation, to prevent the use of such facility, and/or to prevent any illegal act, conduct, business, or use in or about such facility.
- (c) The department of transportation and engineering is authorized to make requests and to issue orders regarding wireless communications facilities in the right of way for the purpose of public safety and compliance with this chapter of the Cincinnati Municipal Code. The department of transportation and engineering is also authorized to conduct visual and external inspections of wireless communications facilities and support structures in the right of way at any time and shall make efforts to coordinate with the provider responsible for a ~~W~~ireless ~~C~~ommunications ~~F~~acility for any internal inspection of the relevant equipment.

Section 2. That existing Chapter 719, “Wireless Communications Facilities in the Right of Way,” of the Cincinnati Municipal Code is hereby repealed.

Section 3. 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 2 hereof.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to modify Chapter 719, “Wireless Communications Facilities,”

of the Cincinnati Municipal Code to ensure it is consistent with applicable state and federal laws and regulations.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

\_\_\_\_\_  
Deletions are struck through. Additions are underlined.

June 23, 2021

**To:** Mayor and Members of City Council 202102324

**From:** Paula Boggs Muething, City Manager

**Subject:** Ordinance – FY 2021-2022 State Victims Assistance Partnership Grant

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a Victims of Crime Act Grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit's Victims' Assistance Practitioner in the State Victims Assistance Act and the federal Victims of Crime Act grant programs; and **AUTHORIZING** the Director of Finance to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

This Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant for up to the amount of \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit's Victim Advocate in the State Victims Assistance Act (SVAA) and the federal Victims of Crime Act (VOCA) grant programs. The Victim Advocate provides support and advocacy to survivors of victims whose deaths are investigated by the Cincinnati Police Department's Homicide Unit.

This Ordinance will also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VALU. The grant application deadline is June 30, 2021. As a result, the Cincinnati Police Department will have applied for this grant prior to this Ordinance receiving approval from the City Council. Should this Ordinance not be approved, the grant funding will not be accepted. The grant does not require any additional FTEs. The grant requires a 25% "in-kind" match of the grant amount. The department will use student volunteer hours for the "in-kind" match.

This Ordinance is in accordance with the Live goal to "Create a more livable community" as described on page 156 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

KKF

BW6

# An Ordinance No. \_\_\_\_\_ - 2021

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a Victims of Crime Act Grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit's Victims' Assistance Practitioner in the State Victims Assistance Act and the federal Victims of Crime Act grant programs; and **AUTHORIZING** the Director of Finance to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

WHEREAS, the Victims of Crime Act ("VOCA") Grant will provide funds for the Homicide Unit's Victims' Assistance Practitioner, who provides support to and advocacy for survivors of victims whose deaths are investigated by the Cincinnati Police Department's Homicide Unit; and

WHEREAS, the grant application deadline is June 30, 2021; and

WHEREAS, the VOCA Grant requires a 25% in-kind local match, which will be provided by student volunteers utilized by the Cincinnati Police Department; and

WHEREAS, acceptance of the grant will not result in the addition of any FTEs; and

WHEREAS, the grant is 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 City Manager is authorized to apply for, accept, and appropriate a grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit's Victims' Assistance Practitioner.

Section 2. That the Finance Director is authorized to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

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

**June 23, 2021**

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

**From:** Paula Boggs Muething, City Manager

**202102349**

**Subject: Emergency Ordinance – Interact for Health COVID-19 Relief Fund Grant**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to accept and appropriate a grant in the amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers; 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 accept and appropriate a grant in the amount of up to \$70,000 from Interact for Health for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers.

No additional FTE are associated with this grant, and matching funds are not required.

This Emergency Ordinance would also authorize the Finance Director to deposit the grant funds into Public Health Research Fund 350.

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 provide funding to support Cincinnati Health Department dental and vision school-based health centers during the COVID-19 public health response.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



## **EMERGENCY**

**MSS**

**- 2021**

**AUTHORIZING** the City Manager to accept and appropriate a grant in an amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

WHEREAS, the Cincinnati Health Department received notice of a grant award on June 4, 2021 from the Interact for Health COVID-19 Relief Fund, awarding grant resources to support Cincinnati Health Department dental and vision school-based health centers during the COVID-19 public health response; and

WHEREAS, no grant application was required, but the grant funding will not be accepted should this ordinance not be approved; and

WHEREAS, no new FTEs are associated with the grant, and the grant resources do not require matching local funds; 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 hereby authorized to accept and appropriate a grant in an amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers.

Section 2. That the Finance Director is hereby 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 comply with the terms of this grant and Sections 1 and 2 hereof.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to provide funding to support Cincinnati Health Department dental and vision school-based health centers during the COVID-19 public health response.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 23, 2021

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

**From:** Paula Boggs Muething, City Manager **202102350**

**Subject:** **Ordinance – FY 2021 Patrick Leahy Bulletproof Vest Partnership Grant**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body armor expenditures, related to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is approximated to be \$292,000; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST.

This Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant for up to the amount of to \$146,000 from the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), FY 2021 Patrick Leahy Bulletproof Vest Partnership (BVP) Program. The Cincinnati Police Department (CPD) estimates spending up to \$292,000 for ballistic vests over the next two years (FY 2022 and FY 2023). If awarded, the BVP program will reimburse the CPD for 50% of the cost of each unit of body armor or up to \$146,000.

This Ordinance will also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST. The grant application deadline is June 14, 2021. As a result, the Cincinnati Police Department will have applied for this grant prior to this Ordinance receiving approval from the City Council. Should this Ordinance not be approved, the grant funding will not be accepted. The grant does not require matching funds, nor would add any additional FTEs.

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

The Administration recommends passage of this Ordinance.

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

Attachment



**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body armor expenditures, related to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is approximated to be \$292,000; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST.

WHEREAS, a grant is available from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Patrick Leahy Bulletproof Vest Partnership Program (CFDA# 16.607 ), which would provide the Cincinnati Police Department (“CPD”) with a maximum allowable reimbursement amount of up to 50% of the departmental expenditure for bulletproof vest body armor up to a maximum of \$146,000; and

WHEREAS, the departmental expenditure for bulletproof vest body armor is expected to be \$292,000 for the next two fiscal years; and

WHEREAS, the grant application deadline is June 14, 2021 and CPD intends to apply by this date, but no grant funds will be accepted before approval by City Council; and

WHEREAS, the grant does not require local matching funds; and

WHEREAS, there are no additional FTEs associated with the grant; and

WHEREAS, the Patrick Leahy Bulletproof Vest Partnership Program Grant is 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 City Manager is authorized to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body

armor expenditures, relating to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is estimated to be \$292,000.

Section 2. That the Finance Director is authorized to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VEST.

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



June 23, 2021

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

**From:** Paula Boggs Muething, City Manager

**Subject:** **Ordinance – FY 2021 Edward Byrne Memorial Justice Assistance Grant**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.

This Ordinance would authorize the City Manager to apply for and accept, a sub-grant for resiliency training valued at \$18,696.00 from the Ohio Department of Public Safety, Office of Criminal Justice Services (OCJS), FY 2021 Edward Byrne Memorial Justice Assistance Grant (JAG). The HOPE Community Center (HCC) is the applicant, and the Cincinnati Police Department (CPD) is a partner/sub-recipient. The HCC is requesting funds to continue resiliency practices for local law enforcement. As a sub-recipient, the CPD will continue to participate in Resilience Practices Training, an innovative regional program to educate peer support trainers to monitor initial reactions to triggers and use proven techniques to adapt for more positive emotional and behavioral responses, and enhanced well-being.

The grant application deadline was June 2, 2021, and the HCC has submitted their application. Should this Ordinance not be approved, the training provided by the sub-grant will not be accepted. The grant does not add any additional FTEs, nor requires matching funds.

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

The Administration recommends passage of this Ordinance.

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

Attachment



**AUTHORIZING** the City Manager to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.

WHEREAS, a grant is available from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement; and

WHEREAS, the HOPE Community Center (“HOPE”) has invited the Cincinnati Police Department (“CPD”) to be a grant sub-recipient and partner to receive such training, estimated in value at \$18,696; and

WHEREAS, HOPE is applying for the funds to continue Resiliency Practices Training, an innovative regional program for education of peer support trainers to monitor initial reactions to triggers and to use proven techniques to develop more positive emotional and behavioral responses and enhanced well-being; and

WHEREAS, there are no match funds or additional FTEs required for the grant; and

WHEREAS, in order to meet the grant application deadline of June 2, 2021, HOPE has already applied for the grant, but CPD will not accept any training should this ordinance not be approved; and

WHEREAS, this ordinance is 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 City Manager is hereby authorized to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.

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

Section 3. 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

June 9, 2021

**TO:** Mayor and Members of City Council **202102064**  
**FROM:** Paula Boggs Muething, City Manager  
**SUBJECT: Report – HOCC Academy as Part of the Community Police Partnering Center**

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**REFERENCE DOCUMENT #202100867**

City Council adopted at its session on March 10, 2021 the following Motion:

MOTION, submitted by Councilmember Sundermann, Kearney, Goodin, Keating and Vice Mayor Smitherman, WE MOVE that the Administration provide a report on funding options 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.

Below are options for funding this youth mentoring program:

Included as part of the Approved FY 2021 Budget Update, the operating budget for the Cincinnati Initiative to Reduce Violence (CIRV) included a “Strategic Opportunities Fund” for which the Hope, Opportunity, Choices And Consequences (H.O.C.C.) Academy would potentially qualify. The goal of this fund is to support the implementation of evidence based programming or best practices in support of the CIRV mission to reduce violence. The requested budget for CIRV for the FY 2022-2023 Biennial Operating Budget also includes funds for this purpose.

A second option would be to include the Hope, Opportunity, Choices And Consequences (H.O.C.C.) Academy in the City’s annual youth employment budget. Existing funds for the summer of 2021 have already been allocated, so an additional appropriation would be necessary to fund the pilot program.

The Administration looks forward to working with the City Council to potentially fund this pilot program.

cc: Christopher A. Bigham, Assistant City Manager

June 16, 2021

202102116

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$29,540,000 Street Improvement Bonds**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$29,540,000 FOR THE PURPOSE OF MAKING STREET IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of the bonds in the amount of \$29,540,000 to fund street infrastructure improvements. These bonds are twenty-year bonds supported by property tax revenue and the interest rate is expected to be below 6.00%. The proceeds of the bond sale will finance a portion of the FY 2022 Capital Improvement Program, as approved by City Council. An emergency ordinance is necessary to take advantage of currently favorable interest rates.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment



EMERGENCY

City of Cincinnati

BWb

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

-2021

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$29,540,000 FOR THE PURPOSE OF MAKING STREET IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, and the maximum maturity of the bonds referred to herein; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years, and has further certified that the maximum maturity of the bonds is twenty (20) years, and the maturity of the notes, in anticipation thereof, is five (5) years; now, therefore,

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

Section 1. That it is necessary to issue bonds of the City of Cincinnati, Ohio ("City"), in the principal amount of \$29,540,000 (property tax supported), for the purpose of providing funds to pay the cost and expense of widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers, and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas, and other public ways; constructing and acquiring improvements to the stormwater system; purchasing and/or installing street lights and equipment and boulevard lights; and paying legal, advertising, printing, and all expenses incidental to said improvements. Such principal amount may be increased by the amounts necessary to fund a debt service reserve fund (if needed), capitalized interest (if any), costs of issuance, and other necessary and permitted costs, all as determined by the Fiscal Officer.

Section 2. That bonds of the City of Cincinnati, Ohio, be issued in the principal amount of \$29,540,000 for the purpose aforesaid. Said bonds shall be dated as determined by the Finance Director, of the denomination of \$5,000 each, or any integral multiple thereof, or such other denomination, numbered sequentially as determined by the Finance Director, and shall bear interest at the rate, or rates, not in excess of six per centum (6.00%) per annum, payable December 1, 2022, and semiannually thereafter on June 1 and December 1 of each year, or such other dates as determined by the Finance Director, until the principal sum is paid. Provided, however, that if said bonds are sold bearing a different rate or rates of interest from that herein before specified, said bonds shall bear such rate, or rates, of interest as may be accepted by the Finance Director. The property tax supported bonds shall be designated 21-1-G1416, or as otherwise designated by the Finance Director. Said bonds shall mature or be subject to mandatory sinking fund redemption on December 1, or such other date of each year as determined by the Finance Director, such maturities and mandatory sinking fund redemption amounts to be determined by the Finance Director. The Finance Director will determine whether the \$29,540,000 street improvement bonds are callable (and associated call features) or non-callable at the time of financing.

Notice of the call for redemption of said bonds, specifying the numbers of the bonds to be redeemed, shall be sent by the Bond Registrar and Paying Agent by registered or certified mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon said bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption funds for such redemption shall be on deposit with the Bond Registrar and Paying Agent, and the City shall direct the Bond Registrar and Paying Agent in writing to make any notice of call for redemption.

Section 3. That said bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, Chapter 303 of the Cincinnati Municipal Code and Chapter 133 of the Ohio Revised Code. They shall bear the facsimile signature of the Mayor and the facsimile signature of the Finance Director, and shall bear the manual authenticating signature of an authorized representative of U.S. Bank, N. A. (herein the "Bond Registrar and Paying Agent"), Cincinnati, Ohio, which is hereby designated to act as bond registrar, transfer agent and paying agent with respect to the bonds. The bonds shall also bear the corporate seal of the City or a facsimile thereof. The bonds shall be issued in fully registered form. The bonds shall be designated "Street Improvement Bonds." Such bonds shall be payable as to principal, upon the presentment and surrender for cancellation of the bonds, in lawful money of the United States of America at the Bond Registrar and Paying Agent, and payment of the interest thereon shall be made by the Bond Registrar and Paying Agent on each interest payment date to the person whose name appears on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at his or her address as it appears on such registration records.

Section 4. That, if the Finance Director, in the exercise of his or her judgment, determines that it is preferable that notes rather than bonds be issued initially, there are hereby authorized notes in the aggregate principal amount of \$29,540,000, which may be issued in anticipation of the issuance of a like principal amount of said bonds for the purpose described in Section 1 hereof. Such notes shall be designated "Street Improvement Bond Anticipation Notes," as applicable; shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate or rates not in excess of six per centum (6.00%) per annum, as shall be approved by the Finance Director, payable on such dates as are determined by the Finance Director; shall be dated as of their date of issuance; shall mature on such date or dates as may be selected by the Finance Director; may be callable in whole or in part at any time prior to maturity as approved by the Finance Director; may be issued in installments as approved by the Finance Director; and shall be payable as to principal at the office of the Bond Registrar and Paying Agent or the office of the Treasurer of the City, and the interest thereon shall be paid by the Bond Registrar and Paying Agent or the office of the Treasurer of the City on each interest payment date to the holders of the notes. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 5. That, for the purpose of providing the necessary funds to pay the interest on the foregoing issue of bonds or notes promptly when and as the same falls due, and also to provide for the discharge of said bonds or notes at maturity and for the payment of mandatory sinking fund redemptions, there shall be and is hereby levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually during the period said bonds are to run, outside of the limitations imposed by Article XII, Section 2, of the Ohio Constitution and Section 5705.02

of the Ohio Revised Code, and by virtue of Section 4 of Article VIII of the Charter of the City of Cincinnati, in an amount sufficient to provide for the payment of said interest, when and as the same shall fall due, and also to discharge the principal of said bonds or notes at maturity and to pay mandatory sinking fund redemptions, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund which, together with the interest collected on the same, shall be irrevocably pledged for the payment of principal of and interest on said bonds or notes when and as the same fall due.

Section 6. That said bonds or notes shall be first offered to the City Treasurer as the officer in charge of the Bond Retirement Fund of said City, and if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase, and, if not offered to or taken by such account, the Finance Director is hereby authorized to award and sell the bonds at public or private sale, in the Finance Director's sound discretion without further action by this Council, at such price (but not less than 97% of par, excluding original issue discount) as is determined by the Finance Director, plus accrued interest on the aggregate principal amount of the bonds from their dates to the date of delivery and payment. The City Manager or Finance Director is hereby authorized to make arrangements for the delivery of the bonds to, and payment therefore by, the purchaser or purchasers thereof at the price determined by the Finance Director; and the City Manager or Finance Director is hereby authorized to execute a purchase agreement (including the certificate of award) for the bonds without further action by this Council. The Finance Director is hereby expressly authorized to execute a purchase agreement for the bonds provided that the true interest cost for the bonds shall not exceed 6.00% per annum, and that the true interest cost for the notes shall not exceed 6.00% per annum.

The Finance Director, in his or her discretion, is authorized to waive the requirements of Section 303-7 of the Municipal Code and to direct the sale of the bonds or notes in whatever manner he or she deems appropriate.

Section 7. That Council, for and on behalf of the City of Cincinnati, Hamilton County, Ohio, hereby covenants that it will restrict the use of the proceeds of the bonds or notes hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder. The Finance Director or any other officer having responsibility with respect to the issuance of the bonds or notes is authorized to give an appropriate certificate on behalf of the City, on the date of delivery of the bonds or notes for inclusion in the transcript of proceedings, setting forth the facts, estimates, circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These bonds or notes are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.



Section 8. That the Finance Director is hereby authorized to certify a copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 7 hereof.

Section 9. That, pursuant to the provisions of Section 133.30 of the Ohio Revised Code, these bonds or notes may be consolidated into a single issue with other bond or notes which have been authorized by this Council as determined by the Finance Director.

That these bonds or notes shall be issued in such designations, series, and shall have maturities or principal payments, as are consistent with the aggregate of the series, periodic maturities or principal payments of the separate issues of bonds as set forth in the respective bond ordinances and as provided in the bond purchase agreement (the "Purchase Agreement") to be entered into by and between the City and an underwriter as determined by the Finance Director as provided in a certificate of award executed by the Finance Director.

Section 10. That this Council hereby determines to issue these bonds or notes in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as these bonds or notes are in Book-Entry-Only form, the following covenants and agreements of the City shall be in effect:

(A) Definitions

"Beneficial Owner" means the person in whose name a bond or note is recorded as the beneficial owner of such bond or note by the respective systems of DTC and each of the DTC Participants.

"CEDE & Co" means CEDE & Co, the nominee of DTC, and any successor nominee of DTC with respect to the bonds or notes.

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

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

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

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

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

(B) Book Entry Bonds

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

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

(C) Delivery of Bond Certificates

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

Section 11. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of its committees that resulted in such formal action, were in meetings open to the public, in compliance with legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 12. 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 that the sale of the bonds or notes authorized herein may be required within thirty days of passage of the ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

202102121

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$6,365,000 Public Building Improvement Bonds**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$6,365,000 FOR THE PURPOSE OF MAKING PUBLIC BUILDING IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of the bonds in the amount of \$6,365,000 to fund City facility improvements. These bonds are fifteen-year bonds supported by property tax revenue and the interest rate is expected to be below 6.00%. The proceeds of the bond sale will finance a portion of the FY 2022 Capital Improvement Program, as approved by City Council. An emergency ordinance is necessary to take advantage of currently favorable interest rates.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

BWL

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

- 2021

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$6,365,000 FOR THE PURPOSE OF MAKING PUBLIC BUILDING IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, and the maximum maturity of the bonds referred to herein; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years, and has further certified that the maximum maturity of the bonds is twenty (20) years, and the maturity of the notes, in anticipation thereof, is five (5) years; now, therefore,

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

Section 1. That it is necessary to issue bonds of the City of Cincinnati, Ohio ("City"), in the principal sum not to exceed \$6,365,000 (property tax supported), for the purpose of providing funds to pay the cost and expense of constructing, rehabilitating, and equipping public buildings and other structures; acquiring real estate or interests in same; and paying legal, advertising, printing, and all expenses incidental to said improvements. Such principal amount may be increased by the amounts necessary to fund a debt service reserve fund (if needed), capitalized interest (if any), costs of issuance, and other necessary and permitted costs, all as determined by the Fiscal Officer.

Section 2. That bonds of the City of Cincinnati, Ohio, be issued in the principal amount of \$6,365,000 for the purpose aforesaid. Said bonds shall be dated as determined by the Finance Director, of the denomination of \$5,000 each, or any integral multiple thereof, or such other denomination, numbered sequentially as determined by the Finance Director, and shall bear interest at the rate, or rates, not in excess of six per centum (6.00%) per annum, payable December 1, 2022, and semiannually thereafter on June 1 and December 1 of each year, or such other dates as determined by the Finance Director, until the principal sum is paid. Provided, however, that if said bonds are sold bearing a different rate or rates of interest from that herein before specified, said bonds shall bear such rate, or rates, of interest as may be accepted by the Finance Director. The property tax supported bonds shall be designated 21-1-G1417, or as otherwise designated by the Finance Director. Said bonds shall mature or be subject to mandatory sinking fund redemption on December 1, or such other date of each year as determined by the Finance Director, such maturities and mandatory sinking fund redemption amounts to be determined by the Finance Director. The Finance Director will determine whether the \$6,365,000 public building improvement bonds are callable (and associated call features) or non-callable at the time of financing.



Notice of the call for redemption of said bonds, specifying the numbers of the bonds to be redeemed, shall be sent by the Bond Registrar and Paying Agent by registered or certified mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon said bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption funds for such redemption shall be on deposit with the Bond Registrar and Paying Agent, and the City shall direct the Bond Registrar and Paying Agent in writing to make any notice of call for redemption.

Section 3. That said bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, Chapter 303 of the Cincinnati Municipal Code and Chapter 133 of the Ohio Revised Code. They shall bear the facsimile signature of the Mayor and the facsimile signature of the Finance Director, and shall bear the manual authenticating signature of an authorized representative of U.S. Bank, N. A. (herein the "Bond Registrar and Paying Agent"), Cincinnati, Ohio, which is hereby designated to act as bond registrar, transfer agent and paying agent with respect to the bonds. The bonds shall also bear the corporate seal of the City or a facsimile thereof. The bonds shall be issued in fully registered form. The bonds shall be designated "Public Buildings Improvement Bonds." Such bonds shall be payable as to principal, upon the presentment and surrender for cancellation of the bonds, in lawful money of the United States of America at the Bond Registrar and Paying Agent, and payment of the interest thereon shall be made by the Bond Registrar and Paying Agent on each interest payment date to the person whose name appears on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at his or her address as it appears on such registration records.

Section 4. That, if the Finance Director, in the exercise of his or her judgment, determines that it is preferable that notes rather than bonds be issued initially, there are hereby authorized notes in the aggregate principal amount of \$6,365,000, which may be issued in anticipation of the issuance of a like principal amount of said bonds for the purpose described in Section 1 hereof. Such notes shall be designated "Public Buildings Improvement Bond Anticipation Notes," as applicable; shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate or rates not in excess of six per centum (6.00%) per annum, as shall be approved by the Finance Director, payable on such dates as are determined by the Finance Director; shall be dated as of their date of issuance; shall mature on such date or dates as may be selected by the Finance Director; may be callable in whole or in part at any time prior to maturity as approved by the Finance Director; may be issued in installments as approved by the Finance Director; and shall be payable as to principal at the office of the Bond Registrar and Paying Agent or the office of the Treasurer of the City, and the interest thereon shall be paid by the Bond Registrar and Paying Agent or the office of the Treasurer of the City on each interest payment date to the holders of the notes. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 5. That, for the purpose of providing the necessary funds to pay the interest on the foregoing issue of bonds or notes promptly when and as the same falls due, and also to provide for the discharge of said bonds or notes at maturity and for the payment of mandatory sinking fund redemptions, there shall be and is hereby levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually during the period said bonds are to run, outside of the limitations imposed by Article XII, Section 2, of the Ohio Constitution and Section 5705.02 of the Ohio Revised Code, and by virtue of Section 4 of Article VIII of the Charter of the City of Cincinnati, in an amount sufficient to provide for the payment of said interest, when and as the same shall fall due, and also to discharge the principal of said bonds or notes at maturity and to pay mandatory sinking fund redemptions, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended, and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund which, together with the interest collected on the same, shall be irrevocably pledged for the payment of principal of and interest on said bonds or notes when and as the same fall due.

Section 6. That said bonds or notes shall be first offered to the City Treasurer as the officer in charge of the Bond Retirement Fund of said City, and if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase, and, if not offered to or taken by such account, the Finance Director is hereby authorized to award and sell the bonds at public or private sale, in the Finance Director's sound discretion without further action by this Council, at such price (but not less than 97% of par, excluding original issue discount) as is determined by the Finance Director, plus accrued interest on the aggregate principal amount of the bonds from their dates to the date of delivery and payment. The City Manager or Finance Director is hereby authorized to make arrangements for the delivery of the bonds to, and payment therefore by, the purchaser or purchasers thereof at the price determined by the Finance Director; and the City Manager or Finance Director is hereby authorized to execute a purchase agreement (including the certificate of award) for the bonds without further action by this Council. The Finance Director is hereby expressly authorized to execute a purchase agreement for the bonds provided that the true interest cost for the bonds shall not exceed 6.00% per annum, and that the true interest cost for the notes shall not exceed 6.00% per annum.

The Finance Director, in his or her discretion, is authorized to waive the requirements of Section 303-7 of the Municipal Code and to direct the sale of the bonds or notes in whatever manner he or she deems appropriate.

Section 7. That Council, for and on behalf of the City of Cincinnati, Hamilton County, Ohio, hereby covenants that it will restrict the use of the proceeds of the bonds or notes hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder. The

Finance Director or any other officer having responsibility with respect to the issuance of the bonds or notes is authorized to give an appropriate certificate on behalf of the City, on the date of delivery of the bonds or notes for inclusion in the transcript of proceedings, setting forth the facts, estimates, circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

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

Section 8. That the Finance Director is hereby authorized to certify a copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 7 hereof.

Section 9. That, pursuant to the provisions of Section 133.30 of the Ohio Revised Code, these bonds or notes may be consolidated into a single issue with other bond or notes which have been authorized by this Council as determined by the Finance Director.

That these bonds or notes shall be issued in such designations, series, and shall have maturities or principal payments, as are consistent with the aggregate of the series, periodic maturities or principal payments of the separate issues of bonds as set forth in the respective bond ordinances and as provided in the bond purchase agreement (the “Purchase Agreement”) to be entered into by and between the City and an underwriter as determined by the Finance Director as provided in a certificate of award executed by the Finance Director.

Section 10. That this Council hereby determines to issue these bonds or notes in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as these bonds or notes are in Book-Entry-Only form, the following covenants and agreements of the City shall be in effect:

(A) Definitions

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

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

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

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

“Letter of Representations” means the Letter of Representations dated March 21, 1995, as supplemented from time to time, from the City and the Paying Agent and



Registrar, to DTC with respect to the bonds or notes, which shall be the binding obligation of the City and the Paying Agent and Registrar.

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

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

(B) Book Entry Bonds

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

(ii) The bonds or notes shall be initially issued in the form of single fully registered global certificates in the amount of each separate stated maturity of the bonds or notes. Upon initial issuance, the ownership of such bonds or notes shall be registered in the City's bond register in the name of CEDE & Co, as nominee of DTC. The Paying Agent and Registrar and the City may treat DTC (or its nominee) as the sole and exclusive registered owner of the bonds or notes registered in its name for the purposes of payment of the principal, or redemption price of or interest on the bonds or notes, selecting the bonds or notes or portions thereof to be redeemed, giving any notice permitted or required to be given to bondholders under this ordinance, registering the transfer of bonds or notes, obtaining any consent or other action to be taken by bondholders, and for all other purposes whatsoever; and neither the Paying Agent and Registrar nor the City shall be affected by any notice to the contrary. Neither the Paying Agent and Registrar nor the City shall have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the bonds or notes under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Paying Agent and Registrar as being a registered owner, regarding any of the following: the accuracy of any records maintained by DTC or any DTC Participant; the payment of DTC or any DTC Participant of any amount in respect of the principal or redemption price of or interest on the bonds or notes; any notice which is permitted or required to be given to bondholders under this ordinance; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of the bonds or notes; or any consent given or other action taken by DTC as bondholder. The Paying Agent and Registrar shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the bonds or notes only to or "upon the order of" DTC (as that term is used in the Uniform Commercial Code as adopted in the State of Ohio), and all such

payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of, and premium, if any, and interest on the bonds or notes to the extent of the sum or sums so paid. Except as provided herein, no person other than DTC shall receive an authenticated bond certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal of, and premium, if any, and interest pursuant to this ordinance. Upon delivery by DTC to the Paying Agent and Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of bonds or notes, the word "CEDE & Co" in this ordinance shall refer to such new nominee of DTC.

(C) Delivery of Bond Certificates

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

Section 11. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of its committees that resulted in such formal action, were in meetings open to the public, in compliance with legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 12. 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 that the sale of the bonds or notes authorized herein may be required within thirty days of passage of the ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

To: Mayor and Members of City Council 202102122

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$13,845,000 Equipment Improvement Bonds**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$13,845,000 FOR THE PURPOSE OF MAKING EQUIPMENT IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of the bonds in the amount of \$13,845,000 for City vehicles and other equipment. These bonds are five-year bonds supported by property tax revenue and the interest rate is expected to be below 6.00%. The proceeds of the bond sale will finance a portion of the FY 2022 Capital Improvement Program, as approved by City Council. An emergency ordinance is necessary to take advantage of currently favorable interest rates.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

BWb

City of Cincinnati

-2021

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

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$13,845,000 FOR THE PURPOSE OF MAKING EQUIPMENT IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, and the maximum maturity of the bonds referred to herein; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years and has further certified that the maximum maturity of the bonds is ten (10) years, and the maturity of the notes, in anticipation thereof, is five (5) years; now, therefore,

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

Section 1. That it is necessary to issue bonds of the City of Cincinnati, Ohio ("City"), in the principal amount of \$13,845,000 (property tax supported) for the purpose of providing funds to pay the cost and expense of purchasing motor vehicles; acquiring and improving City-wide communication system components and related improvements in connection therewith; acquiring computer related system upgrades and components and other necessary equipment; and paying legal, advertising, printing and all expenses incidental to said improvements. Such principal amount may be increased by the amounts necessary to fund a debt service reserve fund (if needed), capitalized interest (if any), costs of issuance, and other necessary and permitted costs, all as determined by the Fiscal Officer.

Section 2. That bonds of the City of Cincinnati, Ohio, be issued in the principal amount of \$13,845,000 for the purpose aforesaid. Said bonds shall be dated as determined by the Finance Director, of the denomination of \$5,000 each, or any integral multiple thereof, or such other denomination, numbered sequentially as determined by the Finance Director, and shall bear interest at the rate, or rates, not in excess of six per centum (6.00%) per annum, payable December 1, 2022, and semiannually thereafter on June 1 and December 1 of each year, or such other dates as determined by the Finance Director, until the principal sum is paid. Provided, however, that if said bonds are sold bearing a different rate or rates of interest from that herein before specified, said bonds shall bear such rate, or rates, of interest as may be accepted by the Finance Director. The property tax supported bonds shall be designated 21-1-G1418, or as otherwise designated by the Finance Director. Said bonds shall mature or be subject to mandatory sinking fund redemption on December 1, or such other date of each year as determined by the Finance Director, such maturities and mandatory sinking fund redemption amounts to be determined by the Finance Director. The Finance Director will determine whether the \$13,845,000 equipment improvement bonds are callable (and associated call features) or non-callable at the time of financing.

Notice of the call for redemption of said bonds, specifying the numbers of the bonds to be redeemed, shall be sent by the Bond Registrar and Paying Agent by registered or certified mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon said bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption funds for such redemption shall be on deposit with the Bond Registrar and Paying Agent, and the City shall direct the Bond Registrar and Paying Agent in writing to make any notice of call for redemption.

Section 3. That said bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, Chapter 303 of the Cincinnati Municipal Code and Chapter 133 of the Ohio Revised Code. They shall bear the facsimile signature of the Mayor and the facsimile signature of the Finance Director, and shall bear the manual authenticating signature of an authorized representative of U.S. Bank, N. A. (herein the "Bond Registrar and Paying Agent"), Cincinnati, Ohio, which is hereby designated to act as bond registrar, transfer agent and paying agent with respect to the bonds. The bonds shall also bear the corporate seal of the City or a facsimile thereof. The bonds shall be issued in fully registered form. The bonds shall be designated "Equipment Improvement Bonds." Such bonds shall be payable as to principal, upon the presentment and surrender for cancellation of the bonds, in lawful money of the United States of America at the Bond Registrar and Paying Agent, and payment of the interest thereon shall be made by the Bond Registrar and Paying Agent on each interest payment date to the person whose name appears on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at their address as it appears on such registration records.

Section 4. That, if the Finance Director, in the exercise of his or her judgment, determines that it is preferable that notes rather than bonds be issued initially, there are hereby authorized notes in the aggregate principal amount of \$13,845,000, which may be issued in anticipation of the issuance of a like principal amount of said bonds for the purpose described in Section 1 hereof. Such notes shall be designated "Equipment Improvement Bond Anticipation Notes," as applicable; shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate or rates not in excess of six per centum (6.00%) per annum, as shall be approved by the Finance Director, payable on such dates as are determined by the Finance Director; shall be dated as of their date of issuance; shall mature on such date or dates as may be selected by the Finance Director; may be callable in whole or in part at any time prior to maturity as approved by the Finance Director; may be issued in installments as approved by the Finance Director; and shall be payable as to principal at the office of the Bond Registrar and Paying Agent or the office of the Treasurer of the City, and the interest thereon shall be paid by the Bond Registrar and Paying Agent or the office of the Treasurer of the City on each interest payment date to the holders of the notes. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 5. That, for the purpose of providing the necessary funds to pay the interest on the foregoing issue of bonds or notes promptly when and as the same falls due, and also to provide for the discharge of said bonds or notes at maturity and for the payment of mandatory sinking fund redemptions, there shall be and is hereby levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually during the period said bonds are to run, outside



of the limitations imposed by Article XII, Section 2, of the Ohio Constitution and Section 5705.02 of the Ohio Revised Code, and by virtue of Section 4 of Article VIII of the Charter of the City of Cincinnati, in an amount sufficient to provide for the payment of said interest, when and as the same shall fall due, and also to discharge the principal of said bonds or notes at maturity and to pay mandatory sinking fund redemptions, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund which, together with the interest collected on the same, shall be irrevocably pledged for the payment of principal of and interest on said bonds or notes when and as the same fall due.

Section 6. That said bonds or notes shall be first offered to the City Treasurer as the officer in charge of the Bond Retirement Fund of said City, and if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase, and, if not offered to or taken by such account, the Finance Director is hereby authorized to award and sell the bonds at public or private sale, in the Finance Director's sound discretion without further action by this Council, at such price (but not less than 97% of par, excluding original issue discount) as is determined by the Finance Director, plus accrued interest on the aggregate principal amount of the bonds from their dates to the date of delivery and payment. The City Manager or Finance Director is hereby authorized to make arrangements for the delivery of the bonds to, and payment therefore by, the purchaser or purchasers thereof at the price determined by the Finance Director; and the City Manager or Finance Director is hereby authorized to execute a purchase agreement (including the certificate of award) for the bonds without further action by this Council. The Finance Director is hereby expressly authorized to execute a purchase agreement for the bonds provided that the true interest cost for the bonds shall not exceed 6.00% per annum, and that the true interest cost for the notes shall not exceed 6.00% per annum.

The Finance Director, in his or her discretion, is authorized to waive the requirements of Section 303-7 of the Municipal Code and to direct the sale of the bonds or notes in whatever manner he or she deems appropriate.

Section 7. That Council, for and on behalf of the City of Cincinnati, Hamilton County, Ohio, hereby covenants that it will restrict the use of the proceeds of the bonds or notes hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder. The Finance Director or any other officer having responsibility with respect to the issuance of the bonds or notes is authorized to give an appropriate certificate on behalf of the City, on the date of delivery of the bonds or notes for inclusion in the transcript of proceedings, setting forth the facts, estimates, circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.



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

Section 8. That the Finance Director is hereby authorized to certify a copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 7 hereof.

Section 9. That, pursuant to the provisions of Section 133.30 of the Ohio Revised Code, these bonds or notes may be consolidated into a single issue with other bond or notes which have been authorized by this Council as determined by the Finance Director.

That these bonds or notes shall be issued in such designations, series, and shall have maturities or principal payments, as are consistent with the aggregate of the series, periodic maturities or principal payments of the separate issues of bonds as set forth in the respective bond ordinances, as provided in the bond purchase agreement (the “Purchase Agreement”) to be entered into by and between the City and an underwriter as determined by the Finance Director as provided in a certificate of award executed by the Finance Director.

Section 10. That this Council hereby determines to issue these bonds or notes in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as these bonds or notes are in Book-Entry-Only form, the following covenants and agreements of the City shall be in effect:

(A) Definitions

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

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

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

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

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

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

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

(B) Book Entry Bonds

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

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

that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of bonds or notes, the word "CEDE & Co" in this ordinance shall refer to such new nominee of DTC.

(C) Delivery of Bond Certificates

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

Section 11. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 12. 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 that the sale of the bonds or notes authorized herein may be required within thirty days of passage of the ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

To: Mayor and Members of City Council 202102123

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$2,835,000 Stormwater Improvement Bonds**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$2,835,000 FOR THE PURPOSE OF MAKING STORMWATER IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of the bonds in the amount of \$2,835,000 to fund stormwater improvements. These bonds are twenty-year bonds supported by stormwater revenue and the interest rate is expected to be below 6.00%. The proceeds of the bond sale will finance the construction and improvements to the stormwater system, providing safe and efficient capture and conveyance of stormwater runoff and the correction of stormwater problems, as approved by City Council. An emergency ordinance is necessary to take advantage of currently favorable interest rates.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

AWB

City of Cincinnati

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

-2021

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$2,835,000 FOR THE PURPOSE OF MAKING STORMWATER IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, and the maximum maturity of the bonds referred to herein; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years and has further certified that the maximum maturity of the bonds is twenty (20) years, and the maturity of the notes, in anticipation thereof, is five (5) years; now, therefore,

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

Section 1. That it is necessary to issue bonds of the City of Cincinnati, Ohio ("City"), in the principal amount of \$2,835,000 for the purpose of providing funds to pay the cost of constructing and acquiring improvements to the stormwater system within the City, which includes stormwater infrastructure improvements, stormwater infrastructure rehabilitation, pump station improvements, system development, local flood protection infrastructure improvements, stormwater equipment, and Barrier Dam improvements, providing for the safe and efficient capture and conveyance of stormwater runoff, and the correction of stormwater problems; and paying legal, advertising, printing, and all expenses incidental to said improvements. Such principal amount may be increased by the amounts necessary to fund a debt service reserve fund (if needed), capitalized interest (if any), costs of issuance, and other necessary and permitted costs, all as determined by the Fiscal Officer.

Section 2. That bonds of the City of Cincinnati, Ohio, be issued in the principal amount of \$2,835,000 for the purpose aforesaid. Said bonds shall be dated as determined by the Finance Director, of the denomination of \$5,000 each, or any integral multiple thereof, or such other denomination, designated 21-1-G1420, or as otherwise designated by the Finance Director and numbered sequentially as determined by the Finance Director, and shall bear interest at the rate, or rates, not in excess of six per centum (6.00%) per annum, payable December 1, 2022, and semiannually thereafter on June 1 and December 1 of each year, or such other dates as determined by the Finance Director, until the principal sum is paid. Provided, however, that if said bonds are sold bearing a different rate or rates of interest from that herein before specified, said bonds shall bear such rate, or rates, of interest as may be accepted by the Finance Director. Said bonds shall mature or be subject to mandatory sinking fund redemption on December 1, or such other date of each year as determined by the Finance Director, such maturities and mandatory sinking fund redemption amounts to be determined by the Finance Director. The



Finance Director will determine whether the \$2,835,000 stormwater improvement bonds are callable (and associated call features) or non-callable at the time of financing.

Notice of the call for redemption of said bonds, specifying the numbers of the bonds to be redeemed, shall be sent by the Bond Registrar and Paying Agent by registered or certified mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon said bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption funds for such redemption shall be on deposit with the Bond Registrar and Paying Agent, and the City shall direct the Bond Registrar and Paying Agent in writing to make any notice of call for redemption.

Section 3. That said bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, Chapter 303 of the Cincinnati Municipal Code and Chapter 133 of the Ohio Revised Code. They shall bear the facsimile signature of the Mayor and the facsimile signature of the Finance Director, and shall bear the manual authenticating signature of an authorized representative of U.S. Bank, N. A. (herein the "Bond Registrar and Paying Agent"), Cincinnati, Ohio, which is hereby designated to act as bond registrar, transfer agent and paying agent with respect to the bonds. The bonds shall also bear the corporate seal of the City or a facsimile thereof. The bonds shall be issued in fully registered form. The bonds shall be designated "Stormwater Improvement Bonds." Such bonds shall be payable as to principal, upon the presentment and surrender for cancellation of the bonds, in lawful money of the United States of America at the Bond Registrar and Paying Agent, and payment of the interest thereon shall be made by the Bond Registrar and Paying Agent on each interest payment date to the person whose name appears on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at their address as it appears on such registration records.

Section 4. That, if the Finance Director, in the exercise of his or her judgment, determines that it is preferable that notes rather than bonds be issued initially, there are hereby authorized notes in the aggregate principal amount of \$2,835,000, which may be issued in anticipation of the issuance of a like principal amount of said bonds for the purpose described in Section 1 hereof. Such notes shall be designated "Stormwater Improvement Bond Anticipation Notes," as applicable; shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate or rates not in excess of six per centum (6.00%) per annum, as shall be approved by the Finance Director, payable on such dates as are determined by the Finance Director; shall be dated as of their date of issuance; shall mature on such date or dates as may be selected by the Finance Director; may be callable in whole or in part at any time prior to maturity as approved by the Finance Director; may be issued in installments as approved by the Finance Director; and shall be payable as to principal at the office of the Bond Registrar and Paying Agent or the office of the Treasurer of the City, and the interest thereon shall be paid by the Bond Registrar and Paying Agent or the office of the Treasurer of the City on each interest payment date to the holders of the notes. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 5. That, for the purpose of providing the necessary funds to pay the interest on the foregoing issue of bonds or notes promptly when and as the same falls due, and also to provide for the discharge of said bonds or notes at maturity and for the payment of mandatory sinking fund redemptions, there shall be and is hereby levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually during the period said bonds are to run, outside of the limitations imposed by Article XII, Section 2, of the Ohio Constitution and Section 5705.02 of the Ohio Revised Code, and by virtue of Section 4 of Article VIII of the Charter of the City of Cincinnati, in an amount sufficient to provide for the payment of said interest, when and as the same shall fall due, and also to discharge the principal of said bonds or notes at maturity and to pay mandatory sinking fund redemptions, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund which, together with the interest collected on the same, shall be irrevocably pledged for the payment of principal of and interest on said bonds or notes when and as the same fall due.

In addition to the tax pledge contained above, the Council of the City of Cincinnati covenants to appropriate annually from lawfully available stormwater system revenues amounts necessary to meet debt service charges on the bonds. In any year to the extent that stormwater system revenues of the City are used to pay principal and interest charges on said bonds and such amount is appropriated by this Council to the payment of such interest and principal, said tax shall not be levied.

Section 6. That said bonds or notes shall be first offered to the City Treasurer as the officer in charge of the Bond Retirement Fund of said City, and if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase, and, if not offered to or taken by such account, the Finance Director is hereby authorized to award and sell the bonds at public or private sale, in the Finance Director's sound discretion without further action by this Council, at such price (but not less than 97% of par, excluding original issue discount) as is determined by the Finance Director, plus accrued interest on the aggregate principal amount of the bonds from their dates to the date of delivery and payment. The City Manager or Finance Director is hereby authorized to make arrangements for the delivery of the bonds to, and payment therefore by, the purchaser or purchasers thereof at the price determined by the Finance Director; and the City Manager or Finance Director is hereby authorized to execute a purchase agreement (including the certificate of award) for the bonds without further action by this Council. The Finance Director is hereby expressly authorized to execute a purchase agreement for the bonds provided that the true interest cost for the bonds shall not exceed 6.00% per annum, and that the true interest cost for the notes shall not exceed 6.00% per annum.

The Finance Director, in his or her discretion, is authorized to waive the requirements of Section 303-7 of the Municipal Code and to direct the sale of the bonds or notes in whatever manner he or she deems appropriate.



Section 7. That Council, for and on behalf of the City of Cincinnati, Hamilton County, Ohio, hereby covenants that it will restrict the use of the proceeds of the bonds or notes hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder. The Finance Director or any other officer having responsibility with respect to the issuance of the bonds or notes is authorized to give an appropriate certificate on behalf of the City, on the date of delivery of the bonds or notes for inclusion in the transcript of proceedings, setting forth the facts, estimates, circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These bonds or notes are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.

Section 8. That the Finance Director is hereby authorized to certify a copy of this ordinance to the County Auditor of Hamilton County, Ohio according to law and do all things necessary to comply with Sections 1 through 7 hereof.

Section 9. That, pursuant to the provisions of Section 133.30 of the Ohio Revised Code, these bonds or notes may be consolidated into a single issue with other bond or notes which have been authorized by this Council as determined by the Finance Director.

That these bonds or notes shall be issued in such designations, series, and shall have maturities or principal payments, as are consistent with the aggregate of the series, periodic maturities or principal payments of the separate issues of bonds as set forth in the respective bond ordinances, as provided in the bond purchase agreement (the "Purchase Agreement") to be entered into by and between the City and an underwriter as determined by the Finance Director as provided in a certificate of award executed by the Finance Director.

Section 10. That this Council hereby determines to issue these bonds or notes in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as these bonds or notes are in Book-Entry-Only form, the following covenants and agreements of the City shall be in effect:

(A) Definitions

"Beneficial Owner" means the person in whose name a bond or note is recorded as the beneficial owner of such bond or note by the respective systems of DTC and each of the DTC Participants.

"CEDE & Co" means CEDE & Co, the nominee of DTC, and any successor nominee of DTC with respect to the bonds or notes.

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

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

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

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

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

**(B) Book Entry Bonds**

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

(ii) The bonds or notes shall be initially issued in the form of single fully registered global certificates in the amount of each separate stated maturity of the bonds or notes. Upon initial issuance, the ownership of such bonds or notes shall be registered in the City’s bond register in the name of CEDE & Co, as nominee of DTC. The Paying Agent and Registrar and the City may treat DTC (or its nominee) as the sole and exclusive registered owner of the bonds or notes registered in its name for the purposes of payment of the principal, or redemption price of or interest on the bonds or notes, selecting the bonds or notes or portions thereof to be redeemed, giving any notice permitted or required to be given to bondholders under this ordinance, registering the transfer of bonds or notes, obtaining any consent or other action to be taken by bondholders and for all other purposes whatsoever; and neither the Paying Agent and Registrar nor the City shall be affected by any notice to the contrary. Neither the Paying Agent and Registrar nor the City shall have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the bonds or notes under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Paying Agent and Registrar as being a registered owner, regarding any of the following: the accuracy of any records maintained by DTC or any DTC Participant; the payment of DTC or any DTC

Participant of any amount in respect of the principal or redemption price of or interest on the bonds or notes; any notice which is permitted or required to be given to bondholders under this ordinance; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of the bonds or notes; or any consent given or other action taken by DTC as bondholder. The Paying Agent and Registrar shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the bonds or notes only to or "upon the order of" DTC (as that term is used in the Uniform Commercial Code as adopted in the State of Ohio), and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of, and premium, if any, and interest on the bonds or notes to the extent of the sum or sums so paid. Except as provided herein, no person other than DTC shall receive an authenticated bond certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal of, and premium, if any, and interest pursuant to this ordinance. Upon delivery by DTC to the Paying Agent and Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of bonds or notes, the word "CEDE & Co" in this ordinance shall refer to such new nominee of DTC.

(C) Delivery of Bond Certificates

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

Section 11. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in

such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 12. 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 that the sale of the bonds or notes authorized herein may be required within thirty days of passage of the ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

202102124

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$13,408,000 Street Improvement Bond Anticipation Notes**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$13,408,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR STREET IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of notes in the amount of \$13,408,000 to fund street infrastructure improvements. Note sales for street improvements will occur in FY 2022 in connection with lease payments from Cincinnati Southern Railway. The issuance of these notes will provide funding for projects appropriated by City Council in the FY 2022 approved Capital Budget. The emergency ordinance authorizes the Finance Director to approve the interest rates, dates of issuance, and maturity dates, and is necessary to provide adequate funds at the time needed to support the timely implementation of street improvement projects.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

AWB

City of Cincinnati

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

- 2021

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$13,408,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR STREET IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, the maximum maturity of the bonds referred to herein, and the maturity of the notes to be issued in anticipation of such bonds; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years; now, therefore,

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

Section 1. That it is necessary to issue the bonds of the City of Cincinnati ("City") in the principal sum not to exceed \$13,408,000 for the purpose of providing funds to pay the cost and expense of widening, opening, extending, realigning, grading, paving, repaving, resurfacing, and constructing sewers and drains, or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas, and other public ways; constructing and acquiring improvements to the stormwater system; purchasing and/or installing street lights and appurtenances, traffic lights, and traffic control equipment and boulevard lights; and paying legal, advertising, printing, and all expenses incidental to said improvements. Said bonds shall be dated as determined by the Finance Director, shall bear interest at the rate of not more than six per centum (6.00%) per annum, payable semiannually until the principal sum is paid; and shall mature in five (5) substantially equal annual installments after the issuance thereof.

Section 2. That it is necessary that notes in the aggregate principal amount not to exceed \$13,408,000 shall be issued in anticipation of the issuance of a like principal amount of said bonds, for the purposes described in Section 1 hereof. Such notes shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate not in excess of the legal maximum rate of interest, if any, for obligations of this type under Ohio law, as shall be approved by the Finance Director, payable at maturity; may be issuable in installments as determined by the Finance Director; shall be dated on the date of issuance; shall mature on such date or dates as determined by the Finance Director; may be callable prior to maturity upon such terms as determined by the Finance Director; shall be designated "Street Improvements Bond Anticipation Notes"; and shall be payable as to both principal and interest at the City Treasurer's Office provided that such payment shall be made in Federal Reserve funds of the United States of America if the purchaser or purchasers shall so request. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the facsimile



or manual impression of the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 3. That such notes or installment shall first be offered to the City Treasurer as the officer in charge of the Bond Retirement Fund and, if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase and, if not offered to or taken by such Account, shall be sold at private sale by the Finance Director, such sales to be made at not less than the par value of such notes together with accrued interest thereon, if any. The proceeds from such sales, except any premium and accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose, and for which purpose said money is hereby appropriated. Any premium and accrued interest shall be transferred to the Bond Retirement Fund to be applied to the payment of principal and interest of said notes in the manner provided by law.

Section 4. That said notes shall be the full general obligations of the City and the full faith, credit and revenue of the City of Cincinnati are hereby pledged for the payment of both principal and interest of said notes at maturity, in accordance with the laws and Ohio Constitution. The par value to be received from the bonds anticipated by said notes shall, to the extent necessary, be used only for the retirement of said notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 5. That during the period while such notes run, there shall, except as hereinafter provided, be levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issuance of such notes.

Said tax shall be and is hereby ordered computed, certified, levied, and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each year are certified, extended, and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levied as hereby required shall be placed in an appropriate fund, which shall be irrevocably pledged for the payment of the interest and principal of bonds and said notes in anticipation of which they are issued, when and as the same fall due.

Provided, however, that in any year in which the income under a certain lease pertaining to the Cincinnati Southern Railroad property is sufficient to cover the cost of all interest charges on said notes or bonds and to provide a sufficient amount for retirement to retire said notes or bonds as they become due, and such income is duly appropriated by this Council to the payment of such interest and principal, said tax shall not be levied for such purpose.

Section 6. That the notes hereby authorized will constitute obligations the interest on which is subject to federal income taxation under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed there under.

These notes are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.

Section 7. That it is hereby determined and recited that all acts, conditions, and things necessary to be done precedent to and in the issuing of said notes in order to make the same legal,



valid and binding obligations of the City have happened, have been done and performed in regular and due form as required by law and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of said notes.

Section 8. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 9. That the Finance Director is hereby authorized to forward a certified copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 8 hereof.

Section 10. 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 provide for the issuance of said notes and to ensure adequate funds are available to support contracts for street improvements at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

202102125

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$4,935,000 Recreation Improvement Bond Anticipation Notes**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$4,935,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR RECREATION IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of notes in the amount of \$4,935,000 to fund recreation improvements. Note sales for recreation improvements will occur in FY 2022 in connection with lease payments from Cincinnati Southern Railway. The issuance of these notes will provide funding for projects appropriated by City Council in the FY 2022 approved Capital Budget. The emergency ordinance authorizes the Finance Director to approve the interest rates, dates of issuance, and maturity dates, and is necessary to provide adequate funds at the time needed to support the timely implementation of recreation improvement projects.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

AWB

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

- 2021

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$4,935,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR RECREATION IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, the maximum maturity of the bonds referred to herein, and the maturity of the notes to be issued in anticipation of such bonds; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years; now, therefore,

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

Section 1. That it is necessary to issue the bonds of the City of Cincinnati ("City") in the principal sum not to exceed \$4,935,000 for the purpose of providing funds to pay the cost and expense of acquiring real estate, easements, or interests in same for recreation facilities and other areas; improving, equipping, and rehabilitating existing recreation facilities and other areas, including but not limited to swimming pools, tennis courts, and playfields; and paying legal, advertising, printing, and all expenses incidental to said improvements. Said bonds shall be dated as determined by the Finance Director, shall bear interest at the rate of not more than six per centum (6.00%) per annum, payable semiannually until the principal sum is paid, and shall mature in five (5) substantially equal annual installments after the issuance thereof.

Section 2. That it is necessary that notes in the aggregate principal amount not to exceed \$4,935,000 shall be issued in anticipation of the issuance of a like principal amount of said bonds, for the purposes described in Section 1 hereof. Such notes shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate not in excess of the legal maximum rate of interest, if any, for obligations of this type under Ohio law, as shall be approved by the Finance Director, payable at maturity; may be issuable in installments as determined by the Finance Director; shall be dated on the date of issuance; shall mature on such date or dates as determined by the Finance Director; may be callable prior to maturity upon such terms as determined by the Finance Director; shall be designated "Recreation Improvements Bond Anticipation Notes"; and shall be payable as to both principal and interest at the City Treasurer's Office, provided that such payment shall be made in Federal Reserve funds of the United States of America if the purchaser or purchasers shall so request. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the facsimile or manual impression of the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 3. That such notes or installments shall first be offered to the City Treasurer as the officer in charge of the Bond Retirement Fund and, if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase and, if not offered to or taken by such Account, shall be sold at private sale by the Finance Director, such sales to be made at not less than the par value of such notes together with accrued interest thereon, if any. The proceeds from such sales, except any premium and accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose, and for which purpose said money is hereby appropriated. Any premium and accrued interest shall be transferred to the Bond Retirement Fund to be applied to the payment of principal and interest of said notes in the manner provided by law.

Section 4. That said notes shall be the full general obligations of the City, and the full faith, credit, and revenue of the City of Cincinnati are hereby pledged for the payment of both principal and interest of said notes at maturity, in accordance with the laws and Constitution of Ohio. The par value to be received from the bonds anticipated by said notes shall, to the extent necessary, be used only for the retirement of said notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 5. That during the period while such notes run, there shall, except as hereinafter provided, be levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issuance of such notes.

Said tax shall be and is hereby ordered computed, certified, levied, and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each year are certified, extended, and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levied as hereby required shall be placed in an appropriate fund, which shall be irrevocably pledged for the payment of the interest and principal of bonds and said notes in anticipation of which they are issued, when and as the same fall due.

Provided, however, that in any year in which the income under a certain lease pertaining to the Cincinnati Southern Railroad property is sufficient to cover the cost of all interest charges on said notes or bonds and to provide a sufficient amount to retire said notes or bonds as they become due, and such income is duly appropriated by this Council to the payment of such interest and principal, said tax shall not be levied for such purpose.

Section 6. That the notes hereby authorized will constitute obligations the interest on which is subject to federal income taxation under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder.

These notes are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.

Section 7. That it is hereby determined and recited that all acts, conditions, and things necessary to be done precedent to and in the issuing of said notes in order to make the same legal, valid, and binding obligations of the City have happened, have been done, and performed in regular

and due form as required by law, and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of said notes.

Section 8. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 9. That the Finance Director is hereby authorized to forward a certified copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 8 hereof.

Section 10. 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 provide for the issuance of said notes and to ensure adequate funds are available to support contracts for recreation improvements at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

202102126

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$2,055,000 Park Improvement Bond Anticipation Notes**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$2,055,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR PARK IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of notes in the amount of \$2,055,000 to fund park improvements. Note sales for park improvements will occur in FY 2022 in connection with lease payments from Cincinnati Southern Railway. The issuance of these notes will provide funding for projects appropriated by City Council in the FY 2022 approved Capital Budget. The emergency ordinance authorizes the Finance Director to approve the interest rates, dates of issuance, and maturity dates, and is necessary to provide adequate funds at the time needed to support the timely implementation of park improvement projects.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment



EMERGENCY

City of Cincinnati

AWB

- 2021

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

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$2,055,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR PARK IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, the maximum maturity of the bonds referred to herein, and the maturity of the notes to be issued in anticipation of such bonds; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years; now, therefore,

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

Section 1. That it is necessary to issue the bonds of the City of Cincinnati ("City") in the principal sum not to exceed \$2,055,000 for the purpose of providing funds to pay the cost and expense of acquiring real estate, easements, or interests in same for park facilities, parkways and play grounds; making improvements to park facilities, parkways, and playgrounds, including, but not limited to, structures, lighting, and parking; and paying legal, advertising, printing, and all expenses incidental to said improvements. Said bonds shall be dated as determined by the Finance Director, shall bear interest at the rate of not more than six per centum (6.00%) per annum, payable semiannually until the principal sum is paid, and shall mature in five (5) substantially equal annual installments after the issuance thereof.

Section 2. That it is necessary that notes in the aggregate principal amount not to exceed \$2,055,000 shall be issued in anticipation of the issuance of a like principal amount of said bonds, for the purposes described in Section 1 hereof. Such notes shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate not in excess of the legal maximum rate of interest, if any, for obligations of this type under Ohio law, as shall be approved by the Finance Director, payable at maturity; may be issuable in installments as determined by the Finance Director; shall be dated on the date of issuance; shall mature on such date or dates as determined by the Finance Director; may be callable prior to maturity upon such terms as determined by the Finance Director; shall be designated "Park Improvements Bond Anticipation Notes"; and shall be payable as to both principal and interest at the City Treasurer's Office provided that such payment shall be made in Federal Reserve funds of the United States of America if the purchaser or purchasers shall so request. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the facsimile or manual impression of the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.



Section 3. That such notes or installment shall first be offered to the City Treasurer as the officer in charge of the Bond Retirement Fund and, if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase and, if not offered to or taken by such Account, shall be sold at private sale by the Finance Director, such sales to be made at not less than the par value of such notes together with accrued interest thereon, if any. The proceeds from such sales, except any premium and accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose, and for which purpose said money is hereby appropriated. Any premium and accrued interest shall be transferred to the Bond Retirement Fund to be applied to the payment of principal and interest of said notes in the manner provided by law.

Section 4. That said notes shall be the full general obligations of the City and the full faith, credit, and revenue of the City of Cincinnati are hereby pledged for the payment of both principal and interest of said notes at maturity, in accordance with the laws and Ohio Constitution. The par value to be received from the bonds anticipated by said notes shall, to the extent necessary, be used only for the retirement of said notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 5. That during the period while such notes run, there shall, except as hereinafter provided, be levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issuance of such notes.

Said tax shall be and is hereby ordered computed, certified, levied, and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. Said tax shall be placed before, and in preference to, all other items and for the full amount thereof. The funds derived from said tax levied as hereby required shall be placed in an appropriate fund, which shall be irrevocably pledged for the payment of the interest and principal of bonds and said notes in anticipation of which they are issued, when and as the same fall due.

Provided, however, that in any year in which the income under a certain lease pertaining to the Cincinnati Southern Railroad property is sufficient to cover the cost of all interest charges on said notes or bonds, and to provide a sufficient amount for retirement to retire said notes or bonds as they become due, and such income is duly appropriated by this Council to the payment of such interest and principal, said tax shall not be levied for such purpose.

Section 6. That the notes hereby authorized will constitute obligations the interest on which is subject to federal income taxation under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder.

These notes are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.

Section 7. That it is hereby determined and recited that all acts, conditions and things necessary to be done precedent to, and in the issuing of, said notes in order to make the same legal, valid and binding obligations of the City have happened, have been done and performed in regular and due form as required by law, and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of said notes.

Section 8. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 9. That the Finance Director is hereby authorized to forward a certified copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and to do all things necessary to comply with Sections 1 through 8 hereof.

Section 10. 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 provide for the issuance of said notes and to ensure adequate funds are available to support contracts for park improvements at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

202102127

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$2,492,000 Public Building Improvement Bond Anticipation Notes**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$2,492,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR PUBLIC BUILDING IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of notes in the amount of \$4,935,000 to fund public building improvements. Note sales for public building improvements will occur in FY 2022 in connection with lease payments from Cincinnati Southern Railway. The issuance of these notes will provide funding for projects appropriated by City Council in the FY 2022 approved Capital Budget. The emergency ordinance authorizes the Finance Director to approve the interest rates, dates of issuance, and maturity dates, and is necessary to provide adequate funds at the time needed to support the timely implementation of public building improvement projects.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

AWB

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

- 2021

**PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$2,492,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR PUBLIC BUILDING IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, the maximum maturity of the bonds referred to herein, and the maturity of the notes to be issued in anticipation of such bonds; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years; now, therefore,

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

Section 1. That it is necessary to issue the bonds of the City of Cincinnati, Ohio (the "City") in the principal sum not to exceed \$2,492,000, for the purpose of providing funds to pay the cost and expense of constructing, rehabilitating and equipping public buildings and other structures; acquiring real estate or interests in same; and paying legal, advertising, printing and all expenses incidental to said improvements. Said bonds shall be dated as determined by the Finance Director, shall bear interest at the rate of not more than six per centum (6.00%) per annum, payable semiannually until the principal sum is paid; and shall mature in five (5) substantially equal annual installments after the issuance thereof.

Section 2. That it is necessary that notes in the aggregate principal amount not to exceed \$2,492,000 shall be issued in anticipation of the issuance of a like principal amount of said bonds, for the purposes described in Section 1 hereof. Such notes shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate not in excess of the legal maximum rate of interest, if any, for obligations of this type under Ohio law, as shall be approved by the Finance Director, payable at maturity; may be issuable in installments as determined by the Finance Director; shall be dated on the date of issuance; shall mature on such date or dates as determined by the Finance Director; may be callable prior to maturity upon such terms as determined by the Finance Director; shall be designated "Public Buildings Improvement Bond Anticipation Notes"; and shall be payable as to both principal and interest at the City Treasurer's Office provided that such payment shall be made in Federal Reserve funds of the United States of America if the purchaser or purchasers shall so request. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the facsimile or manual impression of the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 3. That such notes or installment shall first be offered to the City Treasurer as the officer in charge of the Bond Retirement Fund and, if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase and, if not offered to or taken by such Account, shall be sold at private sale by the Finance Director, such sales to be made at not less than the par value of such notes together with accrued interest thereon, if any. The proceeds from such sales, except any premium and accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose, and for which purpose said money is hereby appropriated. Any premium and accrued interest shall be transferred to the Bond Retirement Fund to be applied to the payment of principal and interest of said notes in the manner provided by law.

Section 4. That said notes shall be the full general obligations of the City and the full faith, credit and revenue of the City are hereby pledged for the payment of both principal and interest of said notes at maturity, in accordance with the laws and Ohio Constitution. The par value to be received from the bonds anticipated by said notes shall, to the extent necessary, be used only for the retirement of said notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 5. That during the period while such notes run, there shall, except as hereinafter provided, be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issuance of such notes.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levied as hereby required shall be placed in an appropriate fund, which shall be irrevocably pledged for the payment of the interest and principal of bonds and said notes in anticipation of which they are issued, when and as the same fall due.

Provided, however, that in any year in which the income under a certain lease pertaining to the Cincinnati Southern Railroad property is sufficient to cover the cost of all interest charges on said notes or bonds and to provide a sufficient amount for retirement to retire said notes or bonds as they become due, and such income is duly appropriated by this Council to the payment of such interest and principal, said tax shall not be levied for such purpose.

Section 6. That the notes hereby authorized will constitute obligations the interest on which is subject to federal income taxation under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed there under.

These notes are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.

Section 7. That it is hereby determined and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of said notes in order to make the same legal, valid and binding obligations of the City have happened, have been done and performed in regular and due form as required by law and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of said notes.

Section 8. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 9. That the Finance Director is hereby authorized to forward a certified copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 8 hereof.

Section 10. 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 provide for the issuance of said notes and to ensure adequate funds are available to support contracts for public building improvements at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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



June 16, 2021

202102128

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Water System Revenue Bonds, Series 2021A, and Water System Refunding Revenue Bonds, Series 2021B**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF (I) NOT TO EXCEED \$70,000,000 OF WATER SYSTEM REVENUE BONDS, SERIES 2021A, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF FINANCING CERTAIN IMPROVEMENTS; AND (II) NOT TO EXCEED \$190,000,000 OF WATER SYSTEM REFUNDING REVENUE BONDS, SERIES 2021B OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF REFUNDING OUTSTANDING BONDS; AUTHORIZING A PLEDGE OF AND LIEN ON WATER SYSTEM REVENUES TO SECURE SUCH BONDS AND OBLIGATIONS; AUTHORIZING A SUPPLEMENTAL TRUST AGREEMENT; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS.**

This emergency ordinance authorizes the sale of up to \$70,000,000 in revenue bonds to implement the FY 2022 Water Works Capital Improvement Program, as approved by Council.

In addition, this emergency ordinance allows for the option of refunding Water System Revenue bonds that have been previously issued. The purpose of refunding the bonds is to take advantage of lower interest rates that will result in savings to the Water System and the City of Cincinnati. The ordinance includes possible candidates for refunding because the refunding is dependent upon interest rates. It will not be known which bonds will be refunded until closer to the date of sale.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment



EMERGENCY

City of Cincinnati

- 2021

AWB

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

**PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF (I) NOT TO EXCEED \$70,000,000 OF WATER SYSTEM REVENUE BONDS, SERIES 2021A, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF FINANCING CERTAIN IMPROVEMENTS; AND (II) NOT TO EXCEED \$190,000,000 OF WATER SYSTEM REFUNDING REVENUE BONDS, SERIES 2021B OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF REFUNDING OUTSTANDING BONDS; AUTHORIZING A PLEDGE OF AND LIEN ON WATER SYSTEM REVENUES TO SECURE SUCH BONDS AND OBLIGATIONS; AUTHORIZING A SUPPLEMENTAL TRUST AGREEMENT; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS.**

WHEREAS, pursuant to authority granted to it by the Ohio Constitution, the City of Cincinnati (referred to herein as the "City" or the "Issuer") owns and operates a water supply and distribution system (referred to herein as the "Utility"); and

WHEREAS, the City has determined to acquire, construct, renovate and install improvements to the Utility including water main replacements and improvements to the treatment system and distribution system (the "Project"); and

WHEREAS, the City has determined to refund certain Outstanding Bonds (as defined below); now, therefore,

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

Section 1. Capitalized terms used in this Ordinance and not otherwise defined shall have the meanings ascribed to them in the Indenture (as hereinafter defined). In addition, the following terms shall have the indicated meanings:

"Bond" or "Bonds" means, the Series 2021A Bonds, the Series 2021B Bonds, the Series 2020A Bonds, the Series 2019A Bonds, the Series 2019B Bonds, the Series 2017A Bonds, the Series 2016A Bonds, the Series 2016B Bonds, the Series 2016C Bonds, the Series 2015A Bonds, the Series 2015B Bonds, the Series 2015C Bonds, the Series 2012A Bonds, the Series 2011A Bonds, and any other additional bonds.

"Bond Fund" means the City of Cincinnati, Ohio – Water System Bond Fund created by the Indenture, including appropriate subaccounts for the Series 2021A Bonds and the Series 2021B Bonds.

“Bond Legislation” means, when used in connection with the Series 2021A Bonds and the Series 2021B Bonds, this Ordinance, including the Fiscal Officer’s Certificate.

“Bond Reserve Fund” means the City of Cincinnati, Ohio – Water System Bond Reserve Fund created by the Indenture, including appropriate subaccounts for the Series 2021A Bonds and the Series 2021B Bonds.

“Construction Fund” means the City of Cincinnati, Ohio – Water System Construction Fund created by the Indenture, including an appropriate subaccount for the Series 2021A Bonds.

“Credit Support Instrument” means an insurance policy, surety, letter of credit, standby bond purchase agreement or other credit enhancement, support or liquidity device used to enhance or provide for the security or liquidity of any Series 2021A Bonds or the Series 2021B Bonds.

“Fiscal Officer’s Certificate” means the certificate executed by the Finance Director (as Fiscal Officer of the City, referred to herein as “Fiscal Officer”) setting forth any terms relating to the issuance of the Series 2021A Bonds and the Series 2021B Bonds which are not specified in this Bond Legislation.

“Green Bond” means an informational designation of a bond for the benefit of potential investors, to indicate that the proceeds of such bond will be used to fund environment-friendly projects, including but not limited to projects related to clean water, renewable energy, energy efficiency, river/habitat restoration, acquisition of land, or mitigation of climate change.

“Indenture” means the Master Trust Agreement dated as of March 1, 2001 by and between the Issuer and the Trustee securing the Bonds, as the same may be amended, modified or supplemented as provided therein. For purposes of this Bond Legislation, such supplements shall include the Second Supplemental Trust Agreement dated as of March 1, 2003; the Third Supplemental Trust Agreement dated as of May 1, 2005; the Fourth Supplemental Trust Agreement dated as of May 1, 2005; the Fifth Supplemental Trust Agreement dated as of January 4, 2007; the Sixth Supplemental Trust Agreement dated as of May 17, 2007; the Seventh Supplemental Trust Agreement, dated as of May 24, 2007; the Eighth Supplemental Trust Agreement, dated as of August 4, 2009; the Ninth Supplemental Trust Agreement, dated as of August 11, 2011; the Tenth Supplemental Trust Agreement dated as of June 21, 2012; the Eleventh Supplemental Trust Agreement dated as of August 12, 2015; the Twelfth Supplemental Trust Agreement dated as of December 6, 2016; the Thirteenth Supplemental Trust Agreement dated as of June 22, 2017; the Fourteenth Supplemental Trust Agreement dated as of November 26, 2019; the Fifteenth Supplemental Trust Agreement dated as of June 30, 2020; and the Sixteenth Supplemental Trust Agreement dated as of the date selected by the Fiscal Officer.

“Mayor” means the Mayor of the Issuer.

“Original Purchaser” means, as to the Series 2021A Bonds and the Series 2021B Bonds, such Original Purchasers as approved by the Fiscal Officer pursuant to the Fiscal Officer’s Certificate or in a bond purchase agreement, as applicable.

“Project” means the acquisition, construction, renovation, and installation of improvements to the Utility including water main replacements and improvements to the treatment system and distribution system.

“Rebate Fund” means the City of Cincinnati, Ohio – Water System Revenue Bond Rebate Fund created by the Indenture, including appropriate subaccounts for the Series 2021A Bonds and the Series 2021B Bonds.

“Senior Bonds” shall mean Bonds secured under the Master Indenture by a pledge of Net Revenues, which pledge is senior and prior in order and preference, with respect to the application of payment in full of Senior Subordinated Debt and Junior Subordinated Debt, including the Series 2021A Bonds, the Series 2021B Bonds, the Series 2020A Bonds, the Series 2019A Bonds, the Series 2019B Bonds, the Series 2017A Bonds, the Series 2016A Bonds, the Series 2016B Bonds, the Series 2016C Bonds, the Series 2015A Bonds, the Series 2015B Bonds, the Series 2015C Bonds, the Series 2012A Bonds, the Series 2011A Bonds, and any Additional Bonds issued on a parity with such senior pledge.

“Senior Subordinated Debt” shall mean notes, bonds or other obligations of the Issuer secured by a pledge of Net Revenues, which pledge is subordinate, junior and subject in right to the prior payment in full of Senior Bonds, but which pledge of Net Revenues is senior and prior in order and preference with respect to the application of payment in full of Junior Subordinated Debt (as defined in the Master Indenture), which no Senior Subordinated Debt is currently outstanding.

“Series 2011A Bonds” means the \$84,310,000 Water System Revenue and Refunding Revenue Bonds, Series 2011A (Tax-Exempt), of the Issuer.

“Series 2012A Bonds” means the \$60,000,000 Water System Revenue Bonds, Series 2012A (Tax-Exempt), of the Issuer.

“Series 2015 Bonds” means, together, the Series 2015A Bonds, the Series 2015B Bonds and the Series 2015C Bonds.

“Series 2015A Bonds” means the \$47,135,000 Water System Revenue Bonds, Series 2015A (Tax-Exempt), of the Issuer.

“Series 2015B Bonds” means the \$77,375,000 Water System Refunding Revenue Bonds, Series 2015B (Tax-Exempt), of the Issuer.

“Series 2015C Bonds” means the \$88,540,000 Water System Refunding Revenue Bonds, Series 2015C (Federally Taxable), of the Issuer.

“Series 2016A Bonds” means the \$25,000,000 Water System Revenue Bonds, Series 2016A (Tax-Exempt), of the Issuer.

“Series 2016B Bonds” means the \$29,745,000 Water System Refunding Revenue Bonds, Series 2016B (Tax-Exempt), of the Issuer.

“Series 2016C Bonds” means the \$64,830,000 Water System Refunding Revenue Bonds, Series 2016C (2019 Crossover), of the Issuer.

“Series 2017A Bonds” means the \$75,595,000 Water System Refunding Revenue Bonds, Series 2017A (Tax-Exempt), of the Issuer.

“Series 2019A Bonds” means the \$50,000,000 Water System Revenue Bonds, Series 2019A (Tax-Exempt), of the Issuer.

“Series 2019B Bonds” means the \$6,455,000 Water System Refunding Revenue Bonds, Series 2019B (Federally Taxable), of the Issuer.

“Series 2020A Bonds” means the \$50,830,000 Water System Refunding Revenue Bonds, Series 2020A (Federally Taxable), of the Issuer.

“Series 2021 Bonds” means, together, the Series 2021A Bonds and the Series 2021B Bonds.

“Series 2021A Bonds” means the not to exceed (except as permitted in this Ordinance) \$70,000,000 Water System Revenue Bonds, Series 2021A, of the Issuer.

“Series 2021B Bonds” means the not to exceed (except as permitted in this Ordinance) \$190,000,000 Water System Refunding Revenue Bonds, Series 2021B, of the Issuer. “Sixteenth Supplemental Trust Agreement” means the Sixteenth Supplemental Trust Agreement entered into between the Issuer and Trustee in connection with the issuance and delivery of the Series 2021 Bonds.

“Water System Reserve Fund” means the City of Cincinnati, Ohio – Water System Reserve Fund created by the Indenture, including appropriate subaccounts for the Series 2021A Bonds and the Series 2021B Bonds.

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

References to any act or resolution of the Ohio General Assembly, or to a section, chapter, division, paragraph or other provision of the Ohio Revised Code or the Ohio Constitution, or the laws of Ohio, shall include that act or resolution, and that section, chapter, division, paragraph or other provision and those laws as from time to time amended, modified, supplemented, revised or superseded, unless expressly stated to the contrary, provided that no such amendment, modification, supplementation, revision or supersession shall alter the

obligation to pay the Bond Service Charges on Bonds outstanding, at the time of any such action, in the amount and manner, at the times and from the sources provided in the Bond Legislation and the Indenture, except as otherwise herein permitted.

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

## Section 2. Determinations by Legislative Authority.

(a) The Legislative Authority hereby finds and determines that it is necessary to issue, sell and deliver the Series 2021A Bonds in the principal amount of not to exceed \$70,000,000 upon the terms set forth herein, as supplemented by the Indenture or the Fiscal Officer’s Certificate, for the purpose of paying costs of the Project; such principal amount may be increased by the amounts necessary to provide for original issue discount (if deemed appropriate by the Fiscal Officer) and to fund a bond service reserve account, capitalized interest (if any), costs of issuance, and other necessary and permitted costs. The officers specified herein are authorized to execute and deliver the documents necessary or appropriate in order to secure the Series 2021A Bonds. The Series 2021A Bonds may be sold as tax-exempt or taxable bonds or any combination thereof. In the event that the Fiscal Officer, based on the written advice of the Davenport & Company LLC (the “Financial Advisor”) and Original Purchaser, determines that the City’s best interest will be served by causing all or a portion of the Series 2021A Bonds to be designated as Green Bonds, then the Fiscal Officer is authorized to so specify in the Fiscal Officer’s Certificate for the Series 2021A Bonds. The Fiscal Officer is authorized to execute any additional documents and certificates in conjunction with such designation and to take any additional action in connection with any related disclosure requirements.

This Legislative Authority hereby determines that the issuance of the Series 2021A Bonds will be for a proper public and municipal purpose and in the best interests of the Issuer. This Legislative Authority hereby approves the Project list as further identified on Exhibit A attached hereto.

(b) The Legislative Authority hereby finds and determines that it is necessary to issue, sell and deliver the Series 2021B Bonds in the principal amount of not to exceed \$190,000,000 upon the terms set forth herein, as supplemented by the Indenture or the Fiscal Officer’s Certificate, for the purpose of refunding a portion of the Issuer’s outstanding Series 2020A Bonds, Series 2019A Bonds, Series 2019B Bonds, Series 2017A Bonds, Series 2016A Bonds, Series 2016B Bonds, Series 2016C Bonds, Series 2015A Bonds, Series 2015B Bonds, Series 2015C Bonds, Series 2012A Bonds, Series 2011A Bonds, and/or any other Outstanding Bonds (collectively, the “Refunded Bonds”); such principal amount may be increased by the amounts necessary to provide for original issue discount (if deemed appropriate by the Fiscal Officer) and to fund a bond reserve account, capitalized interest (if any), costs of issuance, and other necessary and permitted costs. The officers specified herein are authorized to execute and deliver the documents necessary or appropriate in order to secure the Series 2021B Bonds. The Series 2021B Bonds may be sold as tax-exempt or taxable bonds or any combination thereof.

This Legislative Authority hereby determines that the issuance of the Series 2021B Bonds will be for a proper public and municipal purpose and in the best interests of the Issuer.

**Section 3. Terms of the Series 2021 Bonds.**

(a) **Form, Denominations and Dates.** The Series 2021A Bonds shall be designated “Water System Revenue Bonds, Series 2021A”, and the Series 2021B Bonds shall be designated “Water System Refunding Revenue Bonds, Series 2021B” or such other designation as set forth in the Fiscal Officer’s Certificate, shall be negotiable instruments, shall be issued only in fully registered form, without coupons, and shall express upon their faces the purpose for which they are issued. The Series 2021A Bonds shall be dated as of such date as is set forth in the Fiscal Officer’s Certificate, shall be numbered as determined by the Registrar or by the Trustee as Registrar, and shall be issued in denominations of \$5,000 or any integral multiple thereof. The Series 2021A Bonds shall be exchangeable for other Series 2021A Bonds in the manner and upon the terms set forth in the Indenture or the Fiscal Officer’s Certificate.

The Series 2021B Bonds shall be dated as of such date as is set forth in the Fiscal Officer’s Certificate, shall be numbered as determined by the Registrar or by the Trustee as Registrar, and shall be issued in denominations of \$5,000 or any integral multiple thereof. The Series 2021B Bonds shall be exchangeable for other Series 2021B Bonds in the manner and upon the terms set forth in the Indenture or the Fiscal Officer’s Certificate.

(b) **Execution, Interest Rates and Maturities.** The Series 2021 Bonds shall be executed by the signatures of the Mayor and Fiscal Officer of the Issuer and shall bear the official seal of the Issuer (provided that both of such signatures and such seal may be facsimiles) and shall bear the manual authenticating signature of an authorized signer of the Registrar or the Trustee, as appropriate. The Series 2021 Bonds shall bear interest from the most recent date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for, from their dates. The Series 2021 Bonds shall mature or be subject to mandatory sinking fund redemption at the times and in the respective principal amounts, and such principal amounts shall bear interest payable semiannually on each Interest Payment Date, at the respective rates per annum, as determined by the Fiscal Officer (after negotiation with the Original Purchaser of the Series 2021 Bonds) and set forth in the Fiscal Officer’s Certificate or in a bond purchase agreement, as applicable. All Series 2021 Bonds shall finally mature not later than forty (40) years from their first principal maturity date or mandatory sinking fund redemption date or as further specified in the Fiscal Officer’s Certificate.

(c) **Optional Redemption.** The Series 2021 Bonds of the maturities specified in the Fiscal Officer’s Certificate or, if applicable, in the purchase agreement authorized in Section 5 of this Ordinance shall be subject to redemption, in the manner provided in the Fiscal Officer’s Certificate or the Indenture, as applicable, at the option of the Issuer, either in whole or in part, at the times and at the redemption prices (expressed as percentages of the principal amount to be redeemed) set forth in the Fiscal Officer’s Certificate or Indenture, as applicable, plus accrued interest to the date fixed for redemption.

(d) **Payment.** Bond Service Charges with respect to the Series 2021 Bonds shall be payable in lawful money of the United States of America without deduction for the services of



the Trustee or the Paying Agent, in the manner provided in the Fiscal Officer's Certificate or the Indenture, as applicable.

(e) Variable Rate Bonds. In the event that the Fiscal Officer, based on the written advice of the Financial Advisor, determines that the City's best interests will be served by causing the Series 2021 Bonds, or any series thereof, to be obligations bearing interest at variable interest rates, then the Fiscal Officer is authorized to so specify in the Fiscal Officer's Certificate for that Series. If the Fiscal Officer so determines, then the method and procedure (including any Authorized Denominations as set forth in the Fiscal Officer's Certificate) by which the variable rate of interest to be borne by such Series 2021 Bonds shall be determined as provided in the applicable Supplemental Indenture, whether by auction, by reference to a market index, by a remarketing agent or otherwise; provided that no variable rate Series 2021 Bonds shall bear interest at a rate in excess of sixteen percent (16%) per year. Notwithstanding that limitation, variable rate Series 2021 Bonds held by a provider of a Credit Support Instrument may bear interest at a rate not in excess of twenty-five percent (25%) per year as provided in the agreement with the provider of the Credit Support Instrument. The Fiscal Officer may determine that the terms of variable rate Series 2021 Bonds may or may not permit the Holders to tender their variable rate Series 2021 Bonds for purchase by the City. If the Fiscal Officer designates any Series 2021 Bonds as variable rate Series 2021 Bonds, and if the Holders of those Series 2021 Bonds are to be entitled to tender those Series 2021 Bonds for purchase, then the Fiscal Officer shall also designate in the Fiscal Officer's Certificate for those variable rate Series 2021 Bonds, the tender agent or agents and the remarketing agent or agents, which designations shall be based on the determination of the Fiscal Officer, based on the written advice of the Financial Advisor, that the parties so designated possess the requisite resources and experience to provide the services required of them and that the terms on which the designated parties have agreed to provide such services are fair and commercially reasonable. The Fiscal Officer is authorized to enter into agreements in connection with the delivery of the Series 2021 Bonds, and from time to time thereafter so long as the Series 2021 Bonds are outstanding, with providers of Credit Support Instruments, tender agents (which may be the Trustee), remarketing agents (which may be any of the Original Purchasers) and others as may be determined by the Fiscal Officer to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender and providing for payment of the purchase price of, or debt service on, the variable rate Series 2021 Bonds. In the event the variable rate Series 2021 Bonds are issued as auction rate obligations, the Fiscal Officer is authorized to enter into agreements with auction agents and others, or to cause the Trustee to enter into those agreements, based on the written advice of the Financial Advisor that the parties so designated possess the requisite resources and experience to provide the services required of them and that the terms on which the designated parties have agreed to provide such services are fair and commercially reasonable.

The Fiscal Officer, in connection with the original issuance of any Series 2021 Bonds, and regardless of whether such Series 2021 Bonds bear interest at variable or fixed rates, is authorized to contract for a Credit Support Instrument, and to pay the costs of it from proceeds of the Series 2021A Bonds and/or the Series 2021B Bonds, as appropriate, if he determines, based on the written advice of the Financial Advisor, that the Credit Support Instrument will result in a savings in the cost of the financing to the City.

(f) Refunding. Bonds to be refunded shall be designated by the Fiscal Officer in the



Fiscal Officer's Certificate and shall consist of those Series 2011A Bonds, Series 2012A Bonds, Series 2015A Bonds, Series 2015B Bonds, Series 2015C Bonds, Series 2016A Bonds, Series 2016B Bonds, Series 2016C Bonds, Series 2017A Bonds, Series 2019A Bonds, Series 2019B Bonds, Series 2020A Bonds, and/or any other Outstanding Bonds that can be refunded (and thereby deemed no longer Outstanding for purposes of the Indenture) with the proceeds of the Series 2021B Bonds, the refunding of which Refunded Bonds will enable the City, in the judgment of the Fiscal Officer, based on the written advice of the Financial Advisor, to obtain net present value debt service savings with respect to the Refunded Bonds. The Refunded Bonds shall be called for redemption or retired on the date or dates specified in the Fiscal Officer's Certificate. The redemption dates so specified shall be the dates required under the Code for compliance with Section 149(d) of the Code and other applicable federal tax laws.

Section 4. Terms of All Series 2021 Bonds. The Series 2021 Bonds shall bear such designations as may be necessary to distinguish it from other series of Series 2021 Bonds. All Series 2021 Bonds shall be payable as to principal, premium, if any, and interest in lawful money of the United States, shall be in such form as provided in the Indenture, shall be negotiable instruments, shall express on their face the purpose for which they are issued and such other statements or legends as may be required by law, and shall be issued pursuant to Article XVIII of the Ohio Constitution and the Charter and ordinances of the Issuer.

All Series 2021 Bonds shall be executed and authenticated in the manner provided in the Indenture or in the manner provided by the applicable law in effect at the time of their issuance. In case any officer whose signature or a facsimile of whose signature shall appear on any Series 2021 Bonds shall cease to be such officer before the issuance, authentication or delivery of such Series 2021 Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until that time.

Section 5. Sale of the Series 2021 Bonds. Notwithstanding any provisions to the contrary in Cincinnati Municipal Code Section 303-7, the Fiscal Officer is hereby authorized to award and sell the Series 2021 Bonds at public or private sale, in his or her sound discretion without further action by this Legislative Authority, at such price (but not less than 97% of par, excluding original issue discount) as is determined by the Fiscal Officer, plus accrued interest on the aggregate principal amount of the Series 2021 Bonds from their dates to the date of delivery and payment. The Executive Officer or Fiscal Officer is hereby authorized to make arrangements for the delivery of the Series 2021 Bonds to, and payment therefor by, the purchaser or purchasers thereof at the price determined by the Fiscal Officer; and the Executive Officer or Fiscal Officer is hereby authorized to execute one or more purchase agreements for the Series 2021 Bonds without further action by this Legislative Authority.

Section 6. Allocation of Proceeds of the Series 2021 Bonds. The proceeds received by the Issuer from the sale of the Series 2021 Bonds shall be allocated, and are hereby appropriated, in the amounts, and to the funds, set forth in the Fiscal Officer's Certificate or the Indenture, as applicable.

Section 7. Security for the Series 2021 Bonds. As provided herein, the Series 2021A Bonds, the Series 2021B Bonds, the Series 2020A Bonds, the Series 2019A Bonds, the Series 2019B Bonds, the Series 2017A Bonds, the Series 2016A Bonds, the Series 2016B Bonds, the

Series 2016C Bonds, the Series 2015A Bonds, the Series 2015B Bonds, the Series 2015C Bonds, the Series 2012A Bonds, the Series 2011A Bonds, and any other Additional Bonds shall be payable, after provision for the reasonable Operating and Maintenance Expenses of the Utility, solely from the Net Revenues and the Special Funds and shall be secured by the Indenture constituting a lien upon the Net Revenues and the Special Funds, and anything in the Bond Legislation, the Series 2021 Bonds or the Indenture to the contrary notwithstanding, neither the Bond Legislation, the Series 2021 Bonds, nor the Indenture shall constitute a debt or a pledge of the faith, general credit, taxing power, or general funds of the Issuer, and the Series 2021 Bonds shall contain on the face thereof a statement to the effect that the Series 2021 Bonds are not general obligations of the Issuer but are payable solely from the aforesaid sources pledged to their payment; provided, however, that nothing herein shall be deemed to prohibit the Issuer, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Bond Legislation, the Series 2021 Bonds or the Indenture.

Section 8. Additional Provisions with Respect to Series 2021 Bonds. The Executive Officer and the Fiscal Officer are hereby authorized to make provision consistent with this Bond Legislation in the Indenture securing the Series 2021 Bonds for the application of the Revenues; creation of such funds including a bond service account, as are necessary or appropriate; investment of moneys in such funds; use of such funds; recordkeeping; issuance of Additional Bonds; such other covenants of the Issuer as are necessary or appropriate; and such other matters as are customary or appropriate to be contained in the Indenture.

Section 9. Covenants of Issuer. The Issuer hereby reaffirms all of its warranties and covenants with the Bondholders and the Trustee set forth in the Indenture and declares them to apply to the Series 2021 Bonds.

Section 10. Execution of Sixteenth Supplemental Trust Agreement and Other Documents. The Executive Officer and the Fiscal Officer are each hereby authorized to execute, acknowledge and deliver, on behalf of the Issuer, to the Trustee a Sixteenth Supplemental Trust Agreement.

This Legislative Authority hereby approves the amendments to the Indenture, as set forth in the Sixteenth Supplemental Trust Agreement to be executed in connection with the issuance and delivery of the Series 2021 Bonds. Such amendments shall be approved by the Executive Officer and the Fiscal Officer, with acceptance of such changes thereto conclusively evidenced by execution of such Sixteenth Supplemental Trust Agreement.

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

The Executive Officer and the Fiscal Officer are each hereby separately authorized to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of Dinsmore & Shohl LLP, as Bond Counsel, in order to effect the issuance of the Series 2021 Bonds and the intent of the Bond Legislation. The Fiscal Officer, or other appropriate officer of the Issuer, shall certify a true transcript of all proceedings had with respect to the issuance of the Series 2021 Bonds, along with such information from the records

of the Issuer as is necessary to determine the regularity and validity of the issuance of the Series 2021 Bonds.

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

Section 11. Offering Document. The Executive Officer and the Fiscal Officer are each authorized to execute and deliver a preliminary offering document and a final document on behalf of the Issuer, which shall be in such form as such officers may approve, their execution thereof on behalf of the Issuer to be conclusive evidence of such approval, and copies thereof are hereby authorized to be prepared and furnished to the Original Purchaser of the Series 2021 Bonds for distribution to prospective purchasers of the Series 2021 Bonds and other interested persons.

The Executive Officer and the Fiscal Officer on behalf of the Issuer are hereby each authorized to furnish such information, to execute such instruments and to take such other actions in cooperation with the Original Purchaser of the Series 2021 Bonds as may be reasonably requested to qualify the Series 2021 Bonds for offer and sale under the Blue Sky or other securities laws and regulations and to determine their eligibility for investment under the laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the Original Purchaser; provided however, that the Issuer shall not be required to register as a dealer or broker in any such state or jurisdiction or become subject to the service of process in any jurisdiction in which the Issuer is not now subject to such service.

Section 12. Tax Exemption. This Legislative Authority, for and on behalf of the City of Cincinnati, Hamilton County, Ohio, hereby covenants that it will restrict the use of the proceeds of the tax-exempt Series 2021 Bonds hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Code. The Fiscal Officer or any other officer having responsibility with respect to the issuance of the tax-exempt Series 2021 Bonds is authorized and directed to give an appropriate certificate on behalf of the City on the date of delivery of the tax-exempt Series 2021 Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

The tax-exempt Series 2021 Bonds are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.

Section 13. Escrow Securities and Escrow Agreement. With respect to the funding of any escrow or escrows necessary or appropriate in connection with the refunding of any Outstanding Bonds with the proceeds of the Series 2021B Bonds or any cash defeasance by the Issuer, the Fiscal Officer is hereby authorized to take any and all appropriate action for the order

and purchase, at the appropriate time, Escrow Securities for the credit of such escrow or escrows and if necessary, to execute an escrow agreement with the Trustee for the defeasance of such Outstanding Bonds to be refunded. Such Escrow Securities may be in the form or forms recommended in writing by the Financial Advisor and approved by Dinsmore & Shohl LLP. The Financial Advisor (or a subsidiary or related entity of the Financial Advisor), is hereby specifically authorized to procure on behalf of the Issuer, at the appropriate time, Escrow Securities such as open market treasuries and similar defeasance obligations for the credit of the escrow fund(s) as provided in the Escrow Agreement.

Any attorney with the firm of Dinsmore & Shohl LLP is hereby specifically authorized to execute and file on behalf of the Issuer any subscriptions for United States Treasury Obligations, State and Local Government Series, as may be necessary, in order to fund, in part, such escrow or escrows in connection with the refunding of any Outstanding Bonds. In addition, the Fiscal Officer is hereby authorized to employ a verification agent with respect to the refunding of any Outstanding Bond.

Section 14. Severability. Should it be judicially determined by a court having jurisdiction to pass upon the validity of the Bond Legislation, the Indenture or the Series 2021 Bonds, that any provision of the Bond Legislation is beyond the powers of the Legislative Authority or the Issuer, or is otherwise invalid, then such decision shall in no way affect the validity of the Bond Legislation, the Indenture or the Series 2021 Bonds, or any proceedings related thereto, except as to the particular matters found by such decision to be invalid.

Section 15. Appointment of Receiver. In the event that any litigation is commenced or pending in which the Issuer is a party, involving the Utility, the operation of the same, the Revenues from the same, or wrongful performance or failure to perform any of the terms and conditions of this Bond Legislation, and there is at such time any default in the payment of any of the Series 2021 Bonds or interest thereon, any court having jurisdiction may appoint a receiver to administer and operate said Utility on behalf of the Issuer, with full power to pay and to provide for the payment of the Series 2021 Bonds, and for the payment of the Operating and Maintenance Expenses, and to apply the Revenues to the payment of such Series 2021 Bonds and interest thereon in accordance with the provisions of this Bond Legislation.

The power of such receiver to provide for the payment of such Series 2021 Bonds shall not be construed as pledging the general credit of the Issuer to the payment of said Series 2021 Bonds, or any part thereof or interest thereon. Such receiver shall have such power, under the direction of the court, as receivers in general equity cases.

Section 16. Continuing Disclosure. This Legislative Authority hereby covenants and agrees that it will execute, comply with and carry out all of the provisions of a continuing disclosure certificate dated the date of issuance and delivery of the Series 2021 Bonds (the "Continuing Disclosure Certificate") in connection with the issuance of the Series 2021 Bonds. Failure to comply with any such provisions of the Continuing Disclosure Certificate shall not constitute a default on the Series 2021 Bonds; however, any holder of the Series 2021 Bonds may take such action as may be necessary and appropriate, including seeking specific performance, to cause the Issuer to comply with its obligation under this section and the Continuing Disclosure Certificate.

Section 17. The Legislative Authority hereby finds and determines that all formal actions relative to the adoption of this Bond Legislation were taken in an open meeting of this Legislative Authority, and that all deliberations of this Legislative Authority and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Ohio Revised Code Section 121.22.

Section 18. 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 that the sale of the Bonds or Notes authorized herein may be required within thirty days of passage of this ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

## EXHIBIT A

### PROJECT LIST

Project Name	2022	2023	2024	2025	2026	2027
Fleet OTEA	1,200,000	1,200,000	1,500,000	1,500,000	1,500,000	1,500,000
Non-Fleet OTEA	270,000	270,000	270,000	270,000	270,000	270,000
Bolton Plant Heating Ventilation Air Conditioning	80,000	80,000	-	-	-	-
Bolton Plant Well Pump Motor Upgrade	45,000	45,000	45,000	45,000	45,000	45,000
Crane Equipment Improvements	50,000	50,000	-	-	-	-
Electrical Arc Flash Equipment Upgrade	140,000	-	-	-	-	-
Electrical Transformers	250,000	250,000	250,000	250,000	250,000	250,000
Field Application Replacement on Large Pumps	70,000	70,000	-	-	-	-
Horizontal Pump Upgrades	200,000	-	-	200,000	200,000	200,000
Lamella Sludge Collection Upgrade	-	-	100,000	-	1,500,000	1,500,000
Large Motor Rewind Program (Annual)	150,000	150,000	-	-	-	-
Miller Plant Chemical Storage Tank Upgrade	-	-	-	60,000	60,000	60,000
Miller Plant Compressor Upgrade	50,000	50,000	-	-	-	-
Miller Plant Heating Ventilation Air Conditioning	300,000	300,000	300,000	300,000	-	-
Miller Plant Large Valve Upgrade	300,000	100,000	100,000	100,000	100,000	100,000
Miller Plant Substation Redundancy	-	-	-	-	-	-
Minor Building Upgrades	50,000	50,000	50,000	50,000	50,000	50,000
Motor Control Center Equipment	100,000	100,000	100,000	100,000	100,000	100,000
Outlying Pump Station Improvements	50,000	50,000	50,000	50,000	50,000	50,000
Pump and Motor Replacement	-	2,500,000	-	-	-	-
Pump Monitoring Program	200,000	-	-	-	-	-
Regeneration Furnace Equipment	100,000	100,000	100,000	100,000	100,000	100,000
Regulator Replacement / Remote Monitoring	250,000	-	-	-	-	-
SCADA Human Machine Interface	-	1,500,000	1,000,000	-	-	-
SCADA Remote Terminal Units	186,000	186,000	-	-	-	-
Station Valve Equipment	100,000	100,000	100,000	100,000	100,000	100,000
Variable Frequency Drives Main Station/Tennyson	-	2,000,000	-	-	-	-
Vertical Pumps Upgrade	100,000	100,000	100,000	100,000	100,000	100,000
Meter Battery and Register Replacement	6,000,000	4,213,500	6,373,000	8,000,000	6,000,000	6,000,000
Valve Replacement Program	340,000	350,000	350,000	350,000	350,000	350,000

<b>Project Name</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
Autoclave	-	-	-	-	70,000	-
Booster Chlorination in Distribution System	-	-	750,000	-	-	-
Continuous Water Quality Monitors	150,000	150,000	150,000	150,000	150,000	150,000
Gas Chromatograph-ECD (HAAs)	-	-	100,000	-	-	-
Gas Chromatograph-MS (MIB and GEOS)	-	-	-	125,000	-	-
Gas Chromatograph-MS (VOCs, THMs)	-	-	125,000	-	-	-
Gas Chromatograph (SVOC)	-	-	-	-	-	150,000
Liquid Chromatograph Mass Spectrometer	-	300,000	-	-	-	-
Miller Plant Filter Rebuild	1,000,000	-	-	500,000	500,000	500,000
Nitrogen Generator	-	40,000	-	-	-	-
Phosphate Feed Systems	-	-	4,500,000	-	-	-
Sand Filter Backwash Water Treatment System	50,000	2,000,000	-	-	-	-
Total Organic Carbon Analyzer	-	-	-	60,000	-	-
Castings/Street Improvements	470,000	480,000	480,000	480,000	480,000	480,000
Lead Service Line Replacement Projects (T-16)	7,000,000	9,000,000	9,000,000	8,000,000	10,000,000	7,000,000
Master Plan Water Mains (T-10)	-	-	-	-	-	-
Miller Plant Clearwell	5,848,000	-	-	-	-	-
Miller Plant Upgrades	-	-	-	-	-	-
Miscellaneous Concrete/Pavement Replacement	300,000	300,000	300,000	300,000	300,000	300,000
Miscellaneous Masonry Replacement	150,000	150,000	150,000	150,000	150,000	150,000
New Water Mains Allocation Program (T-11)	1,125,500	-	500,000	500,000	500,000	500,000
Private Development Allocation Program	1,035,500	1,066,500	500,000	500,000	500,000	500,000
Rehabilitate Water Mains Allocation Program (T-13)	1,125,500	-	-	-	-	-
Replacement Water Mains Allocation Program	26,250,500	27,535,000	28,375,000	31,125,000	31,751,000	34,375,000
Reservoir Solids Removal	200,000	-	-	-	-	-
Roof Replacement	400,000	400,000	400,000	400,000	400,000	400,000
Street Improvement Allocation Program	8,767,000	9,054,000	9,352,000	9,605,000	9,894,000	10,190,000
Sutton Reservoir	-	150,000	-	3,000,000	-	-
Tank Coating	-	-	-	-	1,000,000	1,000,000
Computers, Servers, and Software	500,000	500,000	500,000	500,000	500,000	500,000
CPC SAN Replacement	350,000	-	-	-	-	-
Data Center Backup and Recovery Hardware Replacement	240,000	-	-	-	-	-
Kronos Timekeeper Upgrade and Expansion	-	30,000	-	30,000	30,000	30,000
Maximo Optimization	350,000	-	-	-	-	-
OnBase System Upgrade	30,000	30,000	30,000	-	-	-



<b>Project Name</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
Oracle Customer Care and Billing Upgrade	750,000	2,000,000	1,000,000	-	-	-
SCADA SAN Replacement	275,000	-	-	-	-	-
SCADA Virtual Environment Replacement	52,000	-	-	-	-	-
<b>Total</b>	<b>67,000,000</b>	<b>67,000,000</b>	<b>67,000,000</b>	<b>67,000,000</b>	<b>67,000,000</b>	<b>67,000,000</b>

June 16, 2021

202102129

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Refunding General Obligation Bond Issues**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING** FOR THE ISSUANCE, SALE AND DELIVERY OF BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$170,000,000 BY THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY, INCLUDING, BUT NOT LIMITED TO, THE OUTSTANDING GENERAL OBLIGATION BONDS LISTED ON EXHIBIT A HERETO, AND PROVIDING FOR A REFUNDING SAVINGS THRESHOLD IN CONNECTION THEREWITH.

This ordinance allows for the option of refunding bonds that have been previously issued. The purpose of refunding the bonds is to take advantage of lower interest rates that will result in savings to the City of Cincinnati.

The ordinance includes a threshold that the Finance Director will only move forward with the refunding, if the net present value of the resulting savings of any advance or current refunding is equal to at least three percent (3%) of the principal of the bonds. This savings requirement for a refunding may be waived by the Finance Director upon finding that such a restructuring is in the City's overall best financial interest. The ordinance includes possible candidates for refunding because the refunding is dependent upon interest rates. It will not be known which bonds will be refunded until closer to the date of sale. An emergency ordinance is necessary to take advantage of currently favorable interest rates.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

AWB  
-2021

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

**PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$170,000,000 BY THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY, INCLUDING, BUT NOT LIMITED TO, THE OUTSTANDING GENERAL OBLIGATION BONDS LISTED ON *EXHIBIT A* HERETO, AND PROVIDING FOR A REFUNDING SAVINGS THRESHOLD IN CONNECTION THEREWITH.**

WHEREAS, the City of Cincinnati, Ohio, previously authorized and issued certain general obligation bonds, including, but not limited to, those listed on *Exhibit A* hereto, which were authorized and issued pursuant to the respective Ordinances and for the respective purposes set forth therein (collectively, the "Prior Bonds"); and

WHEREAS, the Director of Finance projects that, in the current interest rate climate, the refunding of all or a portion of the outstanding Prior Bonds will result in interest cost savings to the City; and

WHEREAS, the Director of Finance, as fiscal officer of the City, at the time of the issuance of each series of the Prior Bonds, heretofore estimated that the life of the respective improvements financed with the proceeds of each series of the Prior Bonds was at least five (5) years and provided certification that the maximum maturity of each series of the Prior Bonds was at least five (5) years (as further provided in the certification related to each series of the Prior Bonds); now, therefore,

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

SECTION 1. That it is necessary to issue bonds of the City of Cincinnati, Ohio (the "City") in the principal amount of not to exceed \$170,000,000 for the purpose of refunding all or a portion of the Prior Bonds (such portion is referred to herein as the "Refunded Prior Bonds"), which were originally issued to pay the cost and expense of various improvements throughout the City, refund previously outstanding bonds of the City, and pay legal, advertising, printing and all expenses incidental to said improvements.

SECTION 2. That bonds of the City of Cincinnati, Ohio be issued in the principal amount of not to exceed \$170,000,000 for the purpose aforesaid. The bonds shall be designated "City of Cincinnati, Ohio Unlimited Tax Various Purpose General Obligation Refunding Bonds" (the "Series 2021B Bonds") or as otherwise determined by the Director of Finance including the issuance of tax-exempt and/or taxable series of bonds as further provided in and set forth in the fiscal officer's certificate (the "Fiscal Officer's Certificate"). The final principal amount of the Series 2021B Bonds shall be established by the Director of Finance, provided that the Director of

SECTION 3. Finance has received written certification from Davenport & Company LLC, (the "Financial Advisor") that the Refunding Savings Threshold (as defined below) has been met. "Refunding Savings Threshold" means, as a result of the refunding of the Refunded Prior Bonds with proceeds of the Series 2021B Bonds, an aggregate reduction in the debt service with respect to such Refunded Prior Bonds which has a present value at the time of sale of the Series 2021B Bonds equal to at least three percent (3.00%) of the refunded par amount of the Refunded Prior Bonds. Said Series 2021B Bonds shall be dated the date of delivery, be in the denomination of \$5,000 each, or any integral multiple thereof, designated as provided in the Fiscal Officer's Certificate, and numbered sequentially, and shall bear interest at the rate or rates not in excess of six per centum (6.00%) per annum, payable December 1, 2022, and semiannually thereafter on June 1 and December 1 of each year until the principal sum is paid, all as determined by the Director of Finance and set forth in the Fiscal Officer's Certificate to be executed by the Director of Finance. Provided, however, that if said Series 2021B Bonds are sold bearing a different rate or rates of interest from that hereinbefore specified, said Series 2021B Bonds shall bear such rate or rates of interest as may be accepted by the Director of Finance. Said Series 2021B Bonds shall mature or be subject to mandatory sinking fund redemption on December 1 or such other date of each year, at such times and in such amounts, all as determined by the Director of Finance, within the limitations set forth in Chapter 133 of the Ohio Revised Code, without further action by this Council of the City of Cincinnati, State of Ohio (the "Council"). The Director of Finance will determine whether the Series 2021B Bonds are callable (and associated call features) or non-callable at the time of financing, with such determination to be set forth in the Fiscal Officer's Certificate to be executed by the Director of Finance.

Notice of the call for redemption of said Series 2021B Bonds, specifying the numbers of the Series 2021B Bonds to be redeemed, shall be sent by the Bond Registrar and Paying Agent (as defined below) by registered or certified mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon said Series 2021B Bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption, funds for such redemption shall be on deposit with the Bond Registrar and Paying Agent and the City shall direct the Bond Registrar and Paying Agent in writing to make any notice of call for redemption.

SECTION 4. That said Series 2021B Bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, Chapter 303 of the Cincinnati Municipal Code, and Chapter 133 of the Ohio Revised Code. The Series 2021B Bonds shall bear the facsimile signature of the Mayor and the facsimile signature of the Director of Finance, and shall bear the manual authenticating signature of an authorized representative of U.S. Bank, National Association (herein the "Bond Registrar and Paying Agent"), Cincinnati, Ohio, which is hereby designated to act as bond registrar, transfer agent and paying agent with respect to the Series 2021B Bonds. The Series 2021B Bonds shall also bear the corporate seal of the City or a facsimile thereof. The Series 2021B Bonds shall be issued in fully registered form. The Series 2021B Bonds shall be payable as to principal upon the presentment and surrender for cancellation of the Series 2021B Bonds, in lawful money of the United States of America at the Bond Registrar and Paying Agent, and the interest thereon shall be paid by the Bond Registrar and Paying Agent on each interest payment date to the person

whose name appears on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at his address as it appears on such registration records.

SECTION 5. That for the purpose of providing the necessary funds to pay the interest on the foregoing issue of Series 2021B Bonds promptly when and as the same falls due, and also to provide for the discharge of said Series 2021B Bonds at maturity and for the payment of mandatory sinking fund redemptions, there shall be and is hereby levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually during the period said Series 2021B Bonds are outstanding, outside of the limitations imposed by Article XII, Section 2, of the Constitution of Ohio and Section 5705.02 of the Ohio Revised Code, and by virtue of Section 4 of Article VIII of the Charter, in an amount sufficient to provide for the payment of said interest, when and as the same shall fall due, and also to discharge the principal of said Series 2021B Bonds at maturity and to pay mandatory sinking fund redemptions, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund which, together with the interest collected on the same, shall be irrevocably pledged for the payment of principal of and interest on said Series 2021B Bonds when and as the same fall due; provided, however, that to the extent that funds from other sources are available and considered appropriated for such purpose, such tax need not be levied.

With respect to certain of the Series 2021B Bonds, in addition to the tax pledge contained above, this Council, for the City, covenants to appropriate annually from lawfully available municipal income taxes, and to continue to levy and collect such municipal income taxes in, amounts necessary to meet debt service charges on the Series 2021B Bonds.

With respect to a portion of the Series 2021B Bonds, the City may covenant to annually appropriate Revenues, as defined and provided in the various ordinances identified below, all such taxes and revenues, other than ad valorem property taxes, in amounts necessary to meet debt service charges on the Series 2021B Bonds.

SECTION 6. That said Series 2021B Bonds shall be first offered to the City Treasurer as the officer in charge of the Bond Retirement Fund of said City, and if not taken by him, may be offered to the Treasury Investment Account for purchase, and, if not offered to or taken by such account, the Director of Finance is hereby authorized to award and sell the Series 2021B Bonds at public or private sale, in her sound discretion without further action by this Council, at such price (but not less than 97% of par, excluding original issue discount) as is determined by the Director of Finance, plus accrued interest on the aggregate principal amount of the Series 2021B Bonds from their dates to the date of delivery and payment. The City Manager or Director of Finance is hereby authorized to make arrangements for the delivery of the Series 2021B Bonds to, and payment therefore by, the purchaser or purchasers thereof at the price determined by the Director of Finance; and the City Manager or Director of Finance is



hereby authorized to execute a purchase agreement (including the certificate of award) for the Series 2021B Bonds without further action by this Council. The Director of Finance is hereby expressly authorized to execute a purchase agreement for the Series 2021B Bonds provided that the true interest cost for the Series 2021B Bonds shall not exceed six per centum (6.00%) per annum.

The Director of Finance, in the Director's discretion, is authorized to waive the requirements of Section 303-7 of the Municipal Code and to direct the sale of the Series 2021B Bonds in whatever manner the Director deems appropriate.

SECTION 7. That the City Manager and the Director of Finance are each separately authorized to execute and deliver a preliminary official statement and a final official statement on behalf of the City and authorized and directed to offer the bonds for sale and to execute and deliver a final official statement no later than seven business days from the date of sale of the bonds, with such changes therein from the preliminary official statement as shall be necessary to reflect any material change in the condition of the City from that set forth in the preliminary official statement; and that the preliminary and final official statement with respect to the bonds, and the distribution thereof on behalf of the City and furnished to the original purchaser(s) of the bonds for distribution to prospective purchasers of the bonds, are hereby approved and ratified in all respects. In addition, the City Manager and the Director of Finance are each separately authorized to (i) apply for a rating on the Series 2021B Bonds from one or more nationally recognized bond rating agencies; (ii) apply for and, if they deem it in the City's best interest, to purchase a policy of bond insurance from a company whose insurance of the issue will result in the bonds' receiving the highest rating from one or more nationally recognized bond rating agencies; and (iii) execute on a continuing disclosure certificate, in such form and containing such terms, covenants and conditions not inconsistent herewith, and to take such other actions as may be necessary to comply with the requirements of Securities and Exchange Commission Rule 15c2-12, as amended from time to time.

SECTION 8. That, pursuant to the provisions of Section 133.30 of the Ohio Revised Code, the Series 2021B Bonds may be consolidated into a single issue with other bond or notes which have been authorized by this Council as determined by the Director of Finance.

The Series 2021B Bonds shall be issued in such designations, series, and shall have maturities or principal payments, as are consistent with the aggregate of the series, periodic maturities or principal payments of the separate issues of bonds as set forth in the respective bond ordinances and as provided in the bond purchase agreement to be entered into by and between the City and an underwriter as determined by the Director of Finance as further provided in a certificate of award executed by the Finance Director.

SECTION 9. That the Council hereby determines to issue the bonds in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as the bonds are in Book-Entry-Only form, the following covenants and agreements of the City shall be in effect:

(a) ***Definitions.***

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

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

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

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

“Letter of Representations” means the Letter of Representations dated March 21, 1995, as supplemented from time to time, from the City and the Paying Agent and Registrar, as defined in the Bond Ordinances, to DTC with respect to the bonds, which shall be the binding obligation of the City and the Paying Agent and Registrar.

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

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

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

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



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

(c) ***Delivery of Bond Certificates.*** In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bond certificates, the City may notify DTC and the Paying Agent and Registrar, whereupon DTC will notify the DTC Participants of the availability through DTC of Bond certificates. In such event, the Paying Agent and Registrar shall issue, transfer and exchange, at the City's expense, Bond certificates as requested by DTC in appropriate amounts. DTC may determine to discontinue providing its services with respect to the bonds at any time by giving notice to the City and the Paying Agent and Registrar and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if

there is no successor securities depository), the City and Paying Agent and Registrar shall be obligated to deliver Bond certificates as described in this Ordinance, provided that the expense in connection therewith shall be paid by DTC. In the event Bond certificates are issued, the provisions of this Ordinance shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of, premium, if any, and interest on such certificates. Whenever DTC requests the City and the Paying Agent and Registrar to do so, the Paying Agent and Registrar and the City will cooperate with DTC in taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the bonds to any DTC Participant having bonds credited to its DTC account or (ii) to arrange for another securities depository to maintain custody of certificates evidencing the bonds.

SECTION 10. That this Council, for and on behalf of the City of Cincinnati, Hamilton County, Ohio, hereby covenants that it will restrict the use of the proceeds of the tax-exempt portion of the Series 2021B Bonds hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute “arbitrage bonds” under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations prescribed thereunder. The Director of Finance or any other officer having responsibility with respect to the issuance of the Series 2021B Bonds is authorized and directed to give an appropriate certificate on behalf of the City, on the date of delivery of the Series 2021B Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Series 2021B Bonds are not designated “qualified tax-exempt obligations” for the purposes set forth in Section 265(b)(3) of the Code.

SECTION 11. That with respect to the funding of any escrow or escrows necessary or appropriate in connection with the refunding of the Refunded Prior Bonds with the proceeds of the Series 2021B Bonds, the Director of Finance is hereby authorized to take any and all appropriate action for the acquisition, at the appropriate time, of U.S. government obligations for the credit of such escrow or escrows and if necessary, to execute an escrow agreement with the Bond Registrar and Paying Agent for the refunding defeasance of the Refunded Prior Bonds. Such U.S. government obligations may be in the form or forms recommended in writing by the Financial Advisor to the City and approved by Dinsmore & Shohl LLP, or other nationally recognized bond counsel. The Financial Advisor is hereby specifically authorized to act as the bidding agent or to procure on behalf of the City a bidding agent, to purchase escrow securities such as open market treasuries and similar defeasance obligations for the credit of the escrow fund(s) as provided in any escrow agreement, as may be necessary, in order to fund, in part, any escrow or escrows in connection with refunding any Refunded Prior Bonds. Any attorney with Dinsmore & Shohl LLP, or other nationally recognized bond counsel, is hereby specifically authorized to execute and file on behalf of the City any subscriptions for United States Treasury Obligations, State and Local Government Series, as may be necessary, in order to fund, in part, any escrow or escrows in connection with refunding any Refunded Prior Bonds.

SECTION 12. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 13. The Director of Finance is hereby authorized and directed to certify a copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law.

SECTION 14. 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 that the sale of the Series 2021B Bonds or notes authorized herein may be required within thirty days of passage of the ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

## EXHIBIT A

### THE PRIOR BONDS

Pursuant to the foregoing Ordinance, all or a portion of the outstanding general obligation bonds of the City, including, but not limited to, the outstanding general obligation bonds listed in the following table (collectively, the “Prior Bonds”), may be refunded with a portion of the proceeds of its general obligation refunding bonds to be issued pursuant thereto.

1. **Bond Issue:** \$460,000 Unlimited Tax Various Purpose General Obligation Bonds, Series 2011B (Additional Municipal Income Tax Pledge), dated June 30, 2011

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0026-2011 and 0028-2011

(B) **Purpose:** (i) Financing various improvements throughout the City, including, but not limited to, public building and street improvements; (ii) and paying legal, advertising, printing and all expenses incidental to said improvements.

2. **Bond Issue:** \$135,000 Unlimited Tax Various Purpose General Obligation Bonds, Series 2011D (Additional Municipal Income Tax Pledge) (The Banks Project) (Federally Taxable), dated June 30, 2011

(A) **Authorizing Ordinance(s):** Ordinance No. 0075-2011

(B) **Purpose:** (i) Financing various improvements throughout the City, including, but not limited to, the remediation of the site and the clearance and preparation thereof for the redevelopment and the construction, purchase and installation of public structures, equipment and related improvements at the development known as The Banks Project; (ii) and paying legal, advertising, printing and all expenses incidental to said improvements.

3. **Bond Issue:** \$1,005,000 Unlimited Tax Various Purpose General Obligation Bonds, Series 2012B (Additional Municipal Income Tax Pledge), dated June 7, 2012

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0022-2012 and 0040-2012

(B) **Purpose:** (i) Financing various improvements throughout the City, including, but not limited to, street and public building improvements; and (ii) paying legal, advertising, printing and all expenses incidental to said improvements.

4. **Bond Issue:** \$30,000,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2012C, dated June 7, 2012

(A) **Authorizing Ordinance(s):** Ordinance No. 0142-2012

(B) **Purpose:** (i) Refunding a portion of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2004A, dated May 6, 2004, originally issued in the principal amount of \$44,365,000; and (ii) paying legal, advertising, printing and all expenses incidental to said refunding.

5. **Bond Issue:** \$2,240,000 Unlimited Tax Urban Redevelopment Improvement General Obligation Bonds, Series 2012D, dated December 20, 2012

(A) **Authorizing Ordinance(s):** Ordinance No. 0143-2010

(B) **Purpose:** (i) Financing various improvements throughout the City, including, but not limited to improvements in the City related to the Streetcar Project, including but not limited to, planning and design work, streetcar vehicles, other rolling stock, tracks, electrification system, catenaries, equipment, maintenance and storage facilities, and infrastructure improvements; and (ii) paying legal, advertising, printing and all expenses incidental to said improvements.

6. **Bond Issue:** \$3,000,000 Unlimited Tax Urban Redevelopment General Obligation Bonds, Series 2012E Bonds (Streetcar System), dated December 20, 2012

(A) **Authorizing Ordinance(s):** Ordinance No. 0144-2010

(B) **Purpose:** (i) Financing improvements throughout the City including but not limited to, certain urban redevelopment activities associated with the Streetcar Project; and (ii) paying legal, advertising, printing and all expenses incidental to said improvements.

7. **Bond Issue:** \$5,335,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2012F, dated December 20, 2012

(A) **Authorizing Ordinance(s):** Ordinance No. 0142-2012

(B) **Purpose:** (i) Refunding (a) a portion of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2005A, dated June 1, 2005, originally issued in the principal amount of \$26,300,000, (b) a portion of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2005B (Additional Municipal Income Tax Pledge), dated June 1, 2005, originally issued in the principal amount of \$5,200,000, (c) a portion of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2006A, dated June 8, 2006, originally issued in the principal amount of \$32,995,000, and (d) a portion of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2006B (Additional Municipal Income Tax Pledge), dated June 8, 2006, originally issued

in the principal amount of \$14,195,000; (ii) and paying legal, advertising, printing and all expenses incidental to said refunding.

8. **Bond Issue:** \$19,085,000 Unlimited Tax Various Purpose General Obligation Improvement and Refunding Bonds, Series 2014A, dated April 30, 2014

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0479-2012, 0480-2012, 0481-2012, 0482-2012, 0429-2012, 0413-2013, 0186-2013, 0054-2014 and 0055-2014

(B) **Purpose:** Financing (i) various improvements throughout the City, including, but not limited to street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas, and other public ways, purchasing and/or installing street lights and equipment and boulevard or white way lights, and providing funding for the Cincinnati streetcar system; (ii) financing public building improvements including acquiring real estate or interests in same, constructing, rehabilitating and equipping public buildings and other structures; (iii) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment; (iv) financing park improvements including acquiring real estate or interests in same, for parks, parkways, playgrounds and recreation centers, improving and equipping such real estate and also rehabilitating existing parks, parkways, playgrounds and recreation centers; (v) financing various improvements associated with Madisonville Tax Increment District #19 including acquiring, assembling, and demolishing blighted structures on Madison Road in connection with the redevelopment and improvement of the Madisonville Business District; paying a portion of the City's share of the costs associated with the development and construction of a new Martin Luther King, Jr./I-71 Interchange, in collaboration with the Ohio Department of Transportation and the Ohio-Kentucky-Indiana Regional Council of Governments; (vi) Refunding (a) the entire remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2004A, dated May 6, 2004, originally issued in the principal amount of \$44,365,000, (b) a portion of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2006A, dated June 8, 2006, originally issued in the principal amount of \$32,995,000, (c) a portion of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2006B (Additional Municipal Income Tax Pledge), dated June 8, 2006, originally issued in the principal amount of \$14,195,000; (d) a portion of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2007A, dated June 28, 2007, originally issued in the principal amount of \$29,500,000; (e) a portion of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2007B, dated June 28, 2007, originally issued in the principal amount of \$21,000,000; (f) the entire remaining outstanding principal amount of \$8,300,000 of the City's

Unlimited Tax Various Purpose General Obligation Bonds, Series 2010C (Federally Taxable – Recovery Zone Economic Development Bonds – Direct Payment to the City), dated July 29, 2010 originally issued in the principal amount of \$8,300,000; (g) the entire remaining outstanding principal amount of \$9,500,000 of the City’s Unlimited Tax Various Purpose General Obligation Bonds, Series 2010D (Federally Taxable – Build America Bonds – Direct Payment to the City), dated July 29, 2010 originally issued in the principal amount of \$9,500,000; and (h) the entire remaining outstanding principal amount of \$6,430,000 of the City’s Unlimited Tax Various Purpose General Obligation Bonds, Series 2010E (Additional Municipal Income Tax Pledge) (Federally Taxable – Build America Bonds – Direct Payment to the City), dated July 29, 2010 originally issued in the principal amount of \$6,430,000; and (vii) paying legal, advertising, printing and all expenses incidental to said improvements.

9. **Bond Issue:** \$540,000 Unlimited Tax Public Buildings Improvement General Obligation Bonds, Series 2014B, dated April 30, 2014

(A) **Authorizing Ordinance(s):** Ordinance No. 0040-2012

(B) **Purpose:** (i) Financing public building improvements; and (ii) paying legal, advertising, printing and all expenses incidental to said improvements.

10. **Bond Issue:** \$1,405,000 Unlimited Tax Police and Fire Pension General Obligation Refunding Bonds, Series 2014C (Federally Taxable), dated April 30, 2014

(A) **Authorizing Ordinance(s):** Ordinance No. 0058-2014

(B) **Purpose:** (i) Refunding a portion in the amount of \$7,785,000 of the remaining outstanding principal amount of the City’s Police and Fire Pension Refunding Unlimited Tax General Obligation Bonds, Series 2005C, dated July 13, 2005, originally issued in the principal amount of \$40,470,000; and (ii) paying legal, advertising, printing and all expenses incidental to said refunding.

11. **Bond Issue:** \$46,595,000 Unlimited Tax Various Purpose General Obligation Improvement and Refunding Bonds, Series 2015A, dated August 20, 2015

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0125-2014, 0127-2014, 0130-2014, 0053-2014, 0015-2015, 0309-2013, 0009-2014, 0160-2015, 0290-2014, 0215-2015 and 0159-2015

(B) **Purpose:** (i) Financing various improvements throughout the City, including, but not limited to (a) street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas and other public ways; purchasing and/or installing street lights and equipment and boulevard lights, (b) public building improvements including acquiring real estate or interests in same, constructing,



rehabilitating and equipping public buildings and other structures, (c) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment, (d) park improvements including acquiring real estate or interests in same, for parks, parkways, playgrounds and recreation centers, improving and equipping such real estate and also rehabilitating existing parks, parkways, playgrounds and recreation centers and (e) various improvements associated with paying a portion of the City's share of the costs associated with the construction of a new parking garage in the Corryville Neighborhood Business District of Cincinnati, such bonds designated as Economic Development Revenue Bonds (VP3 Parking Garage); (ii) acquiring, installing and servicing energy cost-savings equipment and energy management building improvements for the purpose of achieving energy cost reductions and cost savings within various public buildings; (iii) acquiring, installing and servicing energy cost-savings equipment and energy management building improvements for the purpose of achieving energy cost reductions and cost savings at the Duke Energy Convention Center; (iv) reimbursing the City for monies previously spent for improvements including, certain urban redevelopment activities associated with the Streetcar Project; (v) refunding various outstanding general obligation bonds of the City; and (vi) paying legal, advertising, printing and all expenses incidental to said improvements and refunding.

12. **Bond Issue:** \$3,450,000 Unlimited Tax Energy Conservation General Obligation Bonds, Series 2015B (Federally Taxable - Qualified Energy Conservation Bond – Direct Payment to the Issuer), dated August 20, 2015

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0009-2014, as amended by Ordinance Number 0160-2015

(B) **Purpose:** (i) Acquiring, installing and servicing energy cost-savings equipment and energy management building improvements for the purpose of achieving energy cost reductions and cost savings within various public buildings; and (ii) paying legal, advertising, printing and all expenses incidental to said improvements.

13. **Bond Issue:** \$3,350,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2015C (Federally Taxable), dated August 20, 2015

(A) **Authorizing Ordinance(s):** Ordinance No. 0159-2015

(B) **Purpose:** (i) Refunding (a) the entire outstanding amount of \$4,615,000 of the remaining outstanding principal amount of the City's Unlimited Tax Economic Development Bonds, Series 2004B, (Seventh and Broadway Project) (Taxable) dated May 6, 2004, originally issued in the principal amount of \$9,260,000, (b) a portion in the amount of \$1,930,000 of the remaining outstanding principal amount of the City's Unlimited Tax Economic

Development General Obligation Bonds, Series 2006C (Towne/Adams Village A Urban Renewal Project) (Taxable), dated June 8, 2006, originally issued in the principal amount of \$2,750,000, and (c) a portion in the amount of \$7,240,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2007C, dated August 23, 2007, originally issued in the principal amount of \$52,005,000; and (ii) paying legal, advertising, printing and all expenses incidental to said refunding.

14. **Bond Issue:** \$5,615,000 Unlimited Tax General Obligation Judgment Bonds, Series 2015D (Federally Taxable), dated December 22, 2015

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0157-2015 and 0350-2015

(B) **Purpose:** (i) Financing a payment under a settlement with the Board of Education of the Cincinnati City School District related to litigation challenging the tax-exempt status of the City's convention center, and financing a payment under a settlement related to the Cincinnati Retirement System referred to as the Cincinnati Pension Collaborative; and (ii) paying legal, advertising, printing and all expenses incidental to said refunding.

15. **Bond Issue:** \$76,335,000 Unlimited Tax Various Purpose General Obligation Improvement and Refunding Bonds, Series 2016A, dated February 4, 2016

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0230-2015 as amended by 0004-2016, 0208-2015, 0209-2015, 0206-2015, 0366-2015, and 0159-2015

(B) **Purpose:** (i) Financing various improvements throughout the City, including, but not limited to (a) street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas and other public ways; purchasing and/or installing street lights and equipment and boulevard lights, (b) public building improvements including acquiring real estate or interests in same, constructing, rehabilitating and equipping public buildings and other structures, (c) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment, (d) park improvements including acquiring real estate or interests in same, for parks, parkways, playgrounds and recreation centers, improving and equipping such real estate and also rehabilitating existing parks, parkways, playgrounds and recreation centers specifically the renovation and expansion of Ziegler Park, including renovating and expanding a children's playground, upgrading existing green space, and construction of a comfort station and (e) refunding various outstanding general obligation bond anticipation notes previously issued for the purpose of providing interim financing for all or a portion of the improvements described in items (a)

through (d); (ii) refunding (1) a portion in the amount of \$13,075,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2009A, dated July 22, 2009, originally issued in the principal amount of \$39,250,000, (2) a portion in the amount of \$11,770,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2009B (Additional Municipal Income Tax Pledge), dated July 22, 2009, originally issued in the principal amount of \$25,000,000, (3) a portion in the amount of \$16,860,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2011A, dated June 30, 2011, originally issued in the principal amount of \$34,000,000, (4) a portion in the amount of \$23,750,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2012A, dated June 7, 2012, originally issued in the principal amount of \$46,155,000; and (iii) paying legal, advertising, printing and all expenses incidental to said improvements and refunding.

16. **Bond Issue:** \$2,840,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2016B (Federally Taxable), dated February 4, 2016

(A) **Authorizing Ordinance(s):** Ordinance No. 0159-2015

(B) **Purpose:** (i) Refunding a portion in the amount of \$3,035,000 of the remaining outstanding principal amount of the City's Unlimited Tax Urban Development Improvement General Obligation Refunding Bonds, Series 2009C, dated October 27, 2009, originally issued in the principal amount of \$5,080,000; and (ii) paying legal, advertising, printing and all expenses incidental to said refunding.

17. **Bond Issue:** \$41,995,000 Unlimited Tax Various Purpose General Obligation Improvement Bonds, Series 2016C, dated October 31, 2016

(A) **Authorizing Ordinance(s):** Ordinance No. 0231-2015 as amended by 0192-2016, 0183-2016, 0184-2016, 0185-2016, 0215-2015, 0189-2016, 0301-2015, 0193-2016, 0194-2016, 0203-2016, 0204-2016, 0197-2016 and 0207-2016

(B) **Purpose:** (i) Financing various improvements throughout the City, including, but not limited to (a) street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas and other public ways; purchasing and/or installing street lights and equipment and boulevard lights, (b) public building improvements including acquiring real estate or interests in same, constructing, rehabilitating and equipping public buildings and other structures, (c) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment, (d) reimbursing the City for monies

previously spent for improvements including, certain urban redevelopment activities associated with the Streetcar Project, (e) paying the costs and expense of the 4th and Race Street Garage, which will include, among other things, the construction of a new parking garage in the downtown area, (f) providing funds to make improvements to Collegevue Place in College Hill neighborhood by constructing an extension thereto and a new street intersecting said extension together with curbs, water mains, storm and sanitary sewers, and other related improvements, (g) providing funds to pay the cost of constructing and acquiring improvements to the stormwater system within the City, by providing for the safe and efficient capture and conveyance of stormwater runoff and the correction of stormwater problems, (h) providing funds to acquire real estate or interest in same, for parks, parkways, playgrounds and recreation centers, improving and equipping such real estate and also rehabilitating existing parks, parkways, playgrounds and recreation centers, specifically to design and construct a shared-use path for bicycles and pedestrians running east-west from Avondale through Norwood near Xavier University to connect with the Little Miami Bike Trail in Newtown, commonly known as the Wasson Way Trail, (i) providing funds to create public improvements at the intersection of Harrison, Urwiler, Epworth, Montana Avenues which costs may include acquisition, demolition, remediation, site preparation, streetscape, creation of community gathering space, landscaping and pedestrian and road improvements, commonly known as the Westwood Square Improvements Project, (j) providing funds to acquire real estate from National Church Residences (including the acquisition of certain property located at 3584 Alaska Avenue) for future development of permanent housing, commonly known as the Alaska Commons Project, which costs may include additional acquisition, demolition, remediation, site preparation, infrastructure and other public improvements in the Avondale neighborhood, and (k) refunding various outstanding general obligation bond anticipation notes previously issued for the purpose of providing interim financing for all or a portion of the improvements described in items (a) through (j) above; and (ii) paying legal, advertising, printing and all expenses incidental to said improvements and refunding.

18. **Bond Issue:** \$7,120,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2016D (Federally Taxable), dated October 31, 2016

(A) **Authorizing Ordinance(s):** Ordinance No. 0207-2016

(B) **Purpose:** (i) Refunding (a) a portion in the amount of \$3,255,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2007C, dated August 23, 2007, originally issued in the principal amount of \$52,005,000, (b) a portion in the amount of \$2,950,000 of the remaining outstanding principal amount of the City's Unlimited Tax Economic Development General Obligation Bonds, Series 2010F (Seventh and Broadway Garage Expansion Project) (Federally Taxable) dated July 29, 2010, originally issued in the principal amount of \$5,000,000 and (c) a portion in the amount of \$4,200,000 of the remaining outstanding principal amount of the City's Unlimited Tax Economic

Development General Obligation Bonds, Series 2011C (The Banks Project) (Federally Taxable) dated June 30, 2011, originally issued in the principal amount of \$7,000,000; and (ii) paying legal, advertising, printing and all expenses incidental to said refunding.

19. **Bond Issue:** \$75,750,000 Unlimited Tax Various Purpose General Obligation Improvement and Refunding Bonds, Series 2017A, dated December 27, 2017

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0019-2016, 0207-2016, 0155-2017, 0156-2017, 0157-2017, 0158-2017, 0159-2017 and 0165-2017

(B) **Purpose:** (i) Financing various improvements throughout the City, including but not limited to (a) street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas and other public ways; purchasing and/or installing street lights and equipment and boulevard lights, (b) public building improvements including acquiring real estate or interests in same, constructing, rehabilitating and equipping public buildings and other structures, (c) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment, (d) providing funds to pay the cost of constructing and acquiring improvements to the stormwater system within the City, by providing for the safe and efficient capture and conveyance of stormwater runoff and the correction of stormwater problems, and (e) refunding various outstanding general obligation bond anticipation notes previously issued for the purpose of providing interim financing for all or a portion of the improvements described in items (a) through (d); (ii) refunding (1) a portion in the amount of \$1,400,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2011B (Additional Municipal Income Tax Pledge), dated June 30, 2011, originally issued in the principal amount of \$6,000,000, (2) a portion in the amount of \$6,720,000 of the remaining outstanding principal amount of the City's Unlimited Tax Urban Redevelopment Improvement General Obligation Bonds, Series 2012D, dated December 20, 2012, originally issued in the principal amount of \$28,000,000, and (3) a portion in the amount \$52,940,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Improvement and Refunding Bonds, Series 2014A, dated April 30, 2014, originally issued in the principal amount of \$116,595,000; and (iii) paying legal, advertising, printing and all expenses incidental to said improvements and refunding.

20. **Bond Issue:** \$675,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2017B (Federally Taxable), dated December 27, 2017

(A) **Authorizing Ordinance(s):** Ordinance No. 0207-2016

(B) **Purpose:** (i) Refunding, on a taxable basis, a portion in the amount of \$650,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2011D (Additional Municipal Income Tax Pledge) (Federally Taxable), dated June 30, 2011, originally issued in the principal amount of \$2,000,000; and (ii) paying legal, advertising, printing and all expenses incidental to said improvements.

21. **Bond Issue:** \$29,960,000 Unlimited Tax Various Purpose General Obligation Improvement Bonds, Series 2018, dated November 29, 2018

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0173-2018, 0174-2018, 0175-2018, 0176-2018 and 0184-2018

(B) **Purpose:** (i) Financing various improvements throughout the City, including but not limited to (a) street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas and other public ways; purchasing and/or installing street lights and equipment and boulevard lights, (b) public building improvements including acquiring real estate or interests in same, constructing, rehabilitating and equipping public buildings and other structures, (c) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment, (d) acquiring real estate or interest in same, for parks, parkways, playgrounds and recreation centers, and (e) constructing and acquiring improvements to the stormwater system within the City, which includes stormwater infrastructure improvements, stormwater infrastructure rehabilitation, pump station improvements, system development, local flood protection infrastructure improvements, stormwater equipment, and Barrier Dam improvements; by providing for the safe and efficient capture and conveyance of stormwater runoff and the correction of stormwater problems, (f) refunding various outstanding general obligation bond anticipation notes previously issued for the purpose of providing interim financing for all or a portion of the improvements described in items (a) through (e); and (ii) paying legal, advertising, printing and all expenses incidental to said improvements.

22. **Bond Issue:** \$93,955,000 Unlimited Tax Various Purpose General Obligation Improvement Bonds, Series 2019, dated December 20, 2019.

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0126-2019, 0223-2019, 0224-2019, 0226-2019, 0227-2019, 0235-2019, and 0457-2019

(B) **Purpose:** (i) Financing various improvements throughout the City, including but not limited to (a) street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas and other public ways; purchasing and/or

installing street lights and equipment and boulevard lights, (b) design, inspection, repair, rehabilitation, and replacement of retaining walls and appurtenances thereto, and providing funding for the design, construction, traffic mitigation, and engineering necessary to stabilize the hillside affecting Columbia Parkway, including labor, materials, tools, devices, and technology needed to plan, design, acquire easements, build, inspect, monitor, and maintain such hillside stabilization systems, (c) public building improvements acquiring real estate or interests in same, constructing, rehabilitating and equipping public buildings and other structures, (d) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment, and (e) constructing and acquiring improvements to the stormwater system within the City, which includes stormwater infrastructure improvements, stormwater infrastructure rehabilitation, pump station improvements, system development, local flood protection infrastructure improvements, stormwater equipment, and Barrier Dam improvements; by providing for the safe and efficient capture and conveyance of stormwater runoff and the correction of stormwater problems, (f) refunding various outstanding general obligation bond anticipation notes previously issued for the purpose of providing interim financing for all or a portion of the improvements described in items (a) through (e); (ii) refunding of certain outstanding general obligation bond anticipation notes of the City issued in connection with the City's Capital Acceleration Plan; and (iii) paying legal, advertising, printing and all expenses incidental to said improvements and refunding.

23. **Bond Issue:** \$77,760,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2020A (Federally Taxable), dated March 19, 2020.

(A) **Authorizing Ordinance(s):** Ordinance No. 0059-2020

(B) **Purpose:** (i) refunding (1) a portion in the amount of \$3,515,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Bonds, Series 2012B (Additional Municipal Income Tax Pledge) dated June 7, 2012 and originally issued in the principal amount of \$10,000,000, (2) a portion in the amount of \$10,080,000 of the remaining outstanding principal amount of the City's Unlimited Tax Urban Redevelopment Improvement General Obligation Bonds, Series 2012D dated December 20, 2012 and originally issued in the principal amount of \$28,000,000, (3) a portion in the amount of \$695,000 of the remaining outstanding principal amount of the City's Unlimited Tax Public Buildings Improvement General Obligation Bonds, Series 2014B dated April 30, 2014 and originally issued in the principal amount of \$2,045,000, and (4) a portion in the amount of \$51,295,000 of the remaining outstanding principal amount of the City's Unlimited Tax Various Purpose General Obligation Improvement and Refunding Bonds, Series 2015A dated August 20, 2015 and originally issued in the principal amount of \$122,530,000; and (ii) and paying legal, advertising, printing and all expenses incidental to said improvements and refunding.



24. **Bond Issue:** \$34,410,000 Unlimited Tax Various Purpose General Obligation Improvement Bonds, Series 2020B, dated October 29, 2020

(A) **Authorizing Ordinance(s):** Ordinance Nos. 0019-2020, 0212-2020, 0216-2020, 0217-2020, and 0218-2020

(B) **Purpose:** (i) Financing various improvements throughout the City, including but not limited to (a) street improvements including widening, opening, extending, realigning, grading, repaving, resurfacing, constructing sewers and drains or otherwise rehabilitating and improving streets, roads, thoroughfares, avenues, expressways, sidewalks, plazas and other public ways; purchasing and/or installing street lights and equipment and boulevard lights, (b) public building improvements acquiring real estate or interests in same, constructing, rehabilitating and equipping public buildings and other structures, (c) purchasing motor vehicles, acquiring and improving City-wide communication system components and related improvements, computer related system upgrades and components and other necessary equipment, and (d) constructing and acquiring improvements to the stormwater system within the City, which includes stormwater infrastructure improvements, stormwater infrastructure rehabilitation, pump station improvements, system development, local flood protection infrastructure improvements, stormwater equipment, and Barrier Dam improvements; by providing for the safe and efficient capture and conveyance of stormwater runoff and the correction of stormwater problems, (f) refunding various outstanding general obligation bond anticipation notes previously issued for the purpose of providing interim financing for all or a portion of the improvements described in items (a) through (e); and (ii) paying legal, advertising, printing and all expenses incidental to said improvements and refunding.

25. **Bond Issue:** \$30,055,000 Unlimited Tax Various Purpose General Obligation Refunding Bonds, Series 2020C (Federally Taxable), dated October 29, 2020

(A) **Authorizing Ordinance(s):** Ordinance No. 0219-2020

(B) **Purpose:** (i) refunding a portion in the amount of \$24,925,000 of the remaining outstanding principal amount of the City's Unlimited Tax General Obligation Judgment Bonds, Series 2015D (Federally Taxable) dated December 22, 2015 and originally issued in the principal amount of \$35,505,000; and (ii) and paying legal, advertising, printing and all expenses incidental to said improvements and refunding.

June 16, 2021

202102130

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Refunding Economic Development Bond Issues**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$70,000,000 BY THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF CERTAIN OUTSTANDING ECONOMIC DEVELOPMENT BONDS OF THE CITY, INCLUDING, BUT NOT LIMITED TO, THE OUTSTANDING ECONOMIC DEVELOPMENT BONDS LISTED ON EXHIBIT A HERETO, AND PROVIDING FOR A REFUNDING SAVINGS THRESHOLD IN CONNECTION THEREWITH.**

This ordinance allows for the option of refunding various economic development bonds that have been previously issued and that are supported by a pledge of non-tax revenues. The purpose of refunding the bonds is to take advantage of lower interest rates that will result in savings to the City of Cincinnati.

The ordinance includes a threshold that the Finance Director will only move forward with the refunding, if the net present value of the resulting savings of any advance or current refunding is equal to at least three percent (3%) of the principal of the bonds. This savings requirement for a refunding may be waived by the Finance Director upon finding that such a restructuring is in the City's overall best financial interest. The ordinance includes possible candidates for refunding because the refunding is dependent upon interest rates. It will not be known which bonds will be refunded until closer to the date of sale.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

BWL

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

-2021

**PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$70,000,000 BY THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF CERTAIN OUTSTANDING ECONOMIC DEVELOPMENT BONDS OF THE CITY, INCLUDING, BUT NOT LIMITED TO, THE OUTSTANDING ECONOMIC DEVELOPMENT BONDS LISTED ON EXHIBIT A HERETO, AND PROVIDING FOR A REFUNDING SAVINGS THRESHOLD IN CONNECTION THEREWITH.**

WHEREAS, the City of Cincinnati, Ohio previously authorized and issued certain economic development bonds, including, but not limited to, those listed on *Exhibit A* hereto, which were authorized and issued pursuant to the respective ordinances and for the respective purposes set forth therein (collectively, the "Prior Bonds"); and

WHEREAS, the Director of Finance projects that, in the current interest rate climate, the refunding of all or a portion of the outstanding Prior Bonds will result in interest cost savings to the City; now, therefore,

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

Section 1. That it is necessary to issue bonds of the City of Cincinnati, Ohio (the "City") in the principal amount of not to exceed \$70,000,000 for the purpose of refunding all or a portion of the certain previously authorized and issued economic development bonds of the City, including, but not limited to, those listed on *Exhibit A* hereto (collectively, the "Prior Bonds" with any refunded portion of such Prior Bonds referred to herein as the "Refunded Prior Bonds"), which were originally issued to pay the cost and expense of various improvements throughout the City; and paying legal, advertising, printing, and all expenses incidental to said improvements.

Section 2. That bonds of the City be issued in the principal amount of not to exceed \$70,000,000 for the purpose aforesaid, in one or more series, to be designated "City of Cincinnati, Ohio Economic Development Revenue Refunding Bonds, Series 2021 (Project Name)" (the "Series 2021 Bonds") or such other series designation and project name as provided in the Fiscal Officer's Certificate (as defined below) for the purpose of refunding of all or a portion of the outstanding Prior Bonds, or as otherwise designated in the Fiscal Officer's Certificate to be executed by the Director of Finance (the "Fiscal Officer's Certificate"). The Director of Finance shall establish the final aggregate principal amount of the Series 2021 Bonds and the final principal amount for each subseries in the Fiscal Officer's Certificate, provided that the Finance Director has received written certification from Davenport & Company LLC (the "Financial Advisor") that the Refunding Savings Threshold (as defined below) has been met.

“Refunding Savings Threshold” means, as a result of the current or advance refunding of the Refunded Prior Bonds with proceeds of the Series 2021 Bonds, an aggregate reduction in the debt service with respect to such Refunded Prior Bonds which has a present value at the time of sale of the Series 2021 Bonds equal to at least three percent (3.00%) of the existing aggregate debt service of the Refunded Prior Bonds. Said Series 2021 Bonds shall be dated the date of delivery, in the denomination of \$5,000 each, or any integral multiple thereof, or as otherwise provided in the Fiscal Officer’s Certificate in to order comply with applicable securities laws, and shall bear interest at the rate or rates not in excess of six per centum (6.0%) per annum, payable on the dates as determined by the Director of Finance and set forth in the Fiscal Officer’s Certificate. Said Series 2021 Bonds shall mature or be subject to mandatory sinking fund redemption on November 1 or such other date of each year, at such times and in such amounts, all as determined by the Director of Finance, without further action by this Council, and set forth in the Fiscal Officer’s Certificate. The Director of Finance will determine whether the Series 2021 Bonds are able to be redeemed prior to maturity (and associated redemption features) at the time of financing, with such determination to be set forth in the Fiscal Officer’s Certificate.

Section 3. That the Series 2021 Bonds shall bear the signature of the Mayor and the signature of the Director of Finance, provided that one or both of such signatures may be a facsimile, and shall bear the manual authenticating signature of an authorized representative of The Bank of New York Mellon Trust Company, N.A., Cincinnati, Ohio, which is hereby designated to act as trustee, bond registrar, transfer agent and paying agent (the “Trustee”) with respect to the Series 2021 Bonds. The Series 2021 Bonds shall also bear the corporate seal of the City or a facsimile thereof. The Series 2021 Bonds shall be issued in fully registered form. The Series 2021 Bonds shall be payable as to principal, upon the presentment and surrender for cancellation of the Series 2021 Bonds, in lawful money of the United States of America at the designated corporate trust office of the Trustee, and the interest thereon shall be paid by the Trustee on each interest payment date to the person whose name appears on the bond registration records as the registered holder thereof, by wire transfer or check or draft mailed to such registered holder at the address as it appears on such registration records.

Section 4. That the City Manager and the Director of Finance are each hereby authorized to execute, acknowledge and deliver, on behalf of the City of Cincinnati, to the Trustee, the Twentieth Supplemental Trust Agreement (the “Twentieth Supplement”) or any additional supplements to secure the Series 2021 Bonds. The City Manager and the Director of Finance are each further authorized to make any changes in the final Twentieth Supplement or any additional supplements consistent with this ordinance, which are in their opinion necessary or appropriate and in the best interests of the City of Cincinnati.

This ordinance shall constitute a part of the Twentieth Supplement or any additional supplements as therein provided and for all purposes of the Twentieth Supplement or any additional supplements, including, without limitation, application to this ordinance of the provisions in the Twentieth Supplement or any additional supplements relating to amendment, modification and supplementation, and provisions for severability.

Section 5. That the Series 2021 Bonds shall be secured by a pledge of the revenues and the special funds that secure the Prior Bonds pursuant to the Trust Agreement dated as of May 1,

1996, by and between the City and the Trustee as successor trustee (the "Original Trust Agreement"), as amended and supplemented. The Series 2021 Bonds shall be paid solely from such revenues and the special funds that secure the Prior Bonds pursuant to the Original Trust Agreement, as amended and supplemented. Notwithstanding anything in this ordinance, the Series 2021 Bonds or the Original Trust Agreement, as amended and supplemented, to the contrary, neither this ordinance, the Series 2021 Bonds, nor the Original Trust Agreement, as amended and supplemented, shall constitute a debt or a pledge of the faith, general credit, taxing power, or general funds of the City of Cincinnati, Ohio, and the Series 2021 Bonds shall contain on the face thereof a statement to the effect that the Series 2021 Bonds are not general obligations of the City of Cincinnati but are payable solely from the aforesaid sources pledged to their payment; provided, however, that nothing herein shall be deemed to prohibit the City of Cincinnati, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this ordinance, the Series 2021 Bonds or the Original Trust Agreement, as amended and supplemented. The Series 2021 Bonds are being issued under authority of this ordinance, Article VIII, Sections 13 and 16 of the Constitution of the State of Ohio, and Chapter 133 of the Revised Code.

Section 6. That the Director of Finance is hereby authorized to award and sell the Series 2021 Bonds at public or private sale, at such price as is determined by the Director of Finance, plus accrued interest on the aggregate principal amount of the Series 2021 Bonds from their dates to the date of delivery and payment and to set forth such terms in the Fiscal Officer's Certificate and to execute and deliver the same in his or her sound discretion, without further action by this Council. The City Manager or Director of Finance is hereby authorized to make arrangements for the delivery of the Series 2021 Bonds and payment therefor by the purchaser or purchasers thereof at the price determined by the Director of Finance; and the City Manager or Director of Finance is hereby authorized to execute a purchase agreement for the Series 2021 Bonds without further action by this Council. In addition, the Director of Finance is hereby authorized to take such other actions as may be necessary to comply with the requirements of Securities and Exchange Commission Rule 15c2-12, as amended from time to time.

Section 7. That the proceeds received by the City of Cincinnati from the sale of the Series 2021 Bonds shall be allocated, and are hereby appropriated, in the amounts, and to the funds set forth in the Original Trust Agreement, as amended and supplemented by the Twentieth Supplement or any additional supplements.

Section 8. That the City Manager and the Director of Finance are hereby authorized to make provision in the Twentieth Supplement or any additional supplements securing the Series 2021 Bonds for: the application of the Revenues; creation of such funds including a debt service reserve fund as are necessary or appropriate; investment of moneys in such funds; use of such funds; recordkeeping; such covenants of the City of Cincinnati as are necessary or appropriate; and such other matters as are customary or appropriate to be contained in the Supplement or any additional supplements.

Section 9. That the City Manager and the Director of Finance are each separately authorized to execute and deliver a preliminary official statement and a final official statement on behalf of the City and directed to offer the bonds for sale and to execute and deliver a final



official statement no later than seven business days from the date of sale of the bonds, with such changes therein from the preliminary official statement as shall be necessary to reflect any material change in the condition of the City from that set forth in the preliminary official statement; and that the preliminary and final official statement with respect to the bonds, and the distribution thereof on behalf of the City and furnished to the original purchaser(s) of the bonds for distribution to prospective purchasers of the bonds, are hereby approved and ratified in all respects.

The City Manager and the Director of Finance on behalf of the City and each of them are hereby each separately authorized to furnish such information, to execute such instruments and to take such other actions in cooperation with the original purchasers of the Series 2021 Bonds as may be reasonably requested to qualify the Series 2021 Bonds for offer and sale under the Blue Sky or other securities laws and regulations and to determine their eligibility for investment under the laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the original purchasers; provided however, that the City shall not be required to register as a dealer or broker in any such state or jurisdiction or become subject to the service of process in any jurisdiction in which the City is not now subject to such service.

In addition, the City Manager and the Director of Finance are each separately authorized to (i) apply for a rating on the Series 2021 Bonds from one or more nationally recognized bond rating agencies; (ii) apply for and, if they deem it in the City's best interest, to purchase a policy of bond insurance from a company whose insurance of the issue will result in the reduction of debt service payable on the Series 2021 Bonds in an amount the present value of which exceeds the cost of such policy; and (iii) execute on a continuing disclosure certificate, in such form and containing such terms, covenants and conditions not inconsistent herewith, and to take such other actions as may be necessary to comply with the requirements of Securities and Exchange Commission Rule 15c2-12, as amended from time to time.

Section 10. That as to any Series 2021 Bonds which obligations the interest on which is excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), this Council, for and on behalf of the City, hereby covenants that it will restrict the use of the proceeds of such Series 2021 Bonds in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Code. The Fiscal Officer or any other officer having responsibility with respect to the issuance of the Series 2021 Bonds is authorized to give an appropriate certificate on behalf of the City on the date of delivery of the Series 2021 Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

Section 11. That the Council hereby determines to issue the bonds in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as the bonds are in Book-Entry-Only form, the following covenants and agreements of the City shall be in effect:

**(A) *Definitions.***

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

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

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

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

“Letter of Representations” means the Letter of Representations dated March 21, 1995, as supplemented from time to time, from the City and the Paying Agent and Registrar, as defined in the bond ordinances, to DTC with respect to the bonds, which shall be the binding obligation of the City and the Paying Agent and Registrar.

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

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

**(B) *Book Entry Bonds.*** (i) Except as provided herein, the registered owner of all of the bonds shall be DTC and the bonds shall be registered in the name of CEDE & Co, as nominee for DTC. The City and the Paying Agent and Registrar shall supplement (with a description of the bonds) the Letter of Representations with DTC, and the provisions of such Letter of Representations shall be incorporated herein by reference.

(i) The bonds shall be initially issued in the form of single fully registered global certificates in the amount of each separate stated maturity of the bonds. Upon initial issuance, the ownership of such bonds shall be registered in the City’s bond register in the name of CEDE & Co, as nominee of DTC. The Paying Agent and Registrar and the City may treat DTC (or its nominee) as the sole and exclusive registered owner of the bonds registered in its name for the purposes of payment of the principal, or redemption price of or interest on the bonds, selecting the bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to bondholders under this ordinance, registering the transfer of bonds, obtaining any consent or other action to be taken by bondholders and for all other purposes whatsoever; and neither the Paying Agent and Registrar nor the City shall be affected by any notice to the contrary. Neither the Paying Agent and Registrar nor the City shall have any responsibility or obligation to any DTC



Participant, any person claiming a beneficial ownership interest in the bonds under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Paying Agent and Registrar as being a registered owner, with respect to the accuracy of any records maintained by DTC or any DTC Participant; the payment of DTC or any DTC Participant of any amount in respect of the principal or redemption price of or interest on the bonds; any notice which is permitted or required to be given to bondholders under this ordinance; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of the bonds; or any consent given or other action taken by DTC as bondholder. The Paying Agent and Registrar shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the bonds only to or "upon the order of" DTC (as that term is used in the Uniform Commercial Code as adopted in the State of Ohio), and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of, and premium, if any, and interest on the bonds to the extent of the sum or sums so paid. Except as otherwise provided herein, no person other than DTC shall receive an authenticated bond certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal of, and premium, if any, and interest pursuant to this ordinance. Upon delivery by DTC to the Paying Agent and Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of bonds, the word "CEDE & Co" in this Ordinance shall refer to such new nominee of DTC.

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

Section 12. That with respect to the funding of any escrow or escrows necessary or appropriate in connection with the refunding of the Refunded Prior Bonds with the proceeds of the Series 2021 Bonds, the Director of Finance is hereby authorized to take any and all

appropriate action for the acquisition, at the appropriate time, of U.S. government obligations for the credit of such escrow or escrows and if necessary, to execute an escrow agreement with the Trustee and Paying Agent for the refunding defeasance of the Refunded Prior Bonds. Such U.S. government obligations may be in the form or forms recommended in writing by the Financial Advisor to the City and approved by bond counsel. If determined to be necessary by the Financial Advisor, the Financial Advisor is hereby specifically authorized to procure on behalf of the City a bidding agent to purchase escrow securities such as open market treasuries and similar defeasance obligations for the credit of the escrow fund(s) as provided in any escrow agreement, as may be necessary, in order to fund, in part, any escrow or escrows in connection with refunding any Prior Bonds. The Trustee, or any attorney with nationally ranked bond counsel firm, is hereby specifically authorized to execute and file on behalf of the City any subscriptions for United States Treasury Obligations, State and Local Government Series, as may be necessary, in order to fund, in part, any escrow or escrows in connection with refunding any Prior Bonds.

Section 13. That the City Manager and the Director of Finance are each hereby separately authorized to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of bond counsel, in order to effect the issuance of the Series 2021 Bonds and the intent of this ordinance. The Director of Finance, or other appropriate officer of the City of Cincinnati, shall certify a true transcript of all proceedings with respect to the issuance of the Series 2021 Bonds, along with such information from the records of the City of Cincinnati as is necessary to determine the regularity and validity of the issuance of the Series 2021 Bonds.

Section 14. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 15. 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 that the sale of the Series 2021 Bonds or notes authorized herein may be required within thirty days of passage of the ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

## **EXHIBIT A**

### **THE PRIOR BONDS**

Pursuant to the foregoing ordinance, all or a portion of the outstanding economic development bonds of the City, including, but not limited to, the outstanding economic development bonds listed in the following table (collectively, the “Prior Bonds”), may be refunded with a portion of the proceeds of its economic development on bonds to be issued pursuant thereto.

1. \$9,995,000 Economic Development Revenue Bonds, Series 2007 (Convergys Corporation Project) (Taxable) dated November 11, 2007;
2. \$13,950,000 Economic Development Revenue Bonds, Series 2012A (Convergys Corporation Project) (Taxable) dated June 7, 2012;
3. \$6,200,000 Economic Development Revenue Bonds, Series 2015A (Jordan Crossing Redevelopment Project) dated November 18, 2015;
4. \$4,800,000 Economic Development Revenue Bonds, Series 2015B (The Mercer Commons Phase 2 Project) dated November 18, 2015;
5. \$2,300,000 Economic Development Revenue Bonds, Series 2015C (Seymour Plaza Redevelopment Project) dated November 18, 2015;
6. \$2,500,000 Economic Development Revenue Bonds, Series 2015D (McMillan Redevelopment Project) dated November 18, 2015;
7. \$1,750,000 Economic Development Revenue Bonds, Series 2015E (Incline District Parking Garage Project) dated November 18, 2015;
8. \$2,000,000 Economic Development Revenue Bonds, Series 2015F (Avondale Blight Removal Phase 1 Project) (Taxable) dated November 18, 2015;
9. \$750,000 Economic Development Revenue Bonds, Series 2015G (Evanston Commercial Redevelopment Project) (Taxable) dated November 18, 2015;
10. \$3,500,000 Economic Development Revenue Bonds, Series 2015H (Walnut Hills Development Project) (Taxable) dated November 18, 2015;
11. \$6,030,000 Economic Development Revenue Bonds, Series 2016A (Vernon Manor II Project) dated February 17, 2016;
12. \$5,700,000 Economic Development Revenue Bonds, Series 2016B (Keystone Parke Phase III Project) dated February 17, 2016;
13. \$3,790,000 Economic Development Revenue Refunding Bonds, Series 2016C (The Keystone Project) dated February 17, 2016;

14. \$25,590,000 Economic Development Revenue Refunding Bonds, Series 2016D (Baldwin 300 Project) dated February 17, 2016;
15. \$4,845,000 Economic Development Revenue Refunding Bonds, Series 2016E (The Madison Circle Project) dated February 17, 2016;
16. \$10,000,000 Economic Development Revenue Bonds, Series 2016F (OTR Arts Permanent Improvements Project) dated February 17, 2016;
17. \$2,550,000 Economic Development Revenue Refunding Bonds, Series 2016G (Columbia Square Project) dated February 17, 2016;
18. \$6,000,000 Economic Development Revenue Bonds, Series 2018A (OTR Arts Permanent Improvements Project) dated December 20, 2018;
19. \$2,500,000 Economic Development Revenue Bonds, Series 2018B (Industrial Site Redevelopment Project) (Federally Taxable) dated December 20, 2018;
20. \$1,000,000 Economic Development Revenue Bonds, Series 2018C (Hudepohl Brewery Remediation Project) (Federally Taxable) dated December 20, 2018;
21. \$750,000 Economic Development Revenue Bonds, Series 2018D (East Price Hill Revitalization Project) dated December 20, 2018;
22. \$5,285,000 Economic Development Revenue Refunding Bonds, Series 2020A (Graeter's Manufacturing Co. Project) dated November 3, 2020; and
23. \$15,985,000 Economic Development Revenue Refunding Bonds, Series 2020B (U-Square @ The Loop Project) (Federally Taxable) dated November 3, 2020.

June 16, 2021

202102131

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$1,800,000 Parks and Recreation Improvement Bonds**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$1,800,000 FOR THE PURPOSE OF MAKING PARKS AND RECREATION IMPROVEMENTS.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of the bonds in the amount of \$1,800,000 to fund parks and recreation infrastructure improvements. These bonds are fifteen-year bonds supported by property tax revenue and the interest rate is expected to be below 6.00%. The proceeds of the bond sale will finance a portion of the FY 2022 Capital Improvement Program, as approved by City Council. An emergency ordinance is necessary to take advantage of currently favorable interest rates.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

BWL

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

-2021

**PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF \$1,800,000 FOR THE PURPOSE OF MAKING PARKS AND RECREATION IMPROVEMENTS.**

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, and the maximum maturity of the bonds referred to herein; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years, and has further certified that the maximum maturity of the bonds is twenty (20) years, and the maturity of the notes, in anticipation thereof, is five (5) years; now, therefore,

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

Section 1. That it is necessary to issue bonds of the City of Cincinnati, Ohio ("City"), in the principal amount of \$1,800,000 (property tax supported), for the purpose of providing funds to acquire real estate or interest in same, for parks, parkways, playgrounds and recreation centers, improving and equipping such real estate and also rehabilitating existing parks, parkways, playgrounds and recreation centers; and paying legal, advertising, printing and all expenses incidental to said improvements. Such principal amount may be increased by the amounts necessary to fund a debt service reserve fund (if needed), capitalized interest (if any), costs of issuance, and other necessary and permitted costs, all as determined by the Fiscal Officer.

Section 2. That bonds of the City of Cincinnati, Ohio, be issued in the principal amount of \$1,800,000 for the purpose aforesaid. Said bonds shall be dated as determined by the Finance Director, of the denomination of \$5,000 each, or any integral multiple thereof, or such other denomination, numbered sequentially as determined by the Finance Director, and shall bear interest at the rate, or rates, not in excess of six per centum (6.00%) per annum, payable December 1, 2022, and semiannually thereafter on June 1 and December 1 of each year, or such other dates as determined by the Finance Director, until the principal sum is paid. Provided, however, that if said bonds are sold bearing a different rate or rates of interest from that herein before specified, said bonds shall bear such rate, or rates, of interest as may be accepted by the Finance Director. The property tax supported bonds shall be designated 21-1-G1419, or as otherwise designated by the Finance Director. Said bonds shall mature or be subject to mandatory sinking fund redemption on December 1, or such other date of each year as determined by the Finance Director, such maturities and mandatory sinking fund redemption amounts to be determined by the Finance Director. The Finance Director will determine whether the \$1,800,000 parks and recreation improvement bonds are callable (and associated call features) or non-callable at the time of financing.



Notice of the call for redemption of said bonds, specifying the numbers of the bonds to be redeemed, shall be sent by the Bond Registrar and Paying Agent (as defined below) by registered or certified mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon said bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption funds for such redemption shall be on deposit with the Bond Registrar and Paying Agent, and the City shall direct the Bond Registrar and Paying Agent in writing to make any notice of call for redemption.

Section 3. That said bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, Chapter 303 of the Cincinnati Municipal Code, and Chapter 133 of the Ohio Revised Code. They shall bear the facsimile signature of the Mayor and the facsimile signature of the Finance Director, and shall bear the manual authenticating signature of an authorized representative of U.S. Bank, N. A. (herein the "Bond Registrar and Paying Agent"), Cincinnati, Ohio, which is hereby designated to act as bond registrar, transfer agent and paying agent with respect to the bonds. The bonds shall also bear the corporate seal of the City or a facsimile thereof. The bonds shall be issued in fully registered form. The bonds shall be designated "Parks and Recreation Improvement Bonds." Such bonds shall be payable as to principal, upon the presentment and surrender for cancellation of the bonds, in lawful money of the United States of America at the Bond Registrar and Paying Agent, and payment of the interest thereon shall be made by the Bond Registrar and Paying Agent on each interest payment date to the person whose name appears on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at his or her address as it appears on such registration records.

Section 4. That, if the Finance Director, in the exercise of his or her judgment, determines that it is preferable that notes rather than bonds be issued initially, there are hereby authorized notes in the aggregate principal amount of \$1,800,000, which may be issued in anticipation of the issuance of a like principal amount of said bonds for the purpose described in Section 1 hereof. Such notes shall be designated "Parks and Recreation Improvement Bond Anticipation Notes," as applicable; shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate or rates not in excess of six per centum (6.00%) per annum, as shall be approved by the Finance Director, payable on such dates as are determined by the Finance Director; shall be dated as of their date of issuance; shall mature on such date or dates as may be selected by the Finance Director; may be callable in whole or in part at any time prior to maturity as approved by the Finance Director; may be issued in installments as approved by the Finance Director; and shall be payable as to principal at the office of the Bond Registrar and Paying Agent or the office of the Treasurer of the City, and the interest thereon shall be paid by the Bond Registrar and Paying Agent or the office of the Treasurer of the City on each interest payment date to the holders of the notes. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 5. That, for the purpose of providing the necessary funds to pay the interest on the foregoing issue of bonds or notes promptly when and as the same falls due, and also to provide for the discharge of said bonds or notes at maturity and for the payment of mandatory



sinking fund redemptions, there shall be and is hereby levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually during the period said bonds are to run, outside of the limitations imposed by Article XII, Section 2, of the Ohio Constitution and Section 5705.02 of the Ohio Revised Code, and by virtue of Section 4 of Article VIII of the Charter of the City of Cincinnati, in an amount sufficient to provide for the payment of said interest, when and as the same shall fall due, and also to discharge the principal of said bonds or notes at maturity and to pay mandatory sinking fund redemptions, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund which, together with the interest collected on the same, shall be irrevocably pledged for the payment of principal of and interest on said bonds or notes when and as the same fall due.

Section 6. That said bonds or notes shall be first offered to the City Treasurer as the officer in charge of the Bond Retirement Fund of said City, and if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase, and, if not offered to or taken by such account, the Finance Director is hereby authorized to award and sell the bonds at public or private sale, in the Finance Director's sound discretion without further action by this Council, at such price (but not less than 97% of par, excluding original issue discount) as is determined by the Finance Director, plus accrued interest on the aggregate principal amount of the bonds from their dates to the date of delivery and payment. The City Manager or Finance Director is hereby authorized to make arrangements for the delivery of the bonds to, and payment therefore by, the purchaser or purchasers thereof at the price determined by the Finance Director; and the City Manager or Finance Director is hereby authorized to execute a purchase agreement (including the certificate of award) for the bonds without further action by this Council. The Finance Director is hereby expressly authorized to execute a purchase agreement for the bonds provided that the true interest cost for the bonds shall not exceed 6.00% per annum, and that the true interest cost for the notes shall not exceed 6.00% per annum.

The Finance Director, in his or her discretion, is authorized to waive the requirements of Section 303-7 of the Municipal Code and to direct the sale of the bonds or notes in whatever manner he or she deems appropriate.

Section 7. That Council, for and on behalf of the City of Cincinnati, Hamilton County, Ohio, hereby covenants that it will restrict the use of the proceeds of the bonds or notes hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder. The Finance Director or any other officer having responsibility with respect to the issuance of the bonds or notes is authorized to give an appropriate certificate on behalf of the City, on the

date of delivery of the bonds or notes for inclusion in the transcript of proceedings, setting forth the facts, estimates, circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

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

Section 8. That the Finance Director is hereby authorized to certify a copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 7 hereof.

Section 9. That, pursuant to the provisions of Section 133.30 of the Ohio Revised Code, these bonds or notes may be consolidated into a single issue with other bond or notes which have been authorized by this Council as determined by the Finance Director.

That these bonds or notes shall be issued in such designations, series, and shall have maturities or principal payments, as are consistent with the aggregate of the series, periodic maturities or principal payments of the separate issues of bonds as set forth in the respective bond ordinances and as provided in the bond purchase agreement (the “Purchase Agreement”) to be entered into by and between the City and an underwriter as determined by the Finance Director as provided in a certificate of award executed by the Finance Director.

Section 10. That this Council hereby determines to issue these bonds or notes in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as these bonds or notes are in Book-Entry-Only form, the following covenants and agreements of the City shall be in effect:

(A) Definitions

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

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

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

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

“Letter of Representations” means the Letter of Representations dated March 21, 1995, as supplemented from time to time, from the City and the Paying Agent and

Registrar, to DTC with respect to the bonds or notes, which shall be the binding obligation of the City and the Paying Agent and Registrar.

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

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

(B) Book Entry Bonds

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

(ii) The bonds or notes shall be initially issued in the form of single fully registered global certificates in the amount of each separate stated maturity of the bonds or notes. Upon initial issuance, the ownership of such bonds or notes shall be registered in the City's bond register in the name of CEDE & Co, as nominee of DTC. The Paying Agent and Registrar and the City may treat DTC (or its nominee) as the sole and exclusive registered owner of the bonds or notes registered in its name for the purposes of payment of the principal, or redemption price of or interest on the bonds or notes, selecting the bonds or notes or portions thereof to be redeemed, giving any notice permitted or required to be given to bondholders under this ordinance, registering the transfer of bonds or notes, obtaining any consent or other action to be taken by bondholders and for all other purposes whatsoever; and neither the Paying Agent and Registrar nor the City shall be affected by any notice to the contrary. Neither the Paying Agent and Registrar nor the City shall have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the bonds or notes under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Paying Agent and Registrar as being a registered owner, regarding any of the following: the accuracy of any records maintained by DTC or any DTC Participant; the payment of DTC or any DTC Participant of any amount in respect of the principal or redemption price of or interest on the bonds or notes; any notice which is permitted or required to be given to bondholders under this ordinance; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of the bonds or notes; or any consent given or other action taken by DTC as bondholder. The Paying Agent and Registrar shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the bonds or notes

only to or “upon the order of” DTC (as that term is used in the Uniform Commercial Code as adopted in the State of Ohio), and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal of, and premium, if any, and interest on the bonds or notes to the extent of the sum or sums so paid. Except as provided herein, no person other than DTC shall receive an authenticated bond certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal of, and premium, if any, and interest pursuant to this ordinance. Upon delivery by DTC to the Paying Agent and Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of bonds or notes, the word “CEDE & Co” in this ordinance shall refer to such new nominee of DTC.

(C) Delivery of Bond Certificates

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

Section 11. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of its committees that resulted in such formal action, were in meetings open to the public, in compliance with legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 12. 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 that the sale of the bonds or notes authorized herein may be required within thirty days of passage of the ordinance in order to take advantage of currently favorable interest rates.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**June 9, 2021**

202102132

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

**Subject: Ordinance – Setting Water Service Rates for 2022-2026**

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Attached is an Ordinance captioned:

**REPEALING AND REORDAINING** the provisions of Chapter 401, “Water Works,” Section 401-76, “Service Charges,” Section 401-77, “Water Commodity Charges,” Section 401-78, “Charges for Fire Protection Services,” Section 401-81, “Charges to Political Subdivisions,” and Section 401-89, “Direct Fire Protection Charges” of the Cincinnati Municipal Code for the purpose of revising the rates for water and related services furnished by the Greater Cincinnati Water Works, consistent with annual water rate increase of 3.75% in 2022 and 5.55% in each of 2023 through 2026.

Approval of this Ordinance will set the water rates for calendar years 2022 through 2026 to reflect an increase of 3.75% increase in water-related rates for 2022 and a 5.55% increase in each of 2023, 2024, 2025, and 2026. This translates to an average increase in the monthly water charge for a single-family residential account of \$1.21 in 2022 and \$1.83 to \$2.16 in 2023 through 2026 over the prior year.

The revenue generated by the rates will ensure that the Greater Cincinnati Water Works continues to address its mission of providing customers and the community with a plentiful supply of high-quality water, support environmental sustainability, and deliver excellent services in a financially responsible manner, including:

- *Excellent Service Delivery*—Planned implementation of Advanced Metering Infrastructure that will provide more detailed and accurate water usage information to customers and the City to help identify leaks, reduce waste, and provide more accurate billing
- *Safety and Growing Economic Opportunities*—Replacing and upgrading aging water main infrastructure to meet the changing uses of new development and address fire safety needs, as well as meet the Smale Commission’s recommended annual replacement of 1% of system infrastructure
- *Thriving Neighborhoods*—Ensure system wide compliance with Safe Drinking Water Act requirements, including meeting new lead and copper rule requirements, as well as ensuring that high quality drinking water is affordable to all

- *Fiscal Sustainability*--Addressing bond rating agency comments so that GCWW can continue to secure AAA bond ratings and obtain low cost for infrastructure finance

This Ordinance is in accordance with the "Sustain" initiative goals/strategies to "Become a Healthier Cincinnati" and "Create a Healthy Environment and Reduce Energy Consumption" as well as to "Manage Financial Resources" and "Spend Public Funds More Strategically" as described on page 182 and 200 of Plan Cincinnati.

The Administration recommends passage of this Ordinance.

*CBB by psc*

cc: Cathy B. Bailey, Executive Director/Greater Cincinnati Water Works



**City of Cincinnati**  
**An Ordinance No. \_\_\_\_\_**

AEY

- 2021

*AWB*

**REPEALING AND REORDAINING** the provisions of Chapter 401, “Water Works,” Section 401-76, “Service Charges,” Section 401-77, “Water Commodity Charges,” Section 401-78, “Charges for Fire Protection Services,” Section 401-81, “Charges to Political Subdivisions,” and Section 401-89, “Direct Fire Protection Charges” of the Cincinnati Municipal Code for the purpose of revising the rates for water and related services furnished by the Greater Cincinnati Water Works, consistent with annual water rate increases of 3.75% in 2022 and 5.55% in each of 2023 through 2026.

WHEREAS, the City Administration has recommended to Council the adoption of a 3.75% increase in water rates for 2022 and a 5.55% increase in each of 2023, 2024, 2025, and 2026 for the Greater Cincinnati Water Works (“GCWW”) to provide for the annual replacement of 1% of system infrastructure per the Smale Commission recommendations, enhanced customer service and leak detection through advanced metering infrastructure, meeting updated requirements of the U.S. Environmental Protection Agency Lead and Copper rule, and addressing issues of water affordability; and

WHEREAS, this multi-year rate increase is necessary to support GCWW’s multi-year bond issue for FY 2022 through FY 2026, which bond issue will take advantage of the currently favorable bond market while refunding existing debt and issuing new debt; and

WHEREAS, the multi-year rate increases and bond issue will result in substantial financing cost savings to GCWW and allow Cincinnati’s water rates to remain substantially below industry averages; now, therefore,

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

Section 1. That existing Section 401-76, “Service Charges,” is hereby repealed and reordained as follows:

**Sec. 401-76. - Service Charges.**

Each water supply service shall be subject to a monthly service charge. The service charge shall be based on the size of the water meter.

This section shall apply to each water meter used, but shall not apply to water supply services subject to Section 401-81 or Section 401-82.

For the availability of water service, the service charge applicable to accounts inside the City of Cincinnati for each year from 2022 through 2026 shall be as follows:

<b>Meter Size (inches)</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>
½	6.54	6.79	7.16	7.56	7.98	8.42
¾	7.82	8.11	8.56	9.04	9.54	10.07
1	9.64	10.00	10.56	11.14	11.76	12.41
1½	24.33	25.24	26.64	28.12	29.68	31.33
2	31.03	32.19	33.98	35.87	37.86	39.96
3	68.03	70.58	74.50	78.63	83.00	87.60
4	130.32	135.21	142.71	150.63	158.99	167.82
6	261.24	271.04	286.08	301.96	318.71	336.40
8	381.46	395.76	417.73	440.91	465.38	491.21
10	533.73	553.74	584.48	616.92	651.16	687.29
12	638.22	662.15	698.90	737.69	778.63	821.85

The service charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

The service charges for accounts outside of the City of Cincinnati shall be established pursuant to Section 401-75.

Section 2. That existing Section 401-77, "Water Commodity Charges," is hereby repealed and reordained as follows:

**Sec. 401-77. - Water Commodity Charges.**

For water used, the water commodity charges per 100 cubic feet (CCF) used applicable to accounts inside the City of Cincinnati shall be as follows:

	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>
First 20 CCF/month	3.00	3.11	3.29	3.47	3.66	3.86
Next 580 CCF/month	2.52	2.61	2.76	2.91	3.07	3.25
Over 600 CCF/month	2.25	2.33	2.46	2.60	2.75	2.90

The water commodity charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

The water commodity charges for accounts outside of the City of Cincinnati shall be established pursuant to Section 401-75.

Effective January 1, 2012, for water used through a temporary meter as set forth in Section 401-61 of the Municipal Code, the water commodity charge rate per 100 cubic

feet (CCF) used shall be 150% of the water commodity charge listed in the table above for the first 20 CCF per month.

Section 3. That Section 401-78, "Charges for Fire Protection Services," is hereby repealed and reordained as follows:

**Sec. 401-78. - Charges for Fire Protection Services.**

Each fire service branch serving private premises shall be subject to a fire protection service charge based on the size of the service branch at the water main per Section 401-117. This section shall not apply to fire protection services subject to Sections 401-82 and 401-83.

The fire protection service charge per month shall be as follows:

Branch Size (inches)	2021	2022	2023	2024	2025	2026
2" & Under	18.58	19.28	20.35	21.48	22.67	23.93
3"	23.84	24.73	26.11	27.56	29.09	30.70
4"	28.20	29.26	30.88	32.60	34.40	36.31
6"	65.08	67.52	71.27	75.22	79.40	83.80
8"	91.90	95.35	100.64	106.22	112.12	118.34
10"	110.89	115.05	121.43	128.17	135.29	142.80

The fire protection service charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

The fire protection service charges for accounts outside of the City of Cincinnati shall be established pursuant to Section 401-75.

Section 4. That Section 401-81, "Charges to Political Subdivisions," is hereby repealed and reordained as follows:

**Sec. 401-81. - Charges to Political Subdivisions.**

The water commodity charge rates per hundred cubic feet for water used by political subdivisions, other than those whose contracts with the City of Cincinnati specify rates, shall be as follows:

	2021	2022	2023	2024	2025	2026
Winter	3.15	3.27	3.45	3.64	3.84	4.06
Summer	3.75	3.89	4.11	4.33	4.58	4.83

The charges to political subdivisions in the above table shall be effective from January 1 through December 31 of each of the above listed years.

There shall be no service charges for water used under this section.

Section 5. That Section 401-89, "Direct Fire Protection Charges," is hereby repealed and reordained as follows:

**Sec. 401-89. –Fire Hydrant Repair and Replacement Charges.**

Each water supply service within the City of Cincinnati shall be subject to a fire hydrant repair and replacement charge, which shall be based on the size of the water meter.

The monthly fire hydrant repair and replacement charges shall be as follows:

Meter Size (inches)	2021	2022	2023	2024	2025	2026
⅝	0.65	0.67	0.71	0.75	0.79	0.84
¾	0.98	1.02	1.07	1.13	1.20	1.26
1	1.43	1.48	1.57	1.65	1.74	1.84
1½	2.74	2.84	3.00	3.17	3.34	3.53
2	4.04	4.19	4.42	4.67	4.93	5.20
3	9.79	10.16	10.72	11.32	11.94	12.61
4	16.31	16.92	17.86	18.85	19.90	21.00
6	32.63	33.85	35.73	37.72	39.81	42.02
8	48.93	50.76	53.58	56.56	59.70	63.01
10	65.24	67.69	71.44	75.41	79.59	84.01
12	75.03	77.84	82.16	86.72	91.54	96.62

The fire hydrant repair and replacement charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

Section 6. That the proper City officials are authorized to carry out the terms of Sections 1 through 5 herein.

Section 7. 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

Date: June 9, 2021

To: Mayor and Members of City Council 202102153

From: Paula Boggs Muething, City Manager

Subject: **EMERGENCY ORDINANCE - ESTABLISHMENT OF FC CINCINNATI  
SIDEWALK VENDING ZONE**

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Attached is an emergency ordinance captioned as follows:

MODIFYING Title VII, "General Regulations," of the Cincinnati Municipal Code by amending Section 723-16, "Sidewalk Vending," of Chapter 723, "Streets and Sidewalks, Use Regulations," to establish a new sidewalk vending district in proximity to TQL Stadium in the West neighborhood.

Approval of this emergency ordinance authorizes the establishment of a new sidewalk vending zone in the vicinity the TQL FC Cincinnati Stadium, keeping with precedence of sidewalk vending zones around high traffic areas.

This zone is located within both the West End and Over-the-Rhine neighborhoods.

The reason for the emergency is to have the zone in place for the 2021 FC Cincinnati season.

The Administration recommends passage of the attached emergency ordinance.

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



EMERGENCY

City of Cincinnati

JRS

BWL

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

- 2021

**MODIFYING** Title VII, "General Regulations," of the Cincinnati Municipal Code by amending Section 723-16, "Sidewalk Vending," of Chapter 723, "Streets and Sidewalks, Use Regulations," to establish a new sidewalk vending district in proximity to TQL Stadium in the West End neighborhood.

WHEREAS, revocable street privileges are the primary tool used by the City to provide sidewalk vendors access to the public right-of-way and to manage those vendors' occupancy of the public right-of-way; and

WHEREAS, Cincinnati Municipal Code Section 723-16, "Sidewalk Vending," establishes a process whereby the City Manager may grant revocable street privileges to sidewalk vendors, allowing them to establish merchandise and food vending locations on City sidewalks within sidewalk vending districts; and

WHEREAS, in order to support the City's sidewalk vendors and to expand access to sidewalk vending across the City, the Council wishes to establish a new sidewalk vending district in proximity to FC Cincinnati's new TQL Stadium; now therefore,

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

Section 1. That Section 723-16, "Sidewalk Vending," of Chapter 723, "Streets and Sidewalks, Use Regulations," of the Cincinnati Municipal Code is hereby amended to read as follows:

**Sec. 723-16. - Sidewalk Vending.**

- (a) Sidewalk Vending Program. The city manager or his or her designee is authorized to grant revocable street privileges for the placement of sidewalk vending locations in accordance with this section. This section governs merchandise and food vending on the sidewalks in the City's right-of-way. Mobile food vending within city streets is governed by Sections 723-41 through 723-50 of the Cincinnati Municipal Code.
- (b) Sidewalk Vending Rules and Regulations. The city manager is authorized to establish rules and regulations for the orderly and efficient administration of this chapter, including but not limited to rules governing application fees, vending practices, displays at vending locations, equipment and materials, health and safety standards, and authorized hours of operation. Changes to the rules and regulations must be approved by the city manager.

(c) Vending Districts. The following sidewalk vending districts are the only areas in which individual sidewalk vending locations may be established by the city manager or his or her designee. Peddlers and itinerant vendors authorized to operate under Chapter 839 of the Cincinnati Municipal Code are prohibited from operating in these sidewalk vending districts, as stated in Section 839-13 of the Cincinnati Municipal Code.

1. The “Downtown Vending District” shall be defined as follows: the area within the public right-of-way within the bounds beginning at the intersection of the north property line of East Central Parkway and the east property line of Eggleston Avenue as projected northeastwardly; thence southeastwardly along the projected east property line, the actual east property line and the projected east property line of Eggleston Avenue to the south city corporate limit; thence west along the south city corporate limit to the west property line of Central Avenue as projected southwardly to the city corporate limit; thence northwardly along the west property line of projected Central Avenue and the actual west property line of Central Avenue to the north property line of West Court Street; thence eastwardly along the north property line of West Court Street to the west property line of Plum Street; thence northwardly along the west property line of Plum Street to the projected north property line of West Central Parkway; thence east along the projected and actual north property line of Central Parkway; continuing eastwardly along the north property line of East Central Parkway to the point of beginning.
2. The “Liberty/Dalton Street Vending District” shall be defined as the area within the public right-of-way beginning at a point being the intersection of the west right-of-way line of Dalton Street and the north right-of-way line of Flint Street. Thence north along the west right-of-way line of Dalton Street to the point of intersection with the south right-of-way line of Findlay Street. Thence east along the south right-of-way line of Findlay Street to the point of intersection with the east right-of-way line of Dalton Street. Thence south along the east right-of-way line of Dalton Street to the point of intersection with the north right-of-way line of Flint Street. Thence west along the north right-of-way line of Flint Street to the point of intersection with the west right-of-way line of Dalton Street, being the point and place of beginning.
3. The “Short Vine Vending District” shall be defined as the area beginning at a point being the intersection of the north right-of-way line of Corry Street and the east right-of-way line of Vine Street. Thence north along the east right-of-way line of Vine Street to the point of intersection with the south right-of-way line of Martin Luther King Jr. Drive. Thence west along the south right-of-way line of Martin Luther King Jr. Drive to the point of intersection with the west right-of-way line of Vine Street. Thence south along the west right-of-way line of Vine Street to the point of intersection with the north right-of-way line of Corry Street. Thence



east along the north right-of-way line of Corry Street to the east right-of-way line of Vine Street, being the point and place of beginning.

4. The "University Hospital Vending District" shall be defined as the area beginning at a point being the intersection of the south right-of-way line of Piedmont Avenue and the west right-of-way line of Eden Avenue. Thence north along the west right-of-way line of Eden Avenue to the point of intersection with the north right-of-way line of Bethesda Avenue. Thence east along the north right-of-way line of Bethesda Avenue to the point of intersection with the northeast right-of-way line of Elland Avenue. Thence southeast and east along that right-of-way line and that right-of-way line extended to the east right-of-way line of Burnet Avenue. Thence south along the east right-of-way line of Burnet Avenue to the point of intersection with the south right-of-way line extended of Piedmont Avenue. Thence west along the south right-of-way line extended and the right-of-way line of Piedmont Avenue to the point of intersection with the west right-of-way of Eden Avenue, being the point and place of beginning.

5. The "FC Cincinnati Vending District" shall be defined as follows: the area within the public right-of-way within the bounds beginning at the intersection of the north property line of West Liberty Street and the west property line of John Street as projected easterly; thence to the east property line of Elm Street projected southerly to the south property line of West Liberty Street then projecting westerly along the south property line of West Liberty Street to the east property line of Central Parkway; thence projected southerly on the east property line of Central Parkway to the south property line of Charles Street; thence projecting westerly along the south property line of Charles Street to the west property line of Central Avenue; thence projecting northerly along the west property line of Central Avenue to the south property line of Ezzard Charles Drive; thence projecting westerly to the west property line of John Street; thence projecting northwesterly to the north property line of West Liberty Street.

(d) Vending Locations. The city manager or his or her designee may designate sites within the defined vending districts for either food vending or merchandise vending and shall identify approved sites by maps, approximate address, or both. Additional sites may be requested in writing by persons interested in vending at specific locations which have not been designated for vending of the type proposed in the request. The city manager or his or her designee shall exercise sole discretion in determining the appropriateness of the requested location and shall notify the applicant in writing of the decision.

(e) Temporary Locations. Temporary locations within the vending districts established in subsection (c) of this section for use in relocating sidewalk

vendors from special event areas or for handling short-term (under seven days) demand for vending locations prompted by special events, holidays, sports championships, and other such occurrences, may be established and withdrawn by the city manager or his or her designee at any time.

- (f) Applications for Sidewalk Vending Locations. Persons desiring to obtain a revocable street privilege for a vending location shall submit an application on a form to be provided by the city manager or his or her designee. The city manager or his or her designee is authorized to charge a non-refundable application fee to be determined by the city manager.
- (g) Assignment of Vending Locations. Vending revocable street privileges for sidewalk vending locations will be awarded in accordance with the following:
  - 1. Each year, vendors with existing sidewalk vending locations may retain up to eight of their vending locations, upon provision of written notice to the city.
  - 2. New vending locations, and newly open vending locations not retained by a vendor, are to be awarded on a first come, first served basis.
  - 3. Applications for new or newly available vending locations shall be considered and awarded, in the order in which they are received, only to qualified applicants who submit proper and complete applications.
  - 4. Existing vendors seeking to retain one or more (up to eight) of their vending locations, and applicants seeking a new vending location, all must submit their applications within the deadlines for each step of the process. The application periods and deadlines shall be established in the rules and regulations governing the sidewalk vending program.
  - 5. In a given year, if deemed necessary because of high demand for new vending locations, the city manager or his or her designee may implement another method for awarding new locations, including but not limited to a lottery or another random drawing method, to ensure fairness both to existing vendors and new vendors.
  - 6. The provisions of this subsection (g) do not change the revocability of vending revocable street privileges addressed in subsection (h) of this section and in Chapter 718 of the Cincinnati Municipal Code.
- (h) Vending Revocable Street Privilege. The city manager or his designee shall issue a vending revocable street privilege for each vending location awarded upon payment of the required fee set forth in the rules and regulations for the sidewalk vending program. Vending revocable street privileges for vending locations issued pursuant to this chapter are also governed by Chapter 718 of the Cincinnati Municipal Code and are revocable at any time as set forth in Chapter 718. In the event of revocation not caused by any act or omission of

the vendor, the city shall make good faith efforts to accommodate the vendor by identifying an alternative vending location, or, if no alternative locations are available, the city will refund a prorated amount of the annual fee for the vending revocable street privilege based on the number of months of the year that the vendor had the vending revocable street privilege.

- (i) Vending During Special Events. When city council passes an ordinance in connection with a special event which temporarily prohibits vending in a specified area within any vending district except that which is authorized by the special event sponsor, and such area includes established sidewalk vending locations, or when, as a result of lawful construction or demolition or a significant change in the use of the street or sidewalk space in the vending district, it is necessary to eliminate an established vending site, the city manager or his or her designee may designate a temporary alternative sidewalk vending location within one of the defined vending districts established in subsection (c) of this section. The city manager or his or her designee shall designate temporary locations for sidewalk vending on an as-needed basis. The location of such temporary sites shall be at the sole discretion of the city manager or his or her designee.

Section 2. That existing Section 723-16, "Sidewalk Vending," is hereby repealed.

Section 3. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to establish a new sidewalk vending district in proximity to FC Cincinnati's TQL Stadium.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

\_\_\_\_\_  
Additions indicated by underline; Deletions indicated by strikethrough.

**June 9, 2021**

**To:** Mayor and Members of City Council 202102158

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – FY 2022 General Fund Operating Budget**

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Attached is an Emergency Ordinance captioned:

**PROVIDING** for the appropriation of funds and authorization of expenditures from General Fund 050 in the amount of \$440,788,700 for the fiscal year beginning July 1, 2021 and ending June 30, 2022, reflecting a portion of the Recommended FY 2022 General Fund Operating Budget totaling \$441,113,700, per the attached Schedule of Appropriation, in order to provide for the current expenses and other expenses of the City of Cincinnati; **AUTHORIZING** the transfer of the sum of \$3,466,118 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Bond Retirement Fund 151 for the purpose of paying the City's FY 2022 General Fund debt service obligations related to the Ohio Police and Fire Pension Fund in the amount of \$2,526,858 and the Early Retirement Incentive Program (ERIP) in the amount of \$939,260; **AUTHORIZING** the transfer of the sum of \$16,568,110 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416 for the purpose of providing for the FY 2022 General Fund Operating Budget portion of the expenses of the Cincinnati Health Department; **AUTHORIZING** the transfer and appropriation of the sum of \$150,000 from the unappropriated surplus of General Fund 050 to the Citizens Jobs Fund 308 Department of Recreation personnel operating budget account no. 308x199x7100 for the purpose of providing funding for youth employment opportunities; **APPROVING** the recommendation of the Mayor for an increase in the compensation of City Manager Paula Boggs Muething effective June 27, 2021; **REVISING** the Classification and Salary Range Schedule for all employment classifications in Divisions 0, 5, 7 (LAW), 8, and 9 of Chapter 307 of the Cincinnati Municipal Code to establish the new Classification and Salary Range Schedule for said classifications and to provide for a cost-of-living adjustment of 2.0% effective June 27, 2021; and further **ESTABLISHING** the annual inflationary amount applied to the fees charged for services related to permitting and property maintenance by the Department of Buildings and Inspections at 1.23% and instituting a new 1.0% training surcharge.

There are several changes reflected in this Emergency Ordinance from the Recommended FY 2022 General Fund Operating Budget:

- Responsibility and funding for managing Economic Development related leveraged support items is being transferred from the Department of Economic

Inclusion (DEI) to the Department of Community and Economic Development (DCED). The table below outlines these changes:

Item	From	To	FY 2022	FY 2023
African American Chamber of Commerce	Economic Inclusion	Community & Economic Development	325,000	325,000
CincyTech	Economic Inclusion	Community & Economic Development	250,000	250,000
Cintrifuse	Economic Inclusion	Community & Economic Development	250,000	250,000
Hillman Accelerator	Economic Inclusion	Community & Economic Development	100,000	100,000
MORTAR	Economic Inclusion	Community & Economic Development	65,000	65,000
<b>Total</b>			<b>990,000</b>	<b>990,000</b>

- Responsibility and funding for the leveraged support amount for Invest in Neighborhoods (IIN) is being transferred from the City Manager's Office to the Department of Community and Economic Development. This will align the leveraged support with the funds that IIN will receive to manage the leveraged support funding for the Neighborhood Community Councils in order to streamline the contracting process.

Item	From	To	FY 2022	FY 2023
Invest in Neighborhoods	City Manager's Office	Community & Economic Development	50,000	50,000
<b>Total</b>			<b>50,000</b>	<b>50,000</b>

- Additional leveraged support funding will be provided in the amount of \$8,000 as City Hall Small Business Support. The non-departmental lump sum payment account will be reduced by \$8,000 to offset this increase.
- For FY 2022, the Department of City Planning was to provide administrative support to the Department of Economic Inclusion in the amount of \$32,770 which was budgeted as a reimbursement with DEI having the expense and Planning receiving the reimbursement. That arrangement will not be moving forward, and the planned reimbursement will not happen. As such, the appropriation for City Planning is increasing by \$32,770 and DEI's appropriation is being reduced by that same amount.

The reason for the emergency is to ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021, for the current expenses and other expenses of the City of Cincinnati.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

## **EMERGENCY**

**CMZ**

**- 2021**

**PROVIDING** for the appropriation of funds and authorization of expenditures from General Fund 050 in the amount of \$440,788,700 for the fiscal year beginning July 1, 2021 and ending June 30, 2022, reflecting a portion of the Recommended FY 2022 General Fund Operating Budget totaling \$441,113,700, per the attached Schedule of Appropriation, in order to provide for the current expenses and other expenses of the City of Cincinnati; **AUTHORIZING** the transfer of the sum of \$3,466,118 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Bond Retirement Fund 151 for the purpose of paying the City's FY 2022 General Fund debt service obligations related to the Ohio Police and Fire Pension Fund in the amount of \$2,526,858 and the Early Retirement Incentive Program (ERIP) in the amount of \$939,260; **AUTHORIZING** the transfer of the sum of \$16,568,110 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416 for the purpose of providing for the FY 2022 General Fund Operating Budget portion of the expenses of the Cincinnati Health Department; **AUTHORIZING** the transfer and appropriation of the sum of \$150,000 from the unappropriated surplus of General Fund 050 to the Citizens Jobs Fund 308 Department of Recreation personnel operating budget account no. 308x199x7100 for the purpose of providing funding for youth employment opportunities; **APPROVING** the recommendation of the Mayor for an increase in the compensation of City Manager Paula Boggs Muething effective June 27, 2021; **REVISING** the Classification and Salary Range Schedule for all employment classifications in Divisions 0, 5, 7 (LAW), 8, and 9 of Chapter 307 of the Cincinnati Municipal Code to establish the new Classification and Salary Range Schedule for said classifications and to provide for a cost-of-living adjustment of 2.0% effective June 27, 2021; and further **ESTABLISHING** the annual inflationary amount applied to the fees charged for services related to permitting and property maintenance by the Department of Buildings and Inspections at 1.23% and instituting a new 1.0% training surcharge.

**WHEREAS**, in order to provide for the usual daily operations of various departments of the City of Cincinnati, Ohio, during the fiscal year beginning July 1, 2021 and ending June 30, 2022, financed from the General Fund, it is necessary that funds be appropriated for the purposes hereinafter set forth; and

**WHEREAS**, due to the COVID-19 pandemic, one-time resources in the amount of \$67,500,000 from American Rescue Plan (ARP) stimulus funds is available to reimburse expenses or provide revenue replacement for the FY 2022 General Fund Operating Budget; and

**WHEREAS**, the Mayor and City Council are committed to providing high quality local government services for the people of Cincinnati, and they are supported in such efforts by the City Manager of the City of Cincinnati; and

WHEREAS, the Mayor has recommended a 5.0% increase in compensation for the City Manager effective June 27, 2021 and, pursuant to Article IV, Section 1 of the Charter, City Council must authorize the increase to the City Manager's compensation; and

WHEREAS, the Recommended FY 2022 General Fund Operating Budget includes a cost-of-living adjustment for Non-Represented Employees in Divisions 0, 5, 7 (LAW), 8, and 9 at the rate of 2.0%; and

WHEREAS, Ordinance No. 0152-2017, passed June 21, 2017, authorized the Department of Buildings and Inspections to collect fees for services related to permitting and property maintenance, according to an established fee schedule, in order to augment the department's ability to ensure the safety and maintenance of buildings, to provide enhanced services, and to improve its technology infrastructure; and

WHEREAS, consistent with the Recommended FY 2022 General Fund Operating Budget, it is necessary to adjust the fees charged by the Department of Buildings and Inspections by 1.23% based on the annual consumer price index cost-of-living adjustment for calendar year 2020, to ensure that the fees charged reasonably account for increased costs of service delivery due to inflationary increases and continue to allow the department to accomplish the purposes intended; and

WHEREAS, consistent with the Recommended FY 2022 General Fund Operating Budget, it is necessary to assess a new 1.0% training surcharge to allow the Department of Buildings and Inspections to improve its training of staff to enhance the department's delivery of services; now, therefore,

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

Section 1. That, in order to provide for the current expenses and other expenses of the City of Cincinnati from the General Fund during the fiscal year beginning July 1, 2021 and ending June 30, 2022, there is appropriated out of the monies in the treasury, or any accruing revenues of the City available for such purposes, the sum of \$440,788,700 as set forth in the attached Schedule of Appropriation, Schedule 1, for the purposes therein indicated.

Section 2. That the sum of \$3,466,118 is hereby transferred from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Bond Retirement Fund 151 for the purpose of paying the City's FY 2022 General Fund debt service obligations related to the Ohio Police and Fire Pension Fund in the amount of \$2,526,858 and related to the Early Retirement Incentive Program (ERIP) in the amount of \$939,260.



Section 3. That the sum of \$16,568,110 is hereby transferred from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416 for the purpose of providing for the FY 2022 General Fund Operating Budget portion of the expenses of the Cincinnati Health Department.

Section 4. That the sum of \$150,000 is hereby transferred and appropriated from the unappropriated surplus of General Fund 050 to the Citizens Jobs Fund 308 Department of Recreation personnel operating budget account no. 308x199x7100 for the purpose of providing funding for youth employment opportunities.

Section 5. That, as proposed by the Mayor, City Council hereby authorizes a 5.0% increase to \$10,197.34 bi-weekly and to \$265,130.90 annually for the salary of City Manager Paula Boggs Muething, effective June 27, 2021. The City Manager benefits and exceptions authorized by Council in Ordinance No. 0337-2020 remain in effect and unmodified except that the 5.0% salary increase authorized herein shall, beginning on June 27, 2021, supersede the salary level formerly set forth Section 3 of Ordinance No. 0337-2020.

Section 6. That certain existing sections of Chapter 307 of the Cincinnati Municipal Code regarding the compensation schedules of employees in Divisions 0, 5, 7 (LAW), 8, and 9 are hereby repealed.

Section 7. That in place of the sections of Chapter 307 of the Cincinnati Municipal Code repealed in Section 8 hereof, new compensation schedules are hereby ordained for employees in Divisions 0, 5, 7 (LAW), 8, and 9, as indicated on the Non-Represented Salary Schedule, attached hereto as Exhibit A, and by this reference made a part hereof. The new compensation schedules for each classification in Divisions 0, 5, 7 (LAW), 8, and 9 have been determined by increasing current rates by 2.0%.

Section 8. That the Department of Buildings and Inspections fee schedule related to property permitting and maintenance, which Council authorized in Ordinance No. 0152-2017, is hereby repealed and replaced by the fee schedule attached hereto as Exhibit B, and by this reference made a part hereof. The new fee schedule has been determined by increasing the current fees by 1.23% for FY 2022, based on the annual consumer price index cost-of-living adjustment based on calendar year 2020 inflation and includes a newly established 1.0% training surcharge.

Section 9. That the appropriate City officials are hereby authorized to do all things necessary and proper to implement the provisions of Sections 1 through 8 of this ordinance.

Section 10. That the effective date of Sections 5 through 7 of this ordinance shall be June 27, 2021.

Section 11. That the effective date of Sections 1 through 4 and Section 8 of this ordinance shall be July 1, 2021.

Section 12. 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 ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021, for the current expenses and other expenses of the City of Cincinnati.

Passed: \_\_\_\_\_, 2021

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John Cranley, Mayor

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

**SCHEDULE OF APPROPRIATION  
FY 2022 GENERAL FUND OPERATING BUDGET**

SCHEDULE 1. That there be appropriated from the General Fund (050) for the fiscal year 2022, the sums set forth in the columns designated '7100, 7500 Salaries and Benefits, Non-Personnel 7200-7400, Properties 7600, Debt 7700' and 'Total Appropriation':

Department and Agency	Fund	Agency	Salaries and Benefits 7100, 7500	Non-Personnel 7200-7400	Properties 7600	Debt Service 7700	Total Appropriation
<b>City Council</b>							
Councilmember G. Landsman	050	011	122,690	4,940			127,630
Interim Councilmember L. Keating	050	012	122,690	4,940			127,630
Councilmember D. Mann	050	015	122,690	4,940			127,630
Councilmember C. Seelbach	050	016	122,690	4,940			127,630
Councilmember W. Young	050	017	122,690	4,940			127,630
City Councilmembers	050	019	1,064,640				1,064,640
Councilmember C. Smitherman	050	024	122,690	4,940			127,630
Interim Councilmember S. Goodin	050	026	122,690	4,940			127,630
Councilmember B. Sundermann	050	028	122,690	4,940			127,630
Councilmember J-M Kearney	050	029	122,690	4,940			127,630
<b>City Council Total</b>			<b>2,168,850</b>	<b>44,460</b>			<b>2,213,310</b>
<b>Office of the Mayor</b>							
<b>Office Of The Mayor</b>	<b>050</b>	<b>031</b>	<b>891,810</b>	<b>16,410</b>			<b>908,220</b>
<b>Clerk of Council</b>							
<b>Office Of The Clerk Of Council</b>	<b>050</b>	<b>041</b>	<b>529,010</b>	<b>144,530</b>			<b>673,540</b>
<b>Enterprise Technology Solutions</b>							
<b>Enterprise Technology Solutions</b>	<b>050</b>	<b>091</b>	<b>5,497,660</b>	<b>651,700</b>			<b>6,149,360</b>
<b>City Manager</b>							
City Manager's Office	050	101	3,053,400	9,099,070			12,152,470
Office Of Budget & Evaluation	050	102	856,290	75,710			932,000
Emergency Communications Center	050	103	12,914,720	160,440			13,075,160
Office Of Environment and Sustainability	050	104	747,980	1,772,230			2,520,210
Office Of Procurement	050	107	984,960	216,010			1,200,970
Performance and Data Analytics	050	108	1,290,780	90,800			1,381,580
Internal Audit	050	109	458,570	13,880			472,450
<b>City Manager Total</b>			<b>20,306,700</b>	<b>11,428,140</b>			<b>31,734,840</b>
<b>Law</b>							
Law - Civil	050	111	4,622,370	518,700			5,141,070
Law - Administrative Hearings & Prosecution	050	112	3,462,390	135,970			3,598,360
<b>Law Total</b>			<b>8,084,760</b>	<b>654,670</b>			<b>8,739,430</b>

Department and Agency	Fund	Agency	Salaries and Benefits 7100, 7500	Non-Personnel 7200-7400	Properties 7600	Debt Service 7700	Total Appropriation
<b>Human Resources</b>							
Human Resources	050	121	2,177,170	395,960			2,573,130
<b>Finance</b>							
Office of The Director	050	131	334,990	19,910			354,900
Accounts and Audits	050	133	1,563,240	119,320			1,682,560
Treasury	050	134	953,710	274,350			1,228,060
Risk Management	050	135		583,770			583,770
Income Tax	050	136	3,044,060	370,450			3,414,510
<b>Finance Total</b>			<b>5,896,000</b>	<b>1,367,800</b>			<b>7,263,800</b>
<b>Community &amp; Economic Development</b>							
Director's Office and Administration	050	161	496,050	1,197,110			1,693,160
Housing Division	050	162	87,750	650,050			737,800
Economic Development and Major/Special Projects Division	050	164	788,910	591,360			1,380,270
<b>Community &amp; Economic Development Total</b>			<b>1,372,710</b>	<b>2,438,520</b>			<b>3,811,230</b>
<b>City Planning</b>							
City Planning	050	171	501,240	40,580			541,820
<b>Citizen Complaint Authority</b>							
Citizen Complaint Authority	050	181	886,040	54,040			940,080
<b>Recreation</b>							
West Region	050	191	2,750,850	467,390			3,218,240
East Region	050	192	2,039,030	391,860			2,430,890
Central Region	050	193	2,665,610	509,880			3,175,490
Maintenance	050	194	2,436,470	1,016,840			3,453,310
Athletics	050	197	2,724,540	407,450			3,131,990
Support Services	050	199	2,412,000	173,170	25,600		2,610,770
<b>Recreation Total</b>			<b>15,028,500</b>	<b>2,966,590</b>	<b>25,600</b>		<b>18,020,690</b>
<b>Parks</b>							
Office of The Director	050	201	554,720	-			554,720
Operations and Facility Management	050	202	3,719,050	2,670,810			6,389,860
Administration and Program Services	050	203	1,650,770	659,370			2,310,140
<b>Parks Total</b>			<b>5,924,540</b>	<b>3,330,180</b>			<b>9,254,720</b>
<b>Buildings &amp; Inspections</b>							
Buildings & Inspections, Licenses & Permits	050	211	7,457,700	807,580			8,265,280
Property Maintenance Code Enforcement	050	212	1,987,040	348,730			2,335,770
<b>Buildings &amp; Inspections Total</b>			<b>9,444,740</b>	<b>1,156,310</b>			<b>10,601,050</b>

Department and Agency	Fund	Agency	Salaries and Benefits 7100, 7500	Non-Personnel 7200-7400	Properties 7600	Debt Service 7700	Total Appropriation
<b>Police</b>							
Patrol Bureau	050	222	102,091,920	6,131,960			108,223,880
Investigations Bureau	050	225	18,789,830	2,086,570			20,876,400
Support Bureau	050	226	17,293,700	4,122,970			21,416,670
Administration Bureau	050	227	11,335,300	4,151,140			15,486,440
<b>Police Total</b>			<b>149,510,750</b>	<b>16,492,640</b>			<b>166,003,390</b>
<b>Transportation &amp; Engineering</b>							
Office of The Director	050	231	436,120	80,400			516,520
Transportation Planning	050	232	53,610	15,470			69,080
Engineering	050	233	158,100	1,700			159,800
Traffic Engineering	050	239	-	1,962,990			1,962,990
<b>Transportation &amp; Engineering Total</b>			<b>647,830</b>	<b>2,060,560</b>			<b>2,708,390</b>
<b>Public Services</b>							
Office of The Director	050	251	988,660	97,300			1,085,960
Neighborhood Operations	050	253	6,247,670	4,974,400			11,222,070
City Facility Management	050	255	98,430	3,290,750			3,389,180
Fleet Services	050	256	173,650	1,030			174,680
<b>Public Services Total</b>			<b>7,508,410</b>	<b>8,363,480</b>			<b>15,871,890</b>
<b>Fire</b>							
Fire - Response	050	271	109,526,190	8,828,480			118,354,670
Fire - Support Services	050	272	14,896,780	1,548,520			16,445,300
<b>Fire Total</b>			<b>124,422,970</b>	<b>10,377,000</b>			<b>134,799,970</b>
<b>Economic Inclusion</b>							
Economic Inclusion	050	281	898,200	148,120			1,046,320

Department and Agency	Fund	Agency	Salaries and Benefits 7100, 7500	Non-Personnel 7200-7400	Properties 7600	Debt Service 7700	Total Appropriation
<b>Non-Departmental Accounts</b>							
Contribution to City Pension	050	911	939,250				939,250
Public Employees Assistance Program (PEAP)	050	919	337,000				337,000
Workers' Compensation Insurance	050	921	3,971,250				3,971,250
Police & Fire Fighters' Insurance	050	922		313,000			313,000
State Unemployment Compensation	050	923	386,510				386,510
Lump Sum Payments	050	924	886,110				886,110
Audit And Examiner's Fees	050	941		450,000			450,000
Hamilton County Treasurer & Auditor Fees	050	942		500,000			500,000
General Fund Overhead	050	944		83,270			83,270
Election Expense	050	946		451,000			451,000
Judgments Against The City	050	951		900,000			900,000
Enterprise Software and Licenses	050	952		6,331,640			6,331,640
Memberships & Publications	050	953		264,370			264,370
Other City Obligations	050	959		178,760			178,760
Downtown Special Improvement District	050	963		110,880			110,880
The Port (Greater Cincinnati Redevelopment Authority)	050	968		700,000			700,000
Property Investment Reimbursement Agreements (PIRAs)	050	969		30,480			30,480
Reserve for Contingencies	050	990		100,000			100,000
<b>Non-Departmental Accounts Total</b>			<b>6,520,120</b>	<b>10,413,400</b>			<b>16,933,520</b>
<b>Total General Fund</b>			<b>368,218,010</b>	<b>72,545,090</b>	<b>25,600</b>	<b>-</b>	<b>440,788,700</b>

Estimated receipts, surplus, and expenditures of the General Fund for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

<b><u>RECEIPTS AND SURPLUS</u></b>	<b><u>AMOUNT</u></b>	<b><u>EXPENDITURES &amp; BALANCES</u></b>	<b><u>AMOUNT</u></b>
Taxes		Total Salary and Benefits.....	\$368,218,010
Real and Tangible Property	\$28,988,000		
City Earnings	\$277,139,731		
Other Taxes	\$4,359,948		
Total Taxes.....	\$310,487,679		
		Other Expenses	
Other Receipts		Departmental	\$62,131,690
Licenses and Permits	\$21,031,492	Non-Departmental	\$10,313,400
Courts and Use of Money and Property	\$8,553,006	Reserve for Contingencies	\$100,000
Revenue from Other Agencies	\$12,285,587		
Charges for Current Service	\$30,101,966	Properties	\$25,600
Casino Revenue	\$8,000,000		
Miscellaneous Revenue	\$70,838,195	Debt Service	\$0
Total Other Receipts.....	\$150,810,246		
		Total Other Expenses, Properties, and Debt.....	\$72,570,690
TOTAL RECEIPTS.....	\$461,297,925	TOTAL EXPENDITURES.....	\$440,788,700
TRANSFERS IN .....	\$0	TRANSFERS OUT.....	\$20,184,228
Estimated Balance July 1, 2021	\$14,332,730	Estimated Balance June 30, 2022	\$14,657,727
<b>TOTAL RECEIPTS AND SURPLUS</b>	<b>\$475,630,655</b>	<b>TOTAL EXPENDITURES AND BALANCE</b>	<b>\$475,630,655</b>



Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-001	D0	001	Administrative Specialist	24.82652358	37.74414528	25.32305405	38.49902819
307-008	D0	008	Administrative Technician	18.80342970	28.58714424	19.17949829	29.15888712
307-009	D0	009	Investigator	29.56421040	44.77538574	30.15549461	45.67089345
307-013	D0	013	Senior Administrative Spclst	29.45094348	44.77538574	30.03996235	45.67089345
307-042	D0	042	Computer Programmer/Analyst	19.53973710	26.90622096	19.93053184	27.44434538
307-043	D0	043	Senior Comptr Programmer/Anlys	29.45094348	44.77538574	30.03996235	45.67089345
307-058	D0	058	Community Dvlpmnt & Plan Anal-EXM	24.82652358	37.74414528	25.32305405	38.49902819
307-066	D0	066	Development Officer	24.82652358	34.18611396	25.32305405	34.86983624
307-080	D0	080	Graphic Designer	24.82652358	37.74414528	25.32305405	38.49902819
307-089	D0	089	Human Resources Analyst	24.82652358	37.74414528	25.32305405	38.49902819
307-092	D0	092	Internal Auditor	24.82652358	37.74414528	25.32305405	38.49902819
307-094	D0	094	Management Analyst	24.82652358	37.74414528	25.32305405	38.49902819
307-146	D0	146	Comm Econ Development Analyst	19.47559338	37.74414528	19.86510525	38.49902819
307-148	D0	148	Comm Econ Develop Sr Analyst	24.10202166	44.77538574	24.58406209	45.67089345
307-149	D0	149	Senior Human Resources Analyst	29.45137698	44.77538574	30.04040452	45.67089345
307-150	D0	150	Senior Internal Auditor	29.45137698	44.77538574	30.04040452	45.67089345
307-151	D0	151	Supvr of Prk/Rec Maint & Const	29.45137698	44.77538574	30.04040452	45.67089345
307-152	D0	152	Senior City Planner	29.45137698	44.77538574	30.04040452	45.67089345
307-154	D0	154	Senior CommDev & Plan Anl-EXM	29.45137698	44.77538574	30.04040452	45.67089345
307-156	D0	156	Senior Development Officer	29.45137698	44.77538574	30.04040452	45.67089345
307-162	D0	162	Human Resources Info Sys Anal	29.44740000	44.77800000	30.03634800	45.67356000
307-177	D0	177	Senior Management Analyst	29.45137698	44.77538574	30.04040452	45.67089345
307-190	D0	190	Zoning Hearing Examiner	43.70540880	59.00230800	44.57951698	60.18235416
307-200	D0	200	Dietitian	22.11305940	30.44968158	22.55532059	31.05867521
307-219	D0	219	PEAP Coordinator	42.61334400	59.29482700	43.46561088	60.48072354
307-220	D0	220	Psychologist	29.83731744	41.08598862	30.43406379	41.90770839
307-228	D0	228	Assistant Dental Director	29.45137698	40.55454006	30.04040452	41.36563086
307-248	D0	248	Physician Assistant	31.17421818	41.89553202	31.79770254	42.73344266
307-258	D0	258	Accountant	24.82652358	37.74414528	25.32305405	38.49902819
307-265	D0	265	City Planner	24.82652358	37.74414528	25.32305405	38.49902819
307-271	D0	271	Physical Therapist	23.27519640	32.04995040	23.74070033	32.69094941
307-299	D0	299	Asst Health Laboratory Mgr	29.45137698	40.55454006	30.04040452	41.36563086
307-322	D0	322	Recycling Operations Tech	17.72000000	23.63000000	18.07440000	24.10260000
307-323	D0	323	Training Coordinator	29.45137698	44.77538574	30.04040452	45.67089345
307-336	D0	336	Housing Services Coordinator	20.40769200	21.12019200	20.81584584	21.54259584
307-438	D0	438	Supervisor of Building Permits	24.43841970	33.65170128	24.92718809	34.32473531
307-443	D0	443	Zoning Supervisor	27.90975102	38.43172932	28.46794604	39.20036391
307-575	D0	575	Development Officer 4	31.76057130	44.77538574	32.39578273	45.67089345
307-763	D0	763	Security Supervisor	18.80342970	25.89232362	19.17949829	26.41017009
307-824	D0	824	Information Technology Coor	19.53973710	26.90622096	19.93053184	27.44434538
307-826	D0	826	Emergency Comm Asst Mgr	29.45094246	44.77538574	30.03996131	45.67089345
307-864	D0	864	Landscape Architect	25.21354014	34.71904458	25.71781094	35.41342547
307-963	D0	963	Park Planner	31.76057130	43.73429928	32.39578273	44.60898527
307-004	D5	004	ETS Director	53.33104680	80.43141660	54.39766774	82.04004493
307-012	D5	012	Director of Communications	44.46170514	63.28103562	45.35093924	64.54665633
307-014	D5	014	Executive Mgr of Police Relatns	44.17742298	59.63964582	45.06097144	60.83243874
307-016	D5	016	Assistant to the City Manger	40.97436900	59.29482666	41.79385638	60.48072319
307-019	D5	019	Assistant Safety Director	44.17743420	59.63953260	45.06098288	60.83232325
307-020	D5	020	City Manager	121.39693200	154.30826628	123.82487064	157.39443161
307-022	D5	022	CommDev & Planning Director	53.33104680	71.99691726	54.39766774	73.43685561
307-032	D5	032	Deputy City Manager	62.31258948	84.12199692	63.55884127	85.80443686
307-033	D5	033	Environmental Programs Manager	46.52324142	63.28103562	47.45370625	64.54665633
307-040	D5	040	Budget Director	53.33104884	74.15680194	54.39766982	75.63993798
307-059	D5	059	Dir of Perform & Data Analytic	53.33104680	80.43141660	54.39766774	82.04004493
307-074	D5	074	CCA Director	53.33104680	74.15680194	54.39766774	75.63993798
307-075	D5	075	Cntrct Cmp & Adm Hrng Off	40.97436900	55.31539254	41.79385638	56.42170039
307-108	D5	108	Assistant Finance Director	48.96959310	67.76551764	49.94898496	69.12082799
307-114	D5	114	Director of Economic Inclusion	58.93357020	74.15680194	60.11224160	75.63993798
307-115	D5	115	Finance Director	53.33104680	80.43141660	54.39766774	82.04004493

Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-120	D5	120	Retirement Director	53.33104680	74.15680194	54.39766774	75.63993798
307-153	D5	153	Dep Dir Perf & Data Analytics	46.06253190	62.65448940	46.98378254	63.90757919
307-155	D5	155	Human Resources Director	53.33104680	74.15680194	54.39766774	75.63993798
307-158	D5	158	Asst Human Resources Director	44.17743420	59.63953260	45.06098288	60.83232325
307-170	D5	170	City Solicitor	62.31258948	96.35417862	63.55884127	98.28126219
307-204	D5	204	Assistant Health Commissioner	46.52324142	62.80637148	47.45370625	64.06249891
307-205	D5	205	Health Commissioner	62.31267720	96.35417862	63.55893074	98.28126219
307-365	D5	365	Fire Chief	62.31259152	85.03252440	63.55884335	86.73317489
307-389	D5	389	Police Chief	62.31259152	85.03252440	63.55884335	86.73317489
307-446	D5	446	Buildings & Inspections Dir	63.95579622	80.43141660	65.23491214	82.04004493
307-450	D5	450	Asst Building & Insp Director	38.46789036	51.93165270	39.23724817	52.97028575
307-490	D5	490	City Planning Director	53.33104680	74.15680194	54.39766774	75.63993798
307-525	D5	525	Deputy Public Works Director	46.52324142	67.76551764	47.45370625	69.12082799
307-527	D5	527	Deputy Sewers Director	46.52324142	62.80637046	47.45370625	64.06249787
307-530	D5	530	Sewers Director	53.33104680	80.43141660	54.39766774	82.04004493
307-534	D5	534	Dep Dir of Economic Inclusion	46.52315676	63.28103562	47.45361990	64.54665633
307-535	D5	535	Deputy Director	46.52305272	67.76551764	47.45351377	69.12082799
307-554	D5	554	Asst Neighborhood Svcs Directr	38.46789036	51.93165270	39.23724817	52.97028575
307-556	D5	556	Deputy CommDev & Planning Dir	46.52324142	62.80637250	47.45370625	64.06249995
307-559	D5	559	Assistant Recreation Director	42.89205672	63.28103562	43.74989785	64.54665633
307-560	D5	560	Recreation Director	53.33104680	80.43141660	54.39766774	82.04004493
307-735	D5	735	Water Works Director	64.91513274	80.43141660	66.21343539	82.04004493
307-828	D5	828	Emergency Comm Center Director	53.33104782	80.43141864	54.39766878	82.04004701
307-865	D5	865	Parks Director	56.93230980	80.43141660	58.07095600	82.04004493
307-888	D5	888	Public Services Director	53.33104680	80.43141660	54.39766774	82.04004493
307-891	D5	891	Assistant City Manager	62.31259050	96.35417862	63.55884231	98.28126219
307-970	D5	970	Transportation & Eng Director	53.33104680	80.43141660	54.39766774	82.04004493
307-981	D5	981	Employment & Training Manager	46.52324142	62.80637046	47.45370625	64.06249787
307-982	D5	982	Director of Water and Sewers	67.72511850	101.83561374	69.07962087	103.87232601
307-984	D5	984	Director Community & Econ Dev	58.93357020	74.15680194	60.11224160	75.63993798
307-985	D5	985	Deputy Dir Community & Econ De	46.52324142	67.76545236	47.45370625	69.12076141
307-989	D5	989	Deputy Director Water & Sewers	50.98667370	67.76551764	52.00640717	69.12082799
307-991	D5	991	Executive Project Director	55.04683164	98.43428808	56.14776827	100.40297384
307-997	D5	997	Economic Development Director	53.33104680	71.99691726	54.39766774	73.43685561
307-157	LAW	157	Chief Counsel	43.13155680	77.23275780	43.99418794	78.77741296
307-166	LAW	166	Assistant City Solicitor	24.82652460	44.84482632	25.32305509	45.74172285
307-167	LAW	167	Senior Asst City Solicitor	29.26125000	70.02692292	29.84647500	71.42746138
307-169	LAW	169	Deputy City Solicitor	53.85098058	84.70689654	54.92800019	86.40103447
307-186	LAW	186	Support Services Manager	29.45094144	40.55453700	30.03996027	41.36562774
307-187	LAW	187	Law Chief of Staff	53.85098058	84.70689654	54.92800019	86.40103447
307-188	LAW	188	Real Estate Manager	40.00660320	59.29482666	40.80673526	60.48072319
307-191	LAW	191	Asst to the City Solicitor	28.87347252	44.84482632	29.45094197	45.74172285
307-193	LAW	193	Support Services Specialist	18.43473234	37.74414732	18.80342699	38.49903027
307-217	LAW	217	Legal Assistant	18.43473234	37.74414732	18.80342699	38.49903027
307-223	LAW	223	Chief Appraiser	35.29335150	51.32241384	35.99921853	52.34886212
307-224	LAW	224	Real Estate Specialist	24.82652460	34.18611090	25.32305509	34.86983312
307-225	LAW	225	Senior Real Estate Specialist	31.76057232	44.84482632	32.39578377	45.74172285
307-930	LAW	930	Law Clerk	11.25950154	18.83580450	11.48469157	19.21252059
307-931	LAW	931	Administrative Hearing Officer	29.90454564	70.02692292	30.50263655	71.42746138
307-998	LAW	998	Spvg Real Estate Specialist	35.29335048	47.64601764	35.99921749	48.59893799
307-015	D8	015	Regional Computer Center Mgr	53.85097854	72.69882618	54.92799811	74.15280270
307-041	D8	041	Supervising Management Analyst	35.29334946	51.32241384	35.99921645	52.34886212
307-045	D8	045	Info Technology Asst Manager	37.81923156	55.30862076	38.57561619	56.41479318
307-046	D8	046	Information Technology Manager	42.72653622	59.29482666	43.58106694	60.48072319
307-078	D8	078	Chief Investigator	35.29334946	51.32241384	35.99921645	52.34886212
307-109	D8	109	Airport Manager	37.81923156	55.30862076	38.57561619	56.41479318
307-110	D8	110	Division Manager	42.72616086	59.29482666	43.58068408	60.48072319
307-113	D8	113	Risk Manager	37.81923156	51.05596536	38.57561619	52.07708467
307-131	D8	131	Supvg Environ/Safety Spec	35.29334946	51.32241384	35.99921645	52.34886212

Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-134	D8	134	Asst Commercial Svcs Supt	33.40029066	45.09039132	34.06829647	45.99219915
307-135	D8	135	Commercial Services Supt	42.72653622	59.29482666	43.58106694	60.48072319
307-141	D8	141	Supervising Buyer	35.29334946	51.32241384	35.99921645	52.34886212
307-145	D8	145	City Purchasing Agent	37.81923156	51.05596536	38.57561619	52.07708467
307-159	D8	159	Supvg Human Resources Analyst	35.29334946	51.32241384	35.99921645	52.34886212
307-160	D8	160	Police Academy Manager	40.00640226	54.00891738	40.80653031	55.08909573
307-168	D8	168	Asst Treatment Superintendent	37.81923156	55.30862076	38.57561619	56.41479318
307-178	D8	178	Medical Director	74.63762178	105.53639202	76.13037422	107.64711986
307-185	D8	185	Supvg Comm Dev & Plang Anl-EXM	35.29334946	51.32241384	35.99921645	52.34886212
307-201	D8	201	Occupational/Safety Hlth Coord	42.61334274	59.29482666	43.46560959	60.48072319
307-202	D8	202	Public Wks Opr Asst Supt	37.81923156	51.05596536	38.57561619	52.07708467
307-208	D8	208	City Architect	43.70540982	63.28103562	44.57951802	64.54665633
307-216	D8	216	Principal Engineer	40.18017048	55.30862076	40.98377389	56.41479318
307-218	D8	218	Envrnmntl/Solid Wst Prgrams Crd	40.00660626	55.30862076	40.80673839	56.41479318
307-227	D8	227	Dental Director	83.12395956	99.65517198	84.78643875	101.64827542
307-231	D8	231	Parks/Rec Superintendent	41.48246670	59.29482666	42.31211603	60.48072319
307-233	D8	233	Pharmacy Director	56.94493230	68.22115470	58.08383095	69.58557779
307-236	D8	236	Supervising Real Property Spec	35.29334946	51.32241384	35.99921645	52.34886212
307-237	D8	237	Public Information Officer	31.45310862	48.75509322	32.08217079	49.73019508
307-242	D8	242	Health Programs Manager	35.29334946	51.32241384	35.99921645	52.34886212
307-249	D8	249	Public Health Practitioner	66.68953698	90.03087528	68.02332772	91.83149279
307-252	D8	252	Dentist	69.20410626	88.69310244	70.58818839	90.46696449
307-253	D8	253	Public Wks Opr Superintendent	42.72653622	59.29482666	43.58106694	60.48072319
307-254	D8	254	Supervising Accountant	35.29334946	51.32241384	35.99921645	52.34886212
307-255	D8	255	Supervising Architect	35.29334946	51.32241384	35.99921645	52.34886212
307-256	D8	256	Treatment Superintendent	42.72653622	59.29482666	43.58106694	60.48072319
307-257	D8	257	Public Wrks/Utilities Supt	42.72653622	59.29482666	43.58106694	60.48072319
307-259	D8	259	Environmental Services Directr	33.40029066	47.83448202	34.06829647	48.79117166
307-260	D8	260	Regional Comp Ctr Asst Mgr	45.94452912	62.02511166	46.86341970	63.26561389
307-261	D8	261	Public Health Internist	66.68953698	90.03087528	68.02332772	91.83149279
307-262	D8	262	Public Health Pediatrician	66.68953698	90.03087528	68.02332772	91.83149279
307-263	D8	263	Public Health Physician	66.68953698	90.03087528	68.02332772	91.83149279
307-282	D8	282	Nursing Director	42.72653622	59.29482666	43.58106694	60.48072319
307-286	D8	286	Supervising Chemist	35.29334946	51.32241384	35.99921645	52.34886212
307-300	D8	300	Health Laboratory Director	33.40029066	45.09039132	34.06829647	45.99219915
307-304	D8	304	Treatment Supervisor	35.29334946	51.32241384	35.99921645	52.34886212
307-307	D8	307	Supervising Epidemiologist	35.42909412	51.32241384	36.13767600	52.34886212
307-308	D8	308	Pension Fund Manager	51.12436350	69.01818372	52.14685077	70.39854739
307-321	D8	321	Finance Manager	45.94452912	63.28103562	46.86341970	64.54665633
307-435	D8	435	Supervising Inspector	34.78825974	47.83448202	35.48402493	48.79117166
307-486	D8	486	Supervising City Planner	35.29334946	51.32241384	35.99921645	52.34886212
307-487	D8	487	Urban Conservator	35.29334946	51.32241384	35.99921645	52.34886212
307-509	D8	509	Geotechnical Engineer	35.29334946	51.32241384	35.99921645	52.34886212
307-515	D8	515	Supervising Engineer	35.29334946	51.32241384	35.99921645	52.34886212
307-518	D8	518	Principal Architect	40.18017048	55.30862076	40.98377389	56.41479318
307-519	D8	519	City Engineer	47.65755996	63.28103562	48.61071116	64.54665633
307-529	D8	529	Supvg Bldg Plans Exam Code Anl	35.29334946	51.32241384	35.99921645	52.34886212
307-531	D8	531	City Traffic Engineer	43.70540982	63.28103562	44.57951802	64.54665633
307-539	D8	539	Water Works Chief Engineer	43.70540982	59.29482666	44.57951802	60.48072319
307-540	D8	540	Facilities Maintenance Manager	37.81923156	51.05596536	38.57561619	52.07708467
307-541	D8	541	Asst Facilities Mntnce Manager	33.40029066	47.83448202	34.06829647	48.79117166
307-542	D8	542	Facilities Manager	42.72653622	59.29482666	43.58106694	60.48072319
307-544	D8	544	Sewers Chief Engineer	43.70540982	59.29482666	44.57951802	60.48072319
307-551	D8	551	Supvg Parks/Recreation Cordntr	35.29334946	51.32241384	35.99921645	52.34886212
307-558	D8	558	Supervisor of Golf	35.29334946	51.32241384	35.99921645	52.34886212
307-576	D8	576	Development Manager	35.29334946	51.32241384	35.99921645	52.34886212
307-646	D8	646	Traffic Services Manager	35.29334946	47.64602070	35.99921645	48.59894111
307-683	D8	683	City Stormwater Management Eng	43.70540982	59.29482666	44.57951802	60.48072319
307-685	D8	685	Asst Fleet Services Manager	33.40029066	47.83448202	34.06829647	48.79117166

Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-686	D8	686	Fleet Services Manager	40.00660626	54.00891738	40.80673839	55.08909573
307-692	D8	692	Parking Superintendent	40.00660626	55.30862076	40.80673839	56.41479318
307-710	D8	710	Wastewater Collection Supt	42.72653622	57.68082354	43.58106694	58.83444001
307-729	D8	729	Industrial Waste Superintendnt	42.72653622	57.68082354	43.58106694	58.83444001
307-764	D8	764	Asst Water Distribution Supt	33.40029066	45.09039132	34.06829647	45.99219915
307-765	D8	765	Water Distribution Supt	42.72653622	57.68082354	43.58106694	58.83444001
307-822	D8	822	Emergency Response Coordinator	35.29334946	47.64602070	35.99921645	48.59894111
307-827	D8	827	Emergency Communications Mgr	40.80652698	55.08909534	41.62265752	56.19087725
307-880	D8	880	Printing Services & Stores Mgr	33.40029066	47.83448202	34.06829647	48.79117166
307-948	D8	948	Asst Convention Center Manager	33.40029066	45.09039132	34.06829647	45.99219915
307-950	D8	950	Convention Center Manager	40.00660626	54.00891738	40.80673839	55.08909573
307-983	D8	983	Employment & Training Supv.	35.29334946	51.32241384	35.99921645	52.34886212
307-986	D8	986	Optometrist	59.20019922	76.11445224	60.38420320	77.63674128
307-999	D8	999	Internal Audit Manager	37.81923258	55.30862076	38.57561723	56.41479318
307-023	D9	023	Council Assistant	11.25950154	54.92084940	11.48469157	56.01926639
307-024	D9	024	Chief Deputy Clerk of Council	31.82465688	47.63514138	32.46115002	48.58784421
307-025	D9	025	Clerk of Council	40.66896060	53.91089028	41.48233981	54.98910809
307-035	D9	035	Deputy Clerk	16.72203300	28.99090614	17.05647366	29.57072426
307-036	D9	036	Assistant Chief Deputy Clerk	25.37298756	35.07837528	25.88044731	35.77994279

**EXHIBIT B**



**CITY OF CINCINNATI**  
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BUILDING PERMIT FEES				APPLICATION EXTENSION	
NEW CONSTRUCTION - ADDITION - ALTERATION - REPAIR				RCO Applications	\$127.00
FIRE PROTECTION - RETAINING WALLS - SITE IMPROVEMENT				OBC Applications	\$189.00
Project Valuation	Permits without plans	RCO Project with plans*	OBC Project with plans	ZONING RELATED SERVICES	
\$ 2,000.00	\$ 84.00	\$ 137.00	\$ 269.00	Certificate of Appropriateness	\$119.00
\$ 3,000.00	\$ 109.00	\$ 137.00	\$ 269.00	Zoning Certificate of Compliance	\$119.00
\$ 4,000.00	\$ 137.00	\$ 137.00	\$ 269.00	Zoning Verification Letter	\$119.00
\$ 5,000.00	\$ 162.00	\$ 162.00	\$ 269.00	DeMinimus Variance/Minor Use Permits (FBC)	\$235.00
\$ 6,000.00	\$ 185.00	\$ 185.00	\$ 269.00	RESIDENTIAL CERTIFICATE OF OCCUPANCY/INSPECTION	
\$ 7,000.00	\$ 205.00	\$ 205.00	\$ 269.00	RCO Certificates (first dwelling unit)	\$50.00
\$ 8,000.00	\$ 225.00	\$ 225.00	\$ 269.00	Each additional unit	\$13.00
\$ 9,000.00	\$ 250.00	\$ 250.00	\$ 269.00	OBC Certificates (first dwelling unit)	\$69.00
\$ 10,000.00	\$ 269.00	\$ 269.00	\$ 269.00	Each additional unit	\$14.00
\$ 11,000.00	\$ 285.00	\$ 285.00	\$ 285.00	Maximum fee	\$159.00
\$ 12,000.00	\$ 304.00	\$ 304.00	\$ 304.00	NON-RESIDENTIAL & RESIDENTIAL W/O DWELLING UNITS	
\$ 13,000.00	\$ 319.00	\$ 319.00	\$ 319.00	RCO and OBC Certificates (first 5000 sqft)	\$134.00
\$ 14,000.00	\$ 336.00	\$ 336.00	\$ 336.00	Each additional 5000 sqft	\$15.00
\$ 15,000.00	\$ 354.00	\$ 354.00	\$ 354.00	Maximum fee	\$453.00
\$ 16,000.00	\$ 371.00	\$ 371.00	\$ 371.00	TIME LIMITED CERTIFICATE OF OCCUPANCY	
\$ 17,000.00	\$ 388.00	\$ 388.00	\$ 388.00	5% of building permit fee for first three months plus 5% of building permit fee for each additional month thereafter.	Minimum fee \$101.00
\$ 18,000.00	\$ 406.00	\$ 406.00	\$ 406.00	Maximum fee	\$650.00
\$ 19,000.00	\$ 423.00	\$ 423.00	\$ 423.00	ENGINEERING CHANGE (changes to plans following permit issuance)	
\$ 20,000.00	\$ 441.00	\$ 441.00	\$ 441.00	Processing fee	\$56.00
\$ 21,000.00	\$ 458.00	\$ 458.00	\$ 458.00	Approval fee	\$81.00
\$ 22,000.00	\$ 472.00	\$ 472.00	\$ 472.00	REVISION FEE (including revisions to plan and revisions to engineering changes)	
\$ 23,000.00	\$ 492.00	\$ 492.00	\$ 492.00	RCO Permits	\$69.00
\$ 24,000.00	\$ 509.00	\$ 509.00	\$ 509.00	OBC Permits	\$198.00
\$ 25,000.00	\$ 525.00	\$ 525.00	\$ 525.00	RE-INSPECTION FEE	
\$ 26,000.00	\$ 540.00	\$ 540.00	\$ 540.00	Per inspection following second failed inspection	\$134.00
\$ 27,000.00	\$ 551.00	\$ 551.00	\$ 551.00	INVESTIGATION FEE (for projects commenced without a permit)	
\$ 28,000.00	\$ 565.00	\$ 565.00	\$ 565.00	The inspection fee is equal to the applicable permit fee and is charged in addition to the permit fee.	Maximum fee \$1,362.00
\$ 29,000.00	\$ 578.00	\$ 578.00	\$ 578.00	PERMIT REFUNDS	
\$ 30,000.00	\$ 592.00	\$ 592.00	\$ 592.00	One half of a fully paid permit fee is refundable if work has not begun under the permit and the refund is requested prior to permit expiration. All other refunds are subject to approval in the discretion of the director of buildings and inspections and may only be issued for good cause shown.	
\$ 31,000.00	\$ 606.00	\$ 606.00	\$ 606.00	PERMIT RENEWAL	
\$ 32,000.00	\$ 618.00	\$ 618.00	\$ 618.00	Prior to their expiration, permits may be renewed for one-half of the original permit fee.	Minimum fee \$66.00
\$ 33,000.00	\$ 630.00	\$ 630.00	\$ 630.00	Maximum fee	\$541.00
\$ 34,000.00	\$ 644.00	\$ 644.00	\$ 644.00	SCANNING FEES	
\$ 35,000.00	\$ 657.00	\$ 657.00	\$ 657.00	Sheets greater than 8 1/2" X 11"	\$10.00 /SHEET
\$ 36,000.00	\$ 671.00	\$ 671.00	\$ 671.00	Sheets no larger than 8 1/2" X 11"	\$3.00 /SHEET
\$ 37,000.00	\$ 685.00	\$ 685.00	\$ 685.00	TENTS	
\$ 38,000.00	\$ 697.00	\$ 697.00	\$ 697.00	Per 10,000 sqft per month	\$134.00
\$ 39,000.00	\$ 709.00	\$ 709.00	\$ 709.00	REVIEW BY APPOINTMENT	
\$ 40,000.00	\$ 723.00	\$ 723.00	\$ 723.00	RCO Applications	\$96.00
\$ 41,000.00	\$ 737.00	\$ 737.00	\$ 737.00	OBC Applications	\$521.00
\$ 42,000.00	\$ 751.00	\$ 751.00	\$ 751.00	PERMIT PROCESSING FEE	
\$ 43,000.00	\$ 763.00	\$ 763.00	\$ 763.00	All permits applications are assessed a one time non-refundable fee that is due at the time of application.	
\$ 44,000.00	\$ 778.00	\$ 778.00	\$ 778.00	RCO Applications	\$37.00
\$ 45,000.00	\$ 790.00	\$ 790.00	\$ 790.00	OBC Applications	\$106.00
\$ 46,000.00	\$ 802.00	\$ 802.00	\$ 802.00	This fee does not apply to plumbing and HVAC repair/replacement applications not requiring plans.	
\$ 47,000.00	\$ 814.00	\$ 814.00	\$ 814.00		
\$ 48,000.00	\$ 829.00	\$ 829.00	\$ 829.00		
\$ 49,000.00	\$ 843.00	\$ 843.00	\$ 843.00		
\$ 50,000.00	\$ 856.00	\$ 856.00	\$ 856.00		
FOR ALL VALUATIONS OVER \$50,000 = \$856 + \$9.31 x (VALUATION/\$1,000)					

Project Area and Valuation Calculations For All Permits
1. Project area and valuation is rounded up to nearest increment.
2. Project valuations shall be evaluated using applicants' estimated value of improvements and costs of construction published by the Engineering News-Record except as follows:
a. Retaining Walls: Portions of walls greater than 5' in height above grade shall be valued at \$373/lnft and portions of walls less than 5' in height above grade shall be valued at \$251/lnft.

Scheduled Fees are Subject to Additional Surcharges As Indicated
3% State Surcharge added to OBC permits as required
1% State Surcharge added to RCO permits as required
3% Technology Surcharge added to all scheduled fees excluding Administrative Hearings fees
1% Financial Recovery Fee added to all scheduled fees excluding Administrative Hearings fees
5% Planning Surcharge on all Construction, Plumbing and HVAC permits
1% Training Surcharge added to all scheduled fees excluding Administrative Hearings fees

\*RCO refers throughout to the Residential Code of Ohio  
\*\*OBC refers throughout to the Ohio Building Code

Premium Services - The fee is in addition to the regular permit fee and any other fees that may accrue	
RCO AFTER HOURS AND WEEKEND PLANS EXAMINATION	\$96 per application plus (\$127+PE rate)/HR
OBC AFTER HOURS AND WEEKEND PLANS EXAMINATION	\$547 per application plus (\$134+PE rate)/HR
EXPRESS PLAN EXAMINATION***	\$650 per application plus \$1039/HR
SAME DAY PERMIT ISSUANCE FOLLOWING APPROVAL FROM ALL AGENCIES	\$327 per application
SAME DAY INSPECTIONS	\$198 per inspection plus inspector rate/HR
AFTER HOURS AND WEEKEND INSPECTIONS	\$101 per inspection plus inspector rate/HR
FEES FOR PHASED PERMITTING	\$198 per phase
COMMERCIAL COURTESY INSPECTION	\$292 per inspection

\*\*\*Except that plans meeting defined walkthrough criteria established by the director of buildings and inspections shall not incur fees in addition to regular permit fees.





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HVAC FEE SCHEDULE*			PLUMBING FEES			WRECKING FEES		EXCAVATION/FILL FEES
Estimated Valuation	OBC Projects without plans and new RCO installations	OBC Projects with plans	Number of Fixtures	Replace Fixture Fee	New Fixture Fee	Wrecking Area (x1000sqft)	Building Demo Fee	Excavation and Fill Area (X1000cy)
			1	\$ 53.00	\$ 76.00	1	\$ 85.00	\$ 188.00
\$ 2,000.00	\$ 81.00	\$ 276.00	2	\$ 77.00	\$ 100.00	2	\$ 130.00	\$ 242.00
\$ 3,000.00	\$ 120.00	\$ 276.00	3	\$ 101.00	\$ 124.00	3	\$ 175.00	\$ 296.00
\$ 4,000.00	\$ 159.00	\$ 276.00	4	\$ 125.00	\$ 148.00	4	\$ 220.00	\$ 350.00
\$ 5,000.00	\$ 198.00	\$ 276.00	5	\$ 149.00	\$ 172.00	5	\$ 265.00	\$ 404.00
\$ 6,000.00	\$ 230.00	\$ 276.00	6	\$ 173.00	\$ 196.00	6	\$ 310.00	\$ 458.00
\$ 7,000.00	\$ 263.00	\$ 276.00	7	\$ 197.00	\$ 220.00	7	\$ 355.00	\$ 512.00
\$ 8,000.00	\$ 296.00	\$ 310.00	8	\$ 221.00	\$ 244.00	8	\$ 400.00	\$ 566.00
\$ 9,000.00	\$ 327.00	\$ 345.00	9	\$ 245.00	\$ 268.00	9	\$ 445.00	\$ 620.00
\$ 10,000.00	\$ 361.00	\$ 378.00	10	\$ 269.00	\$ 292.00	10	\$ 490.00	\$ 674.00
\$ 11,000.00	\$ 385.00	\$ 407.00	11	\$ 293.00	\$ 316.00	11	\$ 535.00	\$ 728.00
\$ 12,000.00	\$ 414.00	\$ 434.00	12	\$ 317.00	\$ 340.00	12	\$ 580.00	\$ 782.00
\$ 13,000.00	\$ 441.00	\$ 462.00	13	\$ 341.00	\$ 364.00	13	\$ 625.00	\$ 836.00
\$ 14,000.00	\$ 467.00	\$ 490.00	14	\$ 365.00	\$ 388.00	14	\$ 670.00	\$ 890.00
\$ 15,000.00	\$ 495.00	\$ 521.00	15	\$ 389.00	\$ 412.00	15	\$ 715.00	\$ 944.00
\$ 16,000.00	\$ 524.00	\$ 550.00	16	\$ 413.00	\$ 436.00	16	\$ 760.00	\$ 998.00
\$ 17,000.00	\$ 550.00	\$ 579.00	17	\$ 437.00	\$ 460.00	17	\$ 805.00	\$ 1,052.00
\$ 18,000.00	\$ 578.00	\$ 607.00	18	\$ 461.00	\$ 484.00	18	\$ 850.00	\$ 1,106.00
\$ 19,000.00	\$ 606.00	\$ 636.00	19	\$ 485.00	\$ 508.00	19	\$ 895.00	\$ 1,160.00
\$ 20,000.00	\$ 632.00	\$ 664.00	20	\$ 509.00	\$ 532.00	20	\$ 940.00	\$ 1,214.00
\$ 21,000.00	\$ 658.00	\$ 693.00	21	\$ 533.00	\$ 556.00	21	\$ 985.00	\$ 1,268.00
\$ 22,000.00	\$ 686.00	\$ 719.00	22	\$ 557.00	\$ 580.00	22	\$ 1,030.00	\$ 1,322.00
\$ 23,000.00	\$ 713.00	\$ 750.00	23	\$ 581.00	\$ 604.00	23	\$ 1,075.00	\$ 1,376.00
\$ 24,000.00	\$ 739.00	\$ 778.00	24	\$ 605.00	\$ 628.00	24	\$ 1,120.00	\$ 1,430.00
\$ 25,000.00	\$ 766.00	\$ 804.00	25	\$ 629.00	\$ 652.00	25	\$ 1,165.00	\$ 1,484.00
\$ 26,000.00	\$ 788.00	\$ 829.00	26	\$ 653.00	\$ 676.00	26	\$ 1,210.00	\$ 1,538.00
\$ 27,000.00	\$ 810.00	\$ 850.00	27	\$ 677.00	\$ 700.00	27	\$ 1,255.00	\$ 1,592.00
\$ 28,000.00	\$ 834.00	\$ 876.00	28	\$ 701.00	\$ 724.00	28	\$ 1,300.00	\$ 1,646.00
\$ 29,000.00	\$ 854.00	\$ 896.00	29	\$ 725.00	\$ 748.00	29	\$ 1,345.00	\$ 1,700.00
\$ 30,000.00	\$ 877.00	\$ 921.00	30	\$ 749.00	\$ 772.00	30	\$ 1,390.00	\$ 1,754.00
\$ 31,000.00	\$ 898.00	\$ 943.00	31	\$ 773.00	\$ 796.00	31	\$ 1,435.00	\$ 1,808.00
\$ 32,000.00	\$ 921.00	\$ 966.00	32	\$ 797.00	\$ 820.00	32	\$ 1,480.00	\$ 1,862.00
\$ 33,000.00	\$ 943.00	\$ 992.00	33	\$ 821.00	\$ 844.00	33	\$ 1,525.00	\$ 1,916.00
\$ 34,000.00	\$ 965.00	\$ 1,014.00	34	\$ 845.00	\$ 868.00	34	\$ 1,570.00	\$ 1,970.00
\$ 35,000.00	\$ 985.00	\$ 1,035.00	35	\$ 869.00	\$ 892.00	35	\$ 1,615.00	\$ 2,024.00
\$ 36,000.00	\$ 1,008.00	\$ 1,058.00	36	\$ 893.00	\$ 916.00	36	\$ 1,660.00	\$ 2,078.00
\$ 37,000.00	\$ 1,030.00	\$ 1,082.00	37	\$ 917.00	\$ 940.00	37	\$ 1,705.00	\$ 2,132.00
\$ 38,000.00	\$ 1,051.00	\$ 1,105.00	38	\$ 941.00	\$ 964.00	38	\$ 1,750.00	\$ 2,186.00
\$ 39,000.00	\$ 1,075.00	\$ 1,130.00	39	\$ 965.00	\$ 988.00	39	\$ 1,795.00	\$ 2,240.00
\$ 40,000.00	\$ 1,097.00	\$ 1,152.00	40	\$ 989.00	\$ 1,012.00	40	\$ 1,840.00	\$ 2,294.00
\$ 41,000.00	\$ 1,119.00	\$ 1,177.00	41	\$ 1,013.00	\$ 1,036.00	41	\$ 1,885.00	\$ 2,348.00
\$ 42,000.00	\$ 1,140.00	\$ 1,196.00	42	\$ 1,037.00	\$ 1,060.00	42	\$ 1,930.00	\$ 2,402.00
\$ 43,000.00	\$ 1,162.00	\$ 1,220.00	43	\$ 1,061.00	\$ 1,084.00	43	\$ 1,975.00	\$ 2,456.00
\$ 44,000.00	\$ 1,184.00	\$ 1,243.00	44	\$ 1,085.00	\$ 1,108.00	44	\$ 2,020.00	\$ 2,510.00
\$ 45,000.00	\$ 1,205.00	\$ 1,267.00	45	\$ 1,109.00	\$ 1,132.00	45	\$ 2,065.00	\$ 2,564.00
\$ 46,000.00	\$ 1,228.00	\$ 1,289.00	46	\$ 1,133.00	\$ 1,156.00	46	\$ 2,110.00	\$ 2,618.00
\$ 47,000.00	\$ 1,249.00	\$ 1,313.00	47	\$ 1,157.00	\$ 1,180.00	47	\$ 2,155.00	\$ 2,672.00
\$ 48,000.00	\$ 1,273.00	\$ 1,336.00	48	\$ 1,181.00	\$ 1,204.00	48	\$ 2,200.00	\$ 2,726.00
\$ 49,000.00	\$ 1,293.00	\$ 1,359.00	49	\$ 1,205.00	\$ 1,228.00	49	\$ 2,245.00	\$ 2,780.00
\$ 50,000.00	\$ 1,318.00	\$ 1,383.00	50	\$ 1,229.00	\$ 1,252.00	50	\$ 2,290.00	\$ 2,834.00
HVAC FEE SCHEDULE (Valuations>\$50,000)			PLUMBING FEE SCHEDULE			WRECKING FEES		E/F FEE SCHEDULE
\$50,001 TO \$100,000 = \$1383 + \$17.68/\$1000			Each additional fixture			\$ 24.00		First 100 cy \$134
\$100,001 TO \$500,000 = \$2267 + \$14.96/\$1000						\$45		Each additional 1000cy \$54
\$500,001 OR MORE = \$8251 + \$13.61/\$1000								

**\*HVAC Replacement in RCO Projects**

REPLACE EQUIPMENT/CONNECT TO AN EXISTING BRANCH UNIT
\$93 FOR THE FIRST UNIT + \$36 EACH ADDITIONAL UNIT
ADD EQUIPMENT CONNECTION TO NEW BRANCH CIRCUIT
\$72 FOR THE FIRST UNIT + \$36 EACH ADDITIONAL UNIT
COMBINATION OF ABOVE
\$93 FOR THE FIRST UNIT + \$36 FOR EACH ADDITIONAL UNIT





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Elevator Permit Fees	
NEW CONSTRUCTION - ADD - ALT - REPAIRS	
Estimated Valuation	Permit Fee
\$2,000.00	\$ 84.00
\$3,000.00	\$ 109.00
\$4,000.00	\$ 137.00
\$5,000.00	\$ 162.00
\$6,000.00	\$ 185.00
\$7,000.00	\$ 205.00
\$8,000.00	\$ 225.00
\$9,000.00	\$ 250.00
\$10,000.00	\$ 269.00
\$11,000.00	\$ 285.00
\$12,000.00	\$ 304.00
\$13,000.00	\$ 319.00
\$14,000.00	\$ 336.00
\$15,000.00	\$ 354.00
\$16,000.00	\$ 371.00
\$17,000.00	\$ 388.00
\$18,000.00	\$ 406.00
\$19,000.00	\$ 423.00
\$20,000.00	\$ 441.00
\$21,000.00	\$ 458.00
\$22,000.00	\$ 472.00
\$23,000.00	\$ 492.00
\$24,000.00	\$ 509.00
\$25,000.00	\$ 525.00
\$26,000.00	\$ 540.00
\$27,000.00	\$ 551.00
\$28,000.00	\$ 565.00
\$29,000.00	\$ 578.00
\$30,000.00	\$ 592.00
\$31,000.00	\$ 606.00
\$32,000.00	\$ 618.00
\$33,000.00	\$ 630.00
\$34,000.00	\$ 644.00
\$35,000.00	\$ 657.00
\$36,000.00	\$ 671.00
\$37,000.00	\$ 685.00
\$38,000.00	\$ 697.00
\$39,000.00	\$ 709.00
\$40,000.00	\$ 723.00
\$41,000.00	\$ 737.00
\$42,000.00	\$ 751.00
\$43,000.00	\$ 763.00
\$44,000.00	\$ 778.00
\$45,000.00	\$ 790.00
\$46,000.00	\$ 802.00
\$47,000.00	\$ 814.00
\$48,000.00	\$ 829.00
\$49,000.00	\$ 843.00
\$50,000.00	\$ 856.00
FOR ALL VALUATIONS OVER \$50,000 = \$856 + \$9.31 x (VALUATION/\$1,000)	

Fee Schedule Certificates of Operation	
Floor	Yearly Total
1 THRU 5	\$ 220.00
6	\$ 245.00
7	\$ 270.00
8	\$ 295.00
9	\$ 320.00
10	\$ 345.00
11	\$ 370.00
12	\$ 395.00
13	\$ 420.00
14	\$ 445.00
15	\$ 470.00
16	\$ 495.00
17	\$ 520.00
18	\$ 545.00
19	\$ 570.00
20	\$ 595.00
21	\$ 620.00
22	\$ 645.00
23	\$ 670.00
24	\$ 695.00
25	\$ 720.00
26	\$ 745.00
27	\$ 770.00
28	\$ 795.00
29	\$ 820.00
30	\$ 845.00
31	\$ 870.00
32	\$ 895.00
33	\$ 920.00
34	\$ 945.00
35	\$ 970.00
36	\$ 995.00
37	\$ 1,020.00
38	\$ 1,045.00
39	\$ 1,070.00
40	\$ 1,095.00
41	\$ 1,120.00
42	\$ 1,145.00
43	\$ 1,170.00
44	\$ 1,195.00
45	\$ 1,220.00
46	\$ 1,245.00
47	\$ 1,270.00
Additional floors = \$25 per floor	
Escalators	\$ 307.00
Ash Hoists	\$ 81.00
Manlift	\$ 160.00
Special Purpose Elevator	\$ 184.00
Sidewalk Lifts	\$ 93.00
Stairway Chair Lifts	\$ 68.00
Dumbwaiters (Cart Lift)	\$ 81.00
Moving Walk	\$ 307.00
Pallet Lift	\$ 81.00
Stage Lift	\$ 232.00
Material Lift	\$ 81.00
Wheel Chair Lifts	\$ 68.00
LULA	\$ 88.00
Processing Fees - Commercial	\$ 106.00
Processing Fees - Residential	\$ 37.00
Safety Test Reports	\$ 34.00
Reinspection Fee (after first failed inspection)	\$ 72.00
Seal Out of Service	\$ 73.00
Late Fee	\$ 27.00



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<b>Administrative Hearing Fees</b>	
Historic Conservation Board Hearing (Alterations and Demolitions)	\$500.00
Historic Conservation Board Hearing (Postponement or Continuance at Applicant's Request After Mailing Notice)	\$50.00
Zoning Hearing Examiner (Use Variance Applications)	\$900.00
Zoning Hearing Examiner (RCO Project Applications)	\$300.00
Zoning Hearing Examiner (All Other Applications)	\$500.00
Zoning Hearing Examiner (Postponement or Continuance at Applicant's Request After Mailing Notice)	\$50.00
Zoning Board of Appeals (All Appeals)	\$300.00
Board of Housing Appeals (VBML Appeals; Vacant Foreclosed Property Appeals)	\$250.00
Board of Housing Appeals (Property Maintenance and Code Enforcement Appeals; Community Reinvestment Area Tax Exemption Appeals)	\$100.00
Board of Building Appeal (RCO Projects)	\$59.00
Board of Building Appeal (OBC Projects)	\$100.00



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**Property Maintenance Fees**

Periodic Inspection Fee For Compliance w/Conditions Of Approval	\$292.00
Façade Examination Report Review Fee	\$116.00
Fire Escape Examination Report Review Fee	\$116.00
Director Determinations for VBML Waiver and Fee Deductions	\$143.00

Quarterly Code Enforcement Monitoring Fee	Days in Non-Compliance	Quarterly Fees
	61-150	\$37.00
	151-240	\$52.00
	241-330	\$68.00
	331-420	\$84.00
	421-510	\$99.00
	511-600	\$114.00
	601-690	\$130.00
	691-780	\$145.00
	781 or >	\$166.00

**June 9, 2021**

**To:** Mayor and Members of City Council 202102175

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – FY 2022 General Capital Budget**

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Attached is an Emergency Ordinance captioned:

**APPROVING AND ADOPTING** a Capital Improvement Program and Budget for Fiscal Year 2022, transferring and appropriating taxes and other revenue and existing funds for the purpose of carrying out certain parts of the Capital Improvement Program, and providing for the transfer and appropriation of notes to be issued and to be repaid from the lease proceeds of the Cincinnati Southern Railway to other parts of said Capital Improvement Program; **AUTHORIZING** the transfer and return to source Funds 757, 758, and 762 the sum of \$4,000,000 from various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$1,500,000 to various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$2,500,000, to be raised by the issuance of bonds by the City of Cincinnati, to various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; **Authorizing** the transfer and appropriation of resources from various existing funds to various project accounts; and further **DECLARING** certain projects to be for a public purpose, all for the purpose of carrying out the Capital Improvement Program.

Approving and adopting the City Manager's Recommended FY 2022 General Capital Budget provides funding for the Fiscal Year 2022 General Capital Improvement Program Budget in the amount of \$83,640,000, effective July 1, 2021.

Sections 2 through 9 refer to the capital projects and their funding sources as outlined below:

1. Section 2 transfers and returns to source Funds 757, 758, and 762 the sum of \$4,000,000 from various existing General Capital Budget capital project accounts to provide resources for the FY 2022 Capital Improvement Program and various existing project accounts.



2. Section 3 transfers and appropriates the sum of \$1,500,000 to various existing project accounts.
3. Section 4 distributes \$2,500,000 from various FY 2022 bond resources to various existing capital project accounts.
4. Section 5 distributes \$2,500,000 in reprogrammed resources to new capital project accounts.
5. Section 6 distributes \$8,950,000 from income tax permanent improvement funds derived from the 0.15% portion of the City income tax.
6. Section 7 distributes \$49,050,000 from various FY 2022 bond resources.
7. Section 8 distributes \$22,890,000 from Southern Railway related resources.
8. Section 9 distributes \$250,000 from the Blue Ash Property sale proceeds.

This Emergency Ordinance also declares the following capital improvement program projects serve a public purpose: Affordable Housing Trust Funding – General Capital, Strategic Housing Initiatives Program (SHIP), Commercial & Industrial Public Improvements, Neighborhood Business District Improvements, Neighborhood Business Property Holding, Tax Incentive/Enterprise Zone, Hazard Abatement/Demolition Program, Retail/Commercial Opportunities, Community Development Focus District, Smale Riverfront Park, Convention Center Improvements, Findlay Market Improvements, and Community Facility Improvements – Art Museum. These projects will foster local improvements and investment and increase neighborhood vitality. Each project also has an estimated life or period of usefulness of five years or more.

There are several changes reflected in this Emergency Ordinance from the Recommended FY 2022 Capital Budget:

- Neighborhood Business District Improvements Program (NBDIP): The source of funding originally proposed in the City Manager’s Recommended Biennial Budget for Neighborhood Business District Public Improvements was Street Improvement Bonds. Use of this bond financing would require the scope of the NBDIP program to be limited to streetscape improvements and infrastructure owned by the City in the public right-of-way. In order to maximize the flexibility of the use of these funds, various existing project funding will be swapped so that cash capital resources will now be used to finance the standard Neighborhood Business District Improvements Program (NBDIP).
- Smale Riverfront Park: The capital improvement program project account, “Smale Riverfront Park” will be changed from the version originally included in the City Manager’s Recommended Biennial Budget to reflect a change in the scope of work

from stabilization of the riverbank at Smale Riverfront Park between the Roebling Bridge and Elm Street to a focus on construction of the extension on Lot 23.

The description of the project will be changed to the following: “This project will provide resources for construction of the Smale Riverfront Park extension on Lot 23 of the Banks.”

The purpose of the project will be changed to following: “The purpose of this project is to create an engaging public space at the Smale Riverfront Park that will encourage social interaction between different types of people.” In addition, the amount of \$100,000 previously reflected as part of the “Engineering” phase will be reflected as also included in the “Construction” phase for a total of \$1,500,000 allocation to the “Construction” phase.

Additionally, the source of funding for this project will be changed. Originally, this project was to be funded by property tax supported debt. It was determined that the project cannot be financed in this manner; so various existing project funding resources will be swapped to better align eligible resources with eligible uses, including Smale Riverfront Park.

The reason for the emergency is the need to have funding in place to carry out the City’s Fiscal Year 2022 Capital Improvement Program, which begins on July 1, 2021.

The Administration recommends passage of this Emergency Ordinance.

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

Attachments

## **EMERGENCY**

**AEP**

**- 2021**

**APPROVING AND ADOPTING** a Capital Improvement Program and Budget for Fiscal Year 2022, transferring and appropriating taxes and other revenue and existing funds for the purpose of carrying out certain parts of the Capital Improvement Program, and providing for the transfer and appropriation of notes to be issued and to be repaid from the lease proceeds of the Cincinnati Southern Railway to other parts of said Capital Improvement Program; **AUTHORIZING** the transfer and return to source Funds 757, 758, and 762 the sum of \$4,000,000 from various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$1,500,000 to various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$2,500,000, to be raised by the issuance of bonds by the City of Cincinnati, to various existing General Capital Budget capital improvement program project accounts in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of resources from various existing funds to various project accounts; and further **DECLARING** certain projects to be for a public purpose, all for the purpose of carrying out the Capital Improvement Program.

WHEREAS, it is necessary that Council approve the expenditure of funds in existence or in collection from certain capital improvements; and

WHEREAS, in order to present a comprehensive program, it is advisable to authorize the transfer and appropriation to certain capital improvement accounts of funds to be raised by the issuance of bonds of the City of Cincinnati and from the proceeds of the Cincinnati Southern Railway; now, therefore,

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

Section 1. That there is adopted and approved as the Capital Improvement Program and Budget for the fiscal year 2022 (FY 2022), the projects included in Sections 2 through 9 to be established and financed in the amounts and from the sources set forth therein.

Section 2. That the sum of \$4,000,000 is hereby transferred and returned to source Funds 757, 758, and 762 from various existing General Capital Budget capital improvement program project accounts for the purpose of decreasing existing capital improvement program project



accounts and providing resources for the FY 2022 Capital Improvement Program, according to Schedule A, Schedule of Transfer, attached hereto and by this reference made part hereof.

Section 3. That the sum of \$1,500,000 is transferred and appropriated to existing project accounts according to Schedule B, attached hereto and by this reference made a part hereof, for the improvements listed in Schedule B.

Section 4. That the sum of \$2,500,000 to be raised by the issuance of bonds by the City of Cincinnati is transferred and appropriated to existing project accounts according to Schedule C, attached hereto and by this reference made a part hereof, for the improvements listed in Schedule C.

Section 5. That the sum of \$2,500,000 available in various funds is transferred and appropriated via reprogramming to new capital improvement program project accounts according to Schedule D, attached hereto and by this reference made a part hereof, for the improvements listed in Schedule D.

Section 6. That the sum of \$8,950,000 from the 0.15% income tax is hereby transferred and appropriated to the individual project accounts listed in Schedule E, attached hereto and by this reference made a part hereof, for the improvements listed in Schedule E.

Section 7. That the sum of \$49,050,000 to be raised by the issuance of bonds by the City of Cincinnati is hereby transferred and appropriated according to Schedule F, attached hereto and by this reference made a part hereof, for the improvements listed in Schedule F.

Section 8. That the sum of \$22,890,000 to be raised by the issuance of notes and to be repaid from lease proceeds of the Cincinnati Southern Railway is hereby transferred and appropriated according to Schedule G, attached hereto and by this reference made a part hereof, for the improvements listed in Schedule G.

Section 9. That the sum of \$250,000 from the Blue Ash Property sale proceeds is hereby transferred and appropriated to the capital project account listed in Schedule H, attached hereto and by this reference made a part hereof, for the improvements listed in Schedule H.

Section 10. That the Affordable Housing Trust Funding – General Capital; Strategic Housing Initiatives Program (SHIP); Commercial & Industrial Public Improvements; Neighborhood Business District Improvements; Neighborhood Business Property Holding; Tax Incentive/Enterprise Zone; Hazard Abatement/Demolition Program; Retail/Commercial Opportunities; Community Development Focus District; Smale Riverfront Park; Convention Center Improvements; Findlay Market Improvements; and Community Facility Improvements – Art Museum capital improvement program projects are hereby declared to serve a public purpose because the projects will foster local improvements and investment and increase neighborhood vitality, and because each project has an estimated life or period of usefulness of five years or more.

Section 11. That no expenditure of money from project accounts shall be made, nor shall expenditures thereof be contracted for, unless the money therefore has been received by the City or is in the process of collection.

Section 12. That the Finance Director of the City is authorized to draw her warrant upon the Treasury of the City for the amounts appropriated and for the purposes stated in this ordinance, upon receiving the proper certificates and vouchers therefore approved by the City Manager or her designee, the appropriate board, or other officers authorized by law to approve the same, or upon receiving the proper certificates and vouchers therefore authorized by an ordinance or resolution of Council to make the expenditures, provided that vouchers for payment out of any of the foregoing appropriations by order of a court decree shall be approved by the City Solicitor in addition to any other authority required by law.

Section 13. That Council hereby authorizes the proper boards or officials to enter into any contract or contracts for any of the projects or parts thereof set forth in the Sections herein. Said board or official shall execute said contracts in accordance with all applicable law, including the charter and ordinances of the City of Cincinnati.

Section 14. That appropriations and allocations to the various projects remaining unexpended at the end of FY 2022 shall remain in the individual project accounts and may be expended at a later time, provided however, that money not required in a particular project account, as determined by City Council, shall be returned by the Finance Director to the fund from which it was originally transferred.

Section 15. That nothing in this ordinance shall be construed as intending to supersede or dispense with the procedures or acts required by state or federal laws or regulations relating to matters involving assessments or state or federal assistance projects.

Section 16. That Sections 1 through 15 hereof shall become effective as of July 1, 2021.

Section 17. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the need to have funding in place to carry out the City's Fiscal Year 2022 Capital Improvement Program, which begins July 1, 2021.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

That the amounts set forth hereinafter are hereby returned to source in the amount of \$4,000,000.00 to the individual funds listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
Ent. Tech. Solutions 091	190928	800 MHz Microwave Radio Network Replacement	757	Miscellaneous Permanent Improvement Fund	1,734,000.00	59,000.00	1,675,000.00
Com. & Econ Dev. Housing Dev. 162	181600	Neighborhood Market Rate Housing	758	Income Tax Permanent Improvement Fund	459,600.00	70,600.00	389,000.00
	181602	Core 4 Strategic Housing Notice of Funding Availability	762	Urban Redevelopment Tax Increment Equivalent Fund	500,000.00	147,200.00	352,800.00
	181602	Core 4 Strategic Housing Notice of Funding Availability	758	Income Tax Permanent Improvement Fund	147,200.00	0.00	147,200.00
	201644	Affordable Housing	758	Income Tax Permanent Improvement Fund	611,000.00	0.00	611,000.00
Public Services City Facility Mgt. 255	192525	Fire Training Facility	757	Miscellaneous Permanent Improvement Fund	10,000,000.00	9,175,000.00	825,000.00

That the amounts set forth hereinafter are hereby appropriated and allocated, reprogramming in the amount of \$1,500,000.00 to the individual prior year project accounts for the improvements listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
Com. & Econ Dev. Housing Dev. 162	757	Miscellaneous Permanent Improvement Fund	181600	Neighborhood Market Rate Housing	70,600.00	459,600.00	389,000.00
	757	Miscellaneous Permanent Improvement Fund	181602	Core 4 Strategic Housing Notice of Funding Availability	0.00	500,000.00	500,000.00
	757	Miscellaneous Permanent Improvement Fund	201644	Affordable Housing	0.00	611,000.00	611,000.00

That the amounts set forth hereinafter totaling \$2,500,000.00 to be raised by the issuance of bonds of the City of Cincinnati are hereby appropriated and allocated to the individual project accounts for the improvements listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
Ent. Tech. Solutions 091	864	Automotive & Other Equipment Bond Fund	190928	800 MHz Microwave Radio Network Replacement	59,000.00	1,734,000.00	1,675,000.00
Public Services City Facility Mgt. 255	861	Public Building Improvement Bond Fund	192525	Fire Training Facility	9,175,000.00	10,000,000.00	825,000.00

That the amounts set forth hereinafter are hereby appropriated and allocated, reprogramming in the amount of \$2,500,000.00 to the individual project accounts for the improvements listed hereinafter:

DEPT. DIVISION		PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION	PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION	TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
				PRIOR	REVISED	
Com. & Econ Dev. Economic Dev. 164	757	Miscellaneous Permanent Improvement Fund	221607 Neighborhood Business District Improvements	0.00	1,000,000.00	1,000,000.00
Parks Admin. & Program Services 203	762	Urban Redevelopment Tax Increment Equivalent Fund	222001 Smale Riverfront Park	0.00	352,800.00	352,800.00
	758	Income Tax Perm. Improvement Fund	222001 Smale Riverfront Park	0.00	1,147,200.00	1,147,200.00



That the amounts set forth hereinafter totaling \$8,950,000.00 from the 0.15% income tax are hereby appropriated and allocated to the individual project accounts for the improvements listed hereinafter:

DEPT. DIVISION		PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION	PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION	TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
				PRIOR	REVISED	
Ent. Tech. Solutions 091	758	Income Tax Perm. Improvement Fund	220902 Information and Cyber Security Enhancements	0.00	310,000.00	310,000.00
	758	Income Tax Perm. Improvement Fund	220903 Enterprise Networks Enhancements	0.00	306,000.00	306,000.00
	758	Income Tax Perm. Improvement Fund	220904 Cincinnati Financial System Upgrades	0.00	25,000.00	25,000.00
	758	Income Tax Perm. Improvement Fund	220908 Disaster Recovery / Business Continuity	0.00	70,000.00	70,000.00
	758	Income Tax Perm. Improvement Fund	220909 Digital Services Enhancements	0.00	33,000.00	33,000.00
	758	Income Tax Perm. Improvement Fund	220912 Data Center Infrastructure Replacement	0.00	61,000.00	61,000.00
	758	Income Tax Perm. Improvement Fund	220913 Telephone System Upgrades	0.00	3,500.00	3,500.00
	758	Income Tax Perm. Improvement Fund	220914 CHRIS Upgrades and Enhancements	0.00	25,000.00	25,000.00
	758	Income Tax Perm. Improvement Fund	220918 Lifecycle Asset Replacement	0.00	220,000.00	220,000.00
	758	Income Tax Perm. Improvement Fund	220919 Mobile Dispatch Computer Hardware	0.00	275,000.00	275,000.00
	758	Income Tax Perm. Improvement Fund	220921 Accela Upgrades	0.00	650,000.00	650,000.00
	758	Income Tax Perm. Improvement Fund	220922 City Website Closed Captioning	0.00	15,000.00	15,000.00
Ent. Tech. Solutions - CAGIS 092	758	Income Tax Perm. Improvement Fund	220905 CAGIS Infrastructure	0.00	61,500.00	61,500.00
City Manager Emergency Comm. 103	758	Income Tax Perm. Improvement Fund	221027 NICE System Replacement & Upgrade	0.00	550,500.00	550,500.00
	758	Income Tax Perm. Improvement Fund	221030 Emergency Protocols System Upgrade	0.00	450,500.00	450,500.00
City Manager OES 104	758	Income Tax Perm. Improvement Fund	221001 Regulatory Compliance & Energy Conservation	0.00	35,000.00	35,000.00
	758	Income Tax Perm. Improvement Fund	221002 Center Hill Gas & Leachate	0.00	85,000.00	85,000.00

DEPT. DIVISION		PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION	PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION	TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
				PRIOR	REVISED	
City Manager OES 104	758	Income Tax Perm. Improvement Fund	221012 Emergency Environmental Cleanup/UST	0.00	10,000.00	10,000.00
City Manager OP & DA 108	758	Income Tax Perm. Improvement Fund	221016 Enterprise Data Warehouse	0.00	32,000.00	32,000.00
Law Administration 111	758	Income Tax Perm. Improvement Fund	221104 Public Records and Discovery	0.00	50,000.00	50,000.00
Com. & Econ Dev. Housing Dev. 162	758	Income Tax Perm. Improvement Fund	221602 Strategic Housing Initiatives Program (SHIP)	0.00	250,000.00	250,000.00
	758	Income Tax Perm. Improvement Fund	221644 Affordable Housing Trust Funding - General Capital	0.00	250,000.00	250,000.00
Com. & Econ Dev. Economic Dev. 164	758	Income Tax Perm. Improvement Fund	221605 Tax Incentive/Enterprise Zone	0.00	102,000.00	102,000.00
	758	Income Tax Perm. Improvement Fund	221608 Neighborhood Business Property Holding	0.00	150,000.00	150,000.00
	758	Income Tax Perm. Improvement Fund	221609 Community Development Focus District	0.00	300,000.00	300,000.00
	758	Income Tax Perm. Improvement Fund	221610 Commercial & Industrial Public Improvements	0.00	300,000.00	300,000.00
	758	Income Tax Perm. Improvement Fund	221611 Retail/Commercial Opportunities	0.00	758,000.00	758,000.00
City Planning 171	758	Income Tax Perm. Improvement Fund	221700 Neighborhood Studies	0.00	49,000.00	49,000.00
Buildings & Inspections Code Enforcement 212	758	Income Tax Perm. Improvement Fund	222103 Hazard Abatement/Demolition Program	0.00	512,500.00	512,500.00
	758	Income Tax Perm. Improvement Fund	222108 BuildingBlocks Code Enforcement Interface	0.00	85,500.00	85,500.00
	758	Income Tax Perm. Improvement Fund	222109 Private Lot Abatement Program Equipment	0.00	20,000.00	20,000.00
Police Investigations 225	758	Income Tax Perm. Improvement Fund	222227 Latent Fingerprint Case Management and Training System	0.00	50,000.00	50,000.00
Transp. & Eng. Director 231	758	Income Tax Perm. Improvement Fund	222335 Information Systems Acquisition	0.00	81,000.00	81,000.00

DEPT. DIVISION		PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION	PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION	TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
				PRIOR	REVISED	
Transp. & Eng. Planning 232	758	Income Tax Perm. Improvement Fund	222313 Neighborhood Gateways/Greenways Imprvmnt	0.00	80,000.00	80,000.00
	758	Income Tax Perm. Improvement Fund	222320 OKI Corridor Studies	0.00	80,000.00	80,000.00
	758	Income Tax Perm. Improvement Fund	222336 Neighborhood Transportation Strategies	0.00	500,000.00	500,000.00
Transp. & Eng. Eng. 233	758	Income Tax Perm. Improvement Fund	222308 Street Rehabilitation	0.00	279,000.00	279,000.00
	758	Income Tax Perm. Improvement Fund	222310 SCIP Loan Repayment	0.00	394,500.00	394,500.00
	758	Income Tax Perm. Improvement Fund	222350 MLK/I-71 Interchange SIB Loan	0.00	138,500.00	138,500.00
Enterprise Services Convention Ctr. 243	758	Income Tax Perm. Improvement Fund	222419 Convention Center Improvements	0.00	500,000.00	500,000.00
Public Services City Facility Mgt. 255	758	Income Tax Perm. Improvement Fund	222504 Community Facility Improvements - Art Museum	0.00	200,000.00	200,000.00
	758	Income Tax Perm. Improvement Fund	222508 Obsolete Air Conditioning Systems Replacement	0.00	3,000.00	3,000.00
	758	Income Tax Perm. Improvement Fund	222521 Findlay Market Improvements	0.00	200,000.00	200,000.00
Health Comm. Health Services 263	758	Income Tax Perm. Improvement Fund	222601 Environmental Health Technology Improvements	0.00	399,000.00	399,000.00

That the amounts set forth hereinafter totaling \$49,050,000.00 to be raised by the issuance of bonds of the City of Cincinnati are hereby appropriated and allocated to the individual project accounts for the improvements listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION		PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
					PRIOR	REVISED	
Ent. Tech. Solutions 091	861	Public Building Improvement Bond Fund	220906	Radio Communications Equipment	0.00	690,000.00	690,000.00
	864	Automotive & Other Equipment Bond Fund	220910	Real Time Crime Center Camera Program	0.00	150,000.00	150,000.00
	864	Automotive & Other Equipment Bond Fund	220913	Telephone System Upgrades	3,500.00	141,000.00	137,500.00
	864	Automotive & Other Equipment Bond Fund	220920	Video Conference Room Equipment	0.00	50,000.00	50,000.00
City Manager Emergency Comm. 103	864	Automotive & Other Equipment Bond Fund	221031	Northern Kentucky Radio Interoperability	0.00	75,500.00	75,500.00
	864	Automotive & Other Equipment Bond Fund	221032	ECC Radios	0.00	90,000.00	90,000.00
City Manager OES 104	864	Automotive & Other Equipment Bond Fund	221005	Wheeled Recycling Cart Replacement	0.00	25,000.00	25,000.00
Law - Admin Hearings & Pros. 112	864	Automotive & Other Equipment Bond Fund	221108	Replace Audio Equipment for Public Hearings	0.00	15,000.00	15,000.00
Parks Admin. & Program Services 203	860	Parks and Recreation Improvement Bond Fund	222006	Sawyer Point Tennis Courts Improvement	0.00	250,000.00	250,000.00
	860	Parks and Recreation Improvement Bond Fund	222007	Park Trails Expansion	0.00	500,000.00	500,000.00
	860	Parks and Recreation Improvement Bond Fund	222008	Mt. Airy Trails Expansion	0.00	1,050,000.00	1,050,000.00
Police - Support 226	864	Automotive & Other Equipment Bond Fund	222200	NICE Recorder Upgrades	0.00	14,000.00	14,000.00
	864	Automotive & Other Equipment Bond Fund	222201	Police Mobile Digital Video (In-Car Camera) Storage	0.00	173,000.00	173,000.00
	864	Automotive & Other Equipment Bond Fund	222210	Police Equipment	0.00	113,000.00	113,000.00
Transp. & Eng. Planning 232	858	Street Improvement Bond Fund	222304	Path to the Taft Lighting Improvement	0.00	20,000.00	20,000.00
	858	Street Improvement Bond Fund	222305	Safety Improvements	0.00	124,000.00	124,000.00
	858	Street Improvement Bond Fund	222309	Paddock Road Safety Improvements	0.00	150,000.00	150,000.00

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
Transp. & Eng. Planning 232	858	Street Improvement Bond Fund	222317	Saylor Park Street Sign Replacement	0.00	10,000.00	10,000.00
	858	Street Improvement Bond Fund	222331	Paddock Road Murals	0.00	10,000.00	10,000.00
	858	Street Improvement Bond Fund	222343	Downtown Infrast. Coord. & Implemtn	0.00	75,000.00	75,000.00
	858	Street Improvement Bond Fund	222349	Freedom Center Public Improvements	0.00	1,000,000.00	1,000,000.00
	858	Street Improvement Bond Fund	222354	Street Calming Program	0.00	400,000.00	400,000.00
	858	Street Improvement Bond Fund	222357	Bicycle Transportation Program	0.00	275,000.00	275,000.00
	858	Street Improvement Bond Fund	222358	Central Parkway Bicycle Facility Phase 2	0.00	2,790,000.00	2,790,000.00
	858	Street Improvement Bond Fund	222371	Wasson Way Trail	0.00	550,000.00	550,000.00
	858	Street Improvement Bond Fund	222383	Pedestrian Safety Improvements	0.00	754,000.00	754,000.00
Transp. & Eng. Eng. 233	858	Street Improvement Bond Fund	222301	Dutch Colony Drive Sidewalk	0.00	115,000.00	115,000.00
	858	Street Improvement Bond Fund	222303	Spot Infrastructure Replacement	0.00	370,000.00	370,000.00
	858	Street Improvement Bond Fund	222306	Street Improvements	0.00	641,000.00	641,000.00
	858	Street Improvement Bond Fund	222308	Street Rehabilitation	279,000.00	6,497,000.00	6,218,000.00
	858	Street Improvement Bond Fund	222322	West McMillan Street Sidewalk	0.00	500,000.00	500,000.00
	858	Street Improvement Bond Fund	222338	Bridge Rehabilitation Program	0.00	717,000.00	717,000.00
	858	Street Improvement Bond Fund	222339	Anderson Ferry Street Stabilization Hillside and River Road	0.00	300,000.00	300,000.00
	858	Street Improvement Bond Fund	222399	Western Hills Viaduct	0.00	13,250,000.00	13,250,000.00
	858	Street Improvement Bond Fund	222328	Duke Street Light Installation and Renovation	0.00	216,000.00	216,000.00
Transp. & Eng. Traffic Eng. 239	858	Street Improvement Bond Fund	222340	Street Light Infrastructure	0.00	755,000.00	755,000.00
	858	Street Improvement Bond Fund	222341	Computerized Traffic Signal System	0.00	300,000.00	300,000.00
	864	Automotive & Other Equipment Bond Fund	222413	Parking Meter Replacement	0.00	125,000.00	125,000.00
Enterprise Services Parking Facilities 248	864	Automotive & Other Equipment Bond Fund	222501	Collections/Cart Program	0.00	14,000.00	14,000.00
Public Services Neighborhood Operations 253	864	Automotive & Other Equipment Bond Fund	222506	Trash Receptacles	0.00	87,000.00	87,000.00

DEPT. DIVISION		PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION	PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION	TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
				PRIOR	REVISED	
Public Services City Facility Mgt. 255	861	Public Building Improvement Bond Fund	222508 Obsolete Air Conditioning Systems Replacement	3,000.00	603,000.00	600,000.00
	861	Public Building Improvement Bond Fund	222526 Fire Facility Upgrades	0.00	4,050,000.00	4,050,000.00
	864	Automotive & Other Equipment Bond Fund	222530 Quality of Life Relocation Furniture	0.00	100,000.00	100,000.00
	861	Public Building Improvement Bond Fund	222531 Police Facilities Renovation and Repairs	0.00	200,000.00	200,000.00
Public Services Fleet Svcs. 256	864	Automotive & Other Equipment Bond Fund	222505 Fleet Replacements	0.00	10,484,000.00	10,484,000.00
Fire - Response 271	864	Automotive & Other Equipment Bond Fund	222700 Firefighter PPE	0.00	216,000.00	216,000.00
Fire - Support Services 272	864	Automotive & Other Equipment Bond Fund	222704 Fire Equipment	0.00	247,000.00	247,000.00
	864	Automotive & Other Equipment Bond Fund	222720 Administrative Furniture and Equipment	0.00	54,000.00	54,000.00

That the amounts set forth hereinafter totaling \$22,890,000.00 to be raised by the issuance of notes and to be repaid from lease proceeds of the Cincinnati Southern Railway is hereby appropriated and allocated to the individual project accounts for the improvements listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
Recreation Administration 199	871	Recreation Improvement Bond Fund	221900	Outdoor Facilities Renovation	0.00	697,000.00	697,000.00
	871	Recreation Improvement Bond Fund	221901	Recreation Facilities Renovation	0.00	3,230,000.00	3,230,000.00
	871	Recreation Improvement Bond Fund	221902	Aquatics Facilities Renovation	0.00	457,000.00	457,000.00
	871	Recreation Improvement Bond Fund	221903	Athletics Facilities Renovation	0.00	450,000.00	450,000.00
	871	Recreation Improvement Bond Fund	221904	Compliance with ADA	0.00	101,000.00	101,000.00
Parks Admin. & Program Services 203	872	Parks Improvement Bond Fund	222000	Park Infrastructure Rehabilitation	0.00	2,055,000.00	2,055,000.00
Transp. & Eng. Planning 232	870	Street Improvement Bond Fund	222302	Sidewalk Repair Program	0.00	262,000.00	262,000.00
Transp. & Eng. Eng. 233	870	Street Improvement Bond Fund	222307	Pavement Management	0.00	300,000.00	300,000.00
	870	Street Improvement Bond Fund	222308	Street Rehabilitation	6,497,000.00	16,175,000.00	9,678,000.00
	870	Street Improvement Bond Fund	222312	Wall Stab. & Landslide Correction	0.00	700,000.00	700,000.00
	870	Street Improvement Bond Fund	222323	Kilbourne Stairway Rehabilitation	0.00	75,000.00	75,000.00
	870	Street Improvement Bond Fund	222342	Curb Ramps - Street Rehab	0.00	309,000.00	309,000.00
	870	Street Improvement Bond Fund	222377	Hillside Stairway Rehabilitation Program	0.00	410,000.00	410,000.00
Transp. & Eng. Traffic Eng. 239	870	Street Improvement Bond Fund	222300	Traffic Control Device Installation & Renovation	0.00	114,000.00	114,000.00
	870	Street Improvement Bond Fund	222318	Gas Street Light Repair and Replacement	0.00	168,000.00	168,000.00
	870	Street Improvement Bond Fund	222345	Traffic Signals Infrastructure	0.00	1,205,000.00	1,205,000.00
Public Services Traffic & Road 252	870	Street Improvement Bond Fund	222503	Sign Replacement	0.00	187,000.00	187,000.00



DEPT. DIVISION		PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION	PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION	TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
				PRIOR	REVISED	
Public Services City Facility Mgt. 255	873	Public Buildings Improvement Bond Fund	222500 City Facility Renovation and Repairs	0.00	2,367,000.00	2,367,000.00
Health Office of the Commissioner 261	873	Public Buildings Improvement Bond Fund	222600 Facilities Renovation and Repairs	0.00	125,000.00	125,000.00

That the amounts set forth hereinafter totaling \$250,000.00 from Miscellaneous Permanent Improvements Fund 757, are hereby appropriated and allocated to the individual project accounts for the improvements listed hereinafter:

DEPT. DIVISION		PROJECT OR FUND TO BE TRANSFERRED FROM NUMBER: DESCRIPTION		PROJECT OR FUND TO BE TRANSFERRED TO NUMBER: DESCRIPTION	TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
					PRIOR	REVISED	
Com. & Econ Dev. Housing Dev. 162	757	Miscellaneous Permanent Improvement Fund	221644	Affordable Housing Trust Funding - General Capital	250,000.00	500,000.00	250,000.00

# City of Cincinnati



801 Plum Street, Suite 346-A  
Cincinnati, Ohio 45202

Phone (513) 352 5205  
Email Jan.Michele.Kearney@  
cincinnati-oh.gov  
Web www.cincinnati-oh.gov

20210218

**Jan-Michele Lemon Kearney**  
*Councilmember*

June 9, 2021

## MOTION

WE MOVE that the Division Manager of the Office of Human Relations, in consultation with the Mayor, Human Resources, and the Office of Aging and Accessibility, select a task force to develop a diversity, equity, inclusion and accessibility policy for the City of Cincinnati.

WE MOVE that the City of Cincinnati utilize the existing contract between the City of Cincinnati's Office of Human Relations and Kathy DeLaura, Managing Director, Partners In Change, LLC as the consultant to lead the development of the policy. Payment shall be from the remaining funds under the existing contract with the Office of Human Relations in the amount of approximately \$4,000.

WE MOVE that the individuals appointed are sent to City Council for confirmation.

Councilmember Jan-Michele Lemon Kearney

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202102195

**Betsy Sundermann**  
Cincinnati City Councilmember

June 9, 2021

## MOTION

**WE MOVE** the City Administration, working in collaboration with the Cincinnati Police, to prepare a comprehensive report detailing a plan for establishing a new District 5 police station (D5).

The current D5 is in a strip mall and was only meant to be temporary, but has been used for 3 years already, with funding intending to continue its use. It does not meet the needs of a police station. D5 shares a parking lot with a convenience food store and a day care. The combination of police cruisers, shoppers, and parents with babies in the parking lot creates possible liability for the city. The city does not own the current location, yet will spend millions of dollars this year to bring it up to code. The establishment of a new D5 is a priority of this Council.

This report should include all of the following, and any further criteria deemed relevant and necessary by the City Administration:

- Timeline for planning, acquiring/building a station, and when officers will occupy the building
- Reasonable and efficient budget, including initial costs and yearly funding
- Workable locations

This report will be completed and presented to Council by September 15, 2021, to allow Council and the City to address these needs in the 2022/2023 biennial budget.

*Betsy Sundermann*

Betsy Sundermann

*[Signature]*  
David Mann

*[Signature]*  
Jan-Michele Kearney

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June 16, 2021

202102203

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$2,975,000 of Economic Development Revenue Bonds**

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Transmitted herewith is an Emergency Ordinance captioned as follows:

**PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED \$2,975,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (WALWORTH JUNCTION PROJECT) OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF PROVIDING A PLEDGE OF AND LIEN ON CERTAIN NON-TAX REVENUES AND FUNDS TO SECURE SUCH BONDS; AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS; AND DECLARING AN EMERGENCY.**

This emergency ordinance authorizes the Finance Director to proceed with the sale of the bonds in the not to exceed amount of \$2,975,000 for the Walworth Junction Project, which includes street and sidewalk construction, remediation of certain environmental conditions, and other related improvements to the Walworth Junction housing sub-division. This project will support the construction of 39 single-family homes.

The project will be financed with bonds to be issued by the Port of Greater Cincinnati Development Authority and privately-placed. While the City will not be issuing the debt directly, this ordinance is necessary to facilitate a non-tax revenue pledge for these bonds. It is anticipated that the bonds will be repaid by special assessments levied on the residential properties.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
William "Billy" Weber, Assistant City Manager  
Karen Alder, Finance Director

Attachment



EMERGENCY

City of Cincinnati

AWB

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

-2021

**PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED \$2,975,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (WALWORTH JUNCTION PROJECT) OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF PROVIDING A PLEDGE OF AND LIEN ON CERTAIN NON-TAX REVENUES AND FUNDS TO SECURE SUCH BONDS; AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS; AND DECLARING AN EMERGENCY.**

WHEREAS, the City and East End Development LLC (“Developer”) are parties to that certain Property Sale and Development Agreement dated April 1, 2020, pursuant to which the City conveyed certain real property south of Columbia Parkway at the then-existing terminus of Walworth Avenue in the East End neighborhood of Cincinnati for consolidation with Developer’s abutting property (collectively, the “Project Site”); and

WHEREAS, Developer has commenced the process of redeveloping the Project Site into a housing subdivision intended to include 39 single-family homes (the “Private Project”); and

WHEREAS, in order to support construction and habitation of the Private Project, Developer has undertaken environmental remediation and construction of various public improvements within the Project Site, including utility infrastructure, an extension of Walworth Avenue, and related improvements in support of the Private Project (the “Public Infrastructure Project”); and

WHEREAS, on December 18, 2019, this Council passed Ordinance No. 540-2019 (the “TIF Ordinance”) declaring improvements (as defined in Ohio Revised Code (“ORC”) Section 5709.40) to certain parcels of real property within the Project Site to be a public purpose and exempt from real property taxation (the “TIF Exemption”); and

WHEREAS, pursuant to the TIF Ordinance, the current and future owners of the portion of the Project Site subject to the TIF Exemption are required to make service payments in lieu of taxes in an amount equal to the amount of real property taxes that would have been paid had the TIF Exemption not been granted (the “Service Payments”); and

WHEREAS, pursuant to Resolution No. 23-2021 passed by this Council on March 17, 2021, and Ordinance Nos. 101-2021 and 103-2021 passed by this Council on March 31, 2021 (collectively, the “Assessment Legislation”), the City has levied special assessments pursuant to ORC Chapter 727 (the “Assessment”) against a portion of the Project Site (the “Assessed Property”); and

WHEREAS, this Council has approved a form of Development Agreement (the “Development Agreement”) between the City and Developer pursuant to which the City shall agree to cooperate with the Port of Greater Cincinnati Development Authority (the “Port Authority”) in connection with the issuance of bonds of the Port Authority (the “Port Bonds”) to finance a portion of the costs of the Public Infrastructure Project; and

WHEREAS, the Port Bonds shall be secured by, among other things, a pledge by the City of the Service Payments, the revenue generated by the Assessment (the “Assessment Revenue”), and individual guaranties as further described in the Development Agreement (the “Guaranties” and each a “Guaranty”); and

WHEREAS, in order to minimize the interest rate applicable to a portion of the Port Bonds in a principal amount not to exceed \$2,975,000 (the “NTR-Secured Port Bonds”), this Council has determined to pledge certain non-tax revenues of the City towards the repayment of such NTR-Secured Port Bonds; and

WHEREAS, this Council by this ordinance authorizes the issuance of economic development revenue bonds of the City (the “Bonds”) to provide for and evidence the pledge of the City’s aforesaid non-tax revenues and special funds in order to secure the repayment of the NTR-Secured Port Bonds in accordance with the terms and provisions of this ordinance and a cooperative agreement to be entered into among the City, Developer, the Port Authority, and any additional necessary parties; provided that the City shall receive a credit against its obligation under the City Bonds for each payment made towards such obligation from Service Payments, Assessment Revenue, or Guaranty receipts; now, therefore,

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

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

“Additional Bonds” shall have the meaning set forth in the Indenture.

“Assessment” means the levying of special assessments by the City pursuant to Ohio Revised Code Chapter 727, Resolution No. 23-2021 passed by this Council on March 17, 2021, and Ordinance Nos. 101-2021 and 103-2021 passed by this Council on March 31, 2021.

“Assessment Revenues” means the revenues generated by the Assessment and received by the City.

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

“Bond” or “Bonds” means the Issuer’s not to exceed \$2,975,000 Economic Development Revenue Bonds (Walworth Junction Project), to be issued in a manner determined by the Fiscal Officer.



“Bond Fund” shall have the meaning set forth in the Indenture.

“Bondholder,” “Holder,” “holder of Bonds,” “owner of Bonds” or any similar term means the Port Authority, or the Port Authority’s successors and assigns as are registered on the Bond Register.

“Bond Legislation” means this Ordinance.

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

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

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

“Developer” means East End Development LLC.

“Development Agreement” means the Development Agreement, the form of which has been authorized by this Council, to be entered into by and between the City and Developer pursuant to which, among other things, the City and Developer shall cooperatively facilitate issuance of bonds by the Port Authority to finance a portion of the costs of the Public Infrastructure Project.

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

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

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

“Guaranties” or a “Guaranty” shall mean the personal guaranty or guaranties of the NTR-Secured Port Bonds as further described in the Development Agreement.

“Indenture” means the Trust Agreement dated as of May 1, 1996 between the Issuer and the Trustee, as the same may be amended as provided therein, including by the Supplemental Bond Indenture.

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

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

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

“NTR-Secured Port Bonds” means the Port Authority’s Special Assessment Development Revenue Bonds, Series 2021A-1 (Walworth Junction Development Project), which NTR-Secured Port Bonds shall be secured by a pledge of the Special Funds as evidenced by the Bonds.

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

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

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

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

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

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

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

“Port Authority” means the Port of Greater Cincinnati Development Authority.

“Private Project” means the redevelopment of the Project Site into a housing subdivision intended to include 39 single-family homes.

“Project Site” shall have the meaning set forth in the Development Agreement.

“Public Infrastructure Project” means environmental remediation and construction of various public improvements within the Project Site, including utility infrastructure, an extension of Walworth Avenue, and related improvements in support of the Private Project.

“Service Payments” means the service payments in lieu of taxes payable by the current and future owners of the portion of the Project Site subject to the TIF Exemption pursuant to the TIF Ordinance.

“Special Funds” means (i) all revenues received by the Issuer under the revenue items designated as Fines, Forfeitures and Penalties and License and Permit Fees in the annual City appropriation ordinance and (ii) the Dedicated Economic Development Fund (as defined in the Indenture); provided, that the City shall not change the components of such revenue items so as to result in a substantial reduction in amounts recorded under such items.

“State” means the State of Ohio.

“Supplemental Bond Indenture” means the Nineteenth Supplemental Trust Agreement dated as of the first day of the month during which the Bonds are issued, between the Issuer and the Trustee, as the same may be amended as provided therein, providing for the issuance of the Bonds.

“TIF Exemption” means the exemption from real property taxation of improvements (as defined in Ohio Revised Code Section 5709.40) to the portion of the Project Site subject to the TIF Ordinance.

“TIF Ordinance” means Ordinance No. 540-2019 passed by City Council on December 18, 2019.

“Trustee” means the Bank of New York Mellon Trust Company, N.A., and its successors and assigns under the Indenture.

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

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

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

Section 2. Determinations by Issuing Authority. The Issuing Authority hereby finds and determines that it is necessary to issue, sell and deliver the Bonds in the principal amount of not to

exceed \$2,975,000 upon the terms set forth herein, as supplemented by the Indenture or the Fiscal Officer's Certificate, for the purpose of providing the pledge of the Special Funds to the Port Authority to secure the NTR-Secured Port Bonds; all as allowable by law. The officers specified herein are authorized to execute and deliver the documents necessary or appropriate in order to secure the Bonds.

This Council hereby determines that the issuance of the Bonds will be for a proper public and municipal purpose and in the best interest of the Issuer. This Council hereby authorizes any action not in conflict with this Ordinance and necessary to ensure that all of the requirements to issue Additional Bonds under the Indenture have been satisfied prior to the issuance of the Bonds.

### Section 3. Terms of the Bonds.

(a) Form, Denominations and Dates. The Bonds shall be designated "Economic Development Revenue Bonds (Walworth Junction Project)," shall be negotiable instruments, shall be issued only in fully registered form, without coupons, and shall express upon their faces the purpose for which they are issued. The Bonds shall be dated as of their date of issuance, shall be numbered R-1 and upward or as determined by the Bond registrar, and shall be issued in denominations of \$100,000 or any \$5,000 integral multiples in excess thereof or as otherwise provided in the Fiscal Officer's Certificate. The Bonds shall be exchangeable for other Bonds in the manner and upon the terms set forth in the Indenture or the Fiscal Officer's Certificate.

(b) Execution, Interest Rates and Maturities. The Bonds shall be executed by the signatures of the Mayor and Fiscal Officer of the Issuer and shall bear the official seal of the Issuer (provided that both of such signatures and such seal may be facsimiles), and shall bear the manual authenticating signature of an authorized signer of the Bond registrar or the Trustee, as appropriate. The principal of the Bonds shall be payable in installments in the principal amounts and on the dates, and each of the unpaid installments of principal shall bear interest from its initial date of delivery at the rates and shall be payable as to interest, to ensure payment of amounts due in connection with the NTR-Secured Port Bonds, which shall bear interest at a rate not to exceed 6.00%. All NTR-Secured Port Bonds shall finally mature not later than as allowable by law but in any event not later than the maturity of the NTR-Secured Port Bonds.

(c) Optional Redemption. The Bonds shall be subject to optional and mandatory redemption prior to maturity, to the extent and with respect to the corresponding payments of principal and at the applicable redemption premium, when and as the NTR-Secured Port Bonds are subject to prepayment, whether mandatory or optional, in accordance with the NTR-Secured Port Bond provisions. Such redemption provisions will be as set forth in the Indenture or as confirmed in the Fiscal Officer's Certificate. Delivery of notice or prepayment or redemption of the NTR-Secured Port Bonds (other than by mandatory sinking fund redemption) shall, without further notice or action constitute notice of redemption of the corresponding amounts of principal due on the Bonds, and the same shall, thereby, become due and payable on the date of prepayment or redemption of the

NTR-Secured Port Bonds and at a redemption price equal to the redemption or prepayment price payable with respect to the NTR-Secured Port Bonds so redeemed.

(d) Payment. Bond Service Charges with respect to the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Trustee or the Paying Agent, if any, in the manner provided in the Fiscal Officer's Certificate or the Indenture, as applicable; provided that the Issuer shall receive a credit against amounts due on the Bonds on any payment date for the Bonds with respect to the principal of or interest or any premium on such Bonds equal to the amounts paid or credited against payments of the principal of or interest or any premium on the NTR-Secured Port Bonds on such payment date derived from Service Payments, Assessment Revenue, or amounts paid pursuant to the Guaranties.

Section 4. Delivery of the Bonds. The Bonds shall be sold and delivered to or to the credit of the Port Authority as consideration for the receipt of proceeds of the NTR-Secured Port Bonds without further action by this Council, such NTR-Secured Port Bond proceeds to equal the sale price of the NTR-Secured Port Bonds. The Executive or Fiscal Officer is hereby authorized to make arrangements for the delivery of the Bonds to, and deemed payment therefor by or on behalf of, the Port Authority, without a purchase agreement for the Bonds and without further action by this Council, but upon the terms of the NTR-Secured Port Bonds.

Section 5. Allocation of Proceeds of the Bonds. There will be no proceeds received by the Issuer from the sale of the Bonds other than proceeds of the sale of the NTR-Secured Port Bonds, which shall be allocated, and are hereby appropriated, in the amounts, and to the funds, set forth in the Fiscal Officer's Certificate, the Indenture or the indenture securing the NTR-Secured Port Bonds, as applicable.

Section 6. Security for the Bonds. The Bonds, and as a result the NTR-Secured Port Bonds, shall be secured by a pledge of the Special Funds. Anything in the Indenture, the Bond Legislation or the Bonds notwithstanding, neither the Indenture, the Bond Legislation, the Bonds, nor the NTR-Secured Port Bonds will constitute a debt, or a pledge of the faith, credit or taxing power of the Issuer, the State or any political subdivision thereof, and the holders or owners of the Bonds and the NTR-Secured Port Bonds shall have no right to have taxes levied by the Issuing Authority, the General Assembly of the State, or the taxing authority of any political subdivision of the State for the payment of the Bond Service Charges or the debt service on the NTR-Secured Port Bonds, and the Bonds and the NTR-Secured Port Bonds shall contain on their faces a statement to that effect. Nothing herein shall be deemed to prohibit the City from lawfully using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of the Indenture, the Bond Legislation, or the Bonds; provided, that no moneys raised by taxation are obligated or pledged therefor. The NTR-Secured Port Bonds shall also be secured by the Service Payments, the Assessment Revenues, and the Guaranties and the Issuer covenants with the holders of the NTR-Secured Port Bonds that the Issuer shall not use or otherwise encumber the Service Payments or the Assessment Revenues, other than on a subordinate basis, for any other purpose while the NTR-Secured Port Bonds are outstanding.

Section 7. Additional Provisions of the Indenture. The Executive and the Fiscal Officer are hereby authorized to make provision in the Indenture securing such Bonds for: the application of the Special Funds; creation of such funds as are necessary or appropriate; investment of moneys in such funds; use of such funds; recordkeeping; such covenants of the Issuer as are necessary or appropriate; and such other matters as are customary or appropriate to be contained in the Indenture.

Section 8. Execution of the Indenture and Other Documents. The Executive and the Fiscal Officer are each hereby authorized to execute, acknowledge and deliver, on behalf of the Issuer, to the Trustee the Supplemental Bond Indenture consistent with the purposes of this ordinance and the Development Agreement, which consistency shall be conclusively evidenced by the execution of the Supplemental Bond Indenture.

The Fiscal Officer is hereby authorized to exercise her discretion in order to set the terms contained in the Fiscal Officer's Certificate and to execute and deliver the same, all within the parameters set by this Bond Legislation.

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

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

The Fiscal Officer is hereby authorized to appoint a trustee, paying agent and registrar for the Bonds.

Section 9. Severability. Should it be judicially determined by a court having jurisdiction to pass upon the validity of the Bond Legislation, the Indenture or the Bonds, that any provision of the Bond Legislation is beyond the powers of the Issuing Authority or the Issuer, or is otherwise invalid, then such decision shall in no way affect the validity of the Bond Legislation, the Indenture or the Bonds, or any proceedings related thereto, except as to the particular matters found by such decision to be invalid.

Section 10. Open Meetings Determination. The Issuing Authority hereby finds and determines that all formal actions relative to the adoption of this Bond Legislation were taken in an open meeting of this Issuing Authority, and that all deliberations of this Issuing Authority and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 11. Effective Date. That this ordinance is an emergency measure necessary for the preservation of the public peace, health, safety and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the necessity for authorization of the Bonds to provide security for the NTR-Secured Port Bonds, which is needed to provide adequate funds at the earliest possible time so that the Issuer may meet its commitment to Developer to assist in the financing of the construction of the Public Infrastructure Project to support the Private Project and increase housing opportunities within the City.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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



June 16, 2020

To: Mayor and Members of City Council

202102205

From: Paula Boggs Muething, City Manager

Subject: **COMMERCIAL CRA TAX EXEMPTION FOR CURTIS STREET INVESTMENTS, LLC**

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Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Curtis Street Investments, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 921-925 Curtis Street and 2363 St. James Avenue in the Walnut Hills neighborhood of Cincinnati, in connection with the remodeling of an existing building to create approximately 20,500 square feet of commercial office space and approximately 10,500 square feet of commercial warehouse space, at a total construction cost of approximately \$2,315,000.

### **BACKGROUND/CURRENT CONDITIONS**

The project is located at 921 Curtis Street in the Walnut Hills neighborhood ("Property"). The Property includes a vacant industrial building and adjacent vacant lot. A portion of the Property was previously held by the Hamilton County Land Reutilization Corporation (HCLRC). After an RFP, HCLRC awarded the development rights to Curtis Street Investments, LLC ("Developer"). The Developer subsequently submitted a request for financial assistance to the City.

### **DEVELOPER INFORMATION**

Curtis Street Investments, LLC is a partnership affiliated with Sanders Development Group and other investors. Sanders Development Group is owned and led by Robert Sanders. Another key member of the development team is Terrex Development and Construction.

The office component of the project has been leased to one of the region's largest minority-owned companies and also one of the largest construction companies, TriVersity Construction, which will be relocating its offices from Norwood.

### **PROJECT DESCRIPTION**

This project will result in the rehabilitation of an approximately 31,000 square foot commercial building. The building will include 20,500 square feet of office space that will be occupied by TriVersity Construction, as well as 10,500 square feet of warehouse space that the Developer will lease to a to-be-determined tenant. The cost of construction is estimated to be \$2.3 million and the total project cost is estimated be \$4.1 million. The project is projected to take 12 months to complete.

As a result of the project, the Developer commits to the relocation to Cincinnati of 87 permanent, full-time jobs with approximately \$7,000,000 in annual payroll, as well as the creation of 6 new permanent, full-time jobs with \$500,000 in annual payroll, for a total of 93 net new jobs and \$7,500,000 net new annual payroll. The project will also generate 25 temporary construction jobs with \$1,350,000 in one-time payroll.

The project is in accordance with the "Sustain" goal to "Preserve our natural and built environment" and strategy to "Preserve our built history" as described on pp. 193-197 of Plan Cincinnati. The project is also consistent with the "Compete" emphasis on assisting with the expansion and relocation of growing, existing businesses, as described on p. 104.

### **PROPOSED INCENTIVE**

DCED is recommending a net 52% commercial tax abatement for a 15-year term, including a 15% neighborhood VTICA contribution. DCED considers the project to be an Undercapitalized Project pursuant to City Council's Commercial CRA policy for neighborhoods.

The significant expense involved in the repurposing of an older, vacant building, in addition to the rapidly rising costs of labor and construction materials, leads to very limited return on investment, meaning that the project is only financially feasible with a tax abatement in place.

In keeping with the requirements of the Undercapitalized Project designation, the project provides multiple public benefits including the elimination of blight/vacancy, the creation of jobs, and contribution to a neighborhood VTICA to benefit the Walnut Hills neighborhood and affordable housing.

<b>SUMMARY</b>	
<b>Forgone Public Benefit if Project Does not Proceed</b>	
CPS PILOT ( <i>Forgone New Revenue</i> )	(\$212,795)
VTICA ( <i>Forgone New Revenue</i> )	(\$96,725)
Income Tax ( <i>Forgone New Revenue</i> )	(\$2,049,300)
<b>Total Public Benefit Lost</b>	<b>(\$2,358,820)</b>
<b>Incentive Value</b>	
Annual Net Incentive to Developer	\$22,354
<b>Total Term Incentive to Developer</b>	<b>\$335,313</b>
<b>City's Portion of Property Taxes Forgone</b>	<b>\$83,223</b>
<b>Public Benefit</b>	
CPS PILOT	
Annual CPS Pilot	\$14,186
Total Term CPS PILOT	<b>\$212,795</b>
VTICA	
Annual VTICA	\$6,448
Total Term VTICA	<b>\$96,725</b>
Income Tax (Max)	<b>\$2,049,300</b>
<b>Total Public Benefit (CPS PILOT/VTICA /Income Tax)</b>	<b>\$2,358,820</b>
Total Public Benefit ROI*	\$7.03
City's ROI**	\$25.79

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

\*\*This figure represents the total dollars returned for City/VTICA over the City's property taxes forgone

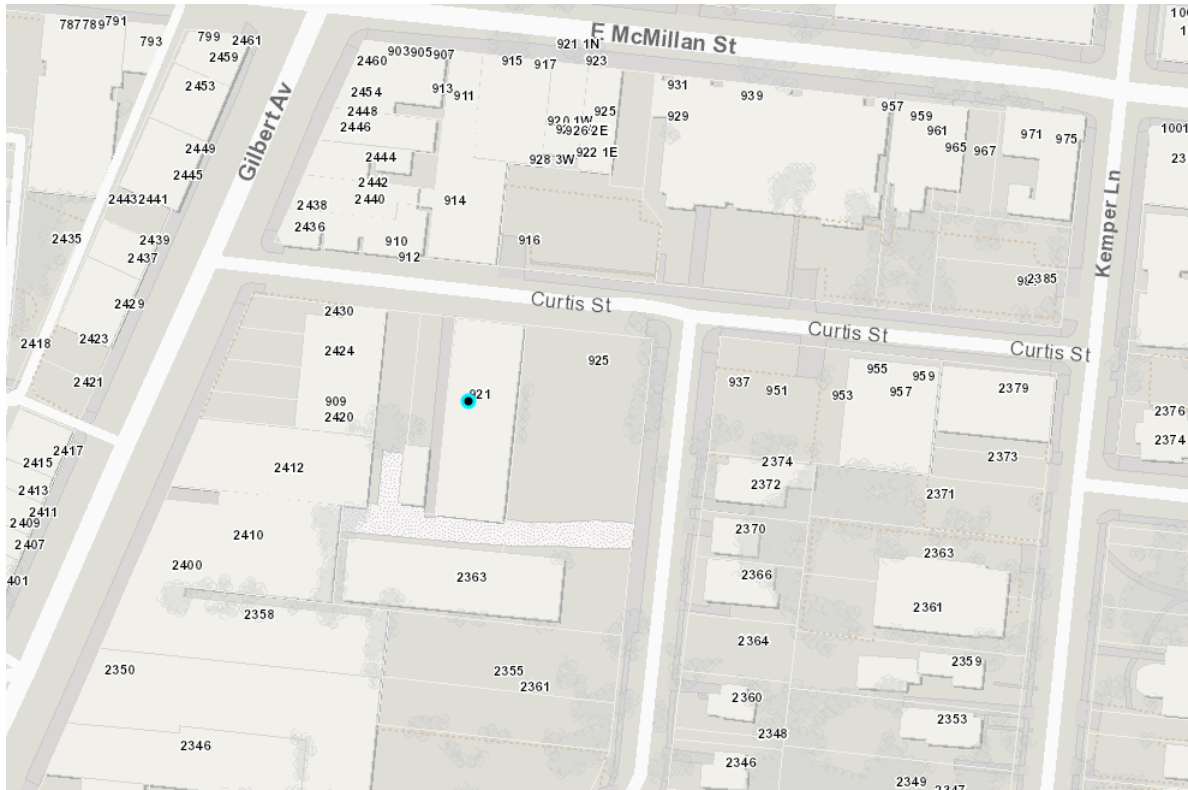
## **RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance.

Attachment: A. Property location and photographs

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

## Attachment A: Location and Photographs



*Property Location: 921, 925 Curtis Street and 2363 St. James Avenue*



*Current conditions: 921, 925 Curtis Street and 2363 St. James Avenue*



EMERGENCY

City of Cincinnati

DSC

AWB

An Ordinance No. \_\_\_\_\_ - 2021

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Curtis Street Investments, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 921-925 Curtis Street and 2363 St. James Avenue in the Walnut Hills neighborhood of Cincinnati, in connection with the remodeling of an existing building to create approximately 20,500 square feet of commercial office space and approximately 10,500 square feet of commercial warehouse space, at a total construction cost of approximately \$2,315,000.

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, Curtis Street Investments, LLC (the “Company”) desires to remodel an existing building to create approximately 20,500 square feet of commercial office space and approximately 10,500 square feet of commercial warehouse space on real property at 921-925 Curtis Street and 2363 St. James Avenue located within the corporate boundaries of the City of Cincinnati (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 facilitate permanent improvements and neighborhood services furthering redevelopment in the neighborhood of the Improvements and to support affordable housing on a City-wide basis; 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 Curtis Street Investments, 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 921-925 Curtis Street and 2363 St. James Avenue in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building to create approximately 20,500 square feet of commercial office space and approximately 10,500 square feet of commercial warehouse space, to be completed at a total construction cost of approximately \$2,315,000.

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 CURTIS STREET INVESTMENTS, 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 921-925 Curtis Street and 2363 St. James Avenue, Cincinnati, Ohio 45206 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed the remodeling of a building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing 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 (i) a major tenant of the Company intends to relocate its operations and approximately 87 jobs to the Property from the City of Norwood, and (ii) the Company and its major tenants do not intend to relocate any other portion of their operations to the City from any other 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. The Company acknowledges that the Walnut Hills neighborhood is a rising neighborhood in need of resources for development, neighborhood improvements, amenities, and organizations oriented towards neighborhood services. The Company anticipates that future development, improvements, amenities and organizations will contribute to the quality and vitality of the neighborhood, therefore increasing the value of the Property and directly and indirectly contributing to the Project's success. The Project's success, in turn, will benefit the neighborhood. Although this feedback effect will promote the revitalization and redevelopment of the City, it could also impact the affordability of property in the area. Therefore, in support of the Walnut Hills neighborhood and with the intention of preserving and improving the availability of quality, reliable affordable housing on a City-wide basis, as a material inducement to the City to enter into this Agreement, the Company hereby represents to the City that it will enter into a voluntary tax incentive contribution agreement ("VTICA") with a City-designated third-party non-profit administrative organization (the "Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the Walnut Hills neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a

City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

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

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the Property to create approximately 31,000 square feet of commercial space, consisting of approximately 20,500 square feet of office space and approximately 10,500 square feet of warehouse space (the "Improvements") at an estimated aggregate cost of \$2,315,000, to commence after the execution of this Agreement and to be completed no later than August 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 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, 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 (15<sup>th</sup>) 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.<sup>1</sup>

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

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<sup>1</sup> 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.



as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company and its major tenants have (a) no existing employment at the Property, (b) no full-time equivalent employees in the City of Cincinnati, and (c) 87 full-time equivalent employees at another location in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Retained by the Company. The Company agrees to use its best efforts to retain and relocate the jobs referenced in Section 12(c) of this Agreement to the Property in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 6 full-time permanent jobs, and (ii) 25 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.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$500,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$1,350,000 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. 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:

Curtis Street Investments, LLC  
Attn: Robert Sanders  
121 E 4th Street  
Covington, KY 41011

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

CURTIS STREET INVESTMENTS, 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**

**TRACT I, Parcel 1- Auditor's Parcel No. 067-0001-0191:** (Fee Simple)  
8th Series Reference: 69/272  
923-925 Curtis Street

Situated in Section 7, Town 3, Fractional Range 2, BTM, City of Cincinnati, Hamilton County, Ohio and being all of the lands conveyed to Nassau Avenue Investments, LLC in O.R. 13731, Pg. 2026 of the Hamilton County, Ohio Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a cross notch found at the intersection of the south right of way line of Curtis Street with the west right of way line of St. James Avenue;

Thence with said west right of way line, S 05°55'15" W a distance of 171.67 feet to a cross notch found in the north line of Lot 1 of John H. Rogers Estate as recorded in P.B. 2, Pg. 87;

Thence along said north line, N 83°48'23" W a distance of 110.12 feet to a 5/8" iron pin found at the southeast corner of Lot 10 of George C. Curtis Subdivision as recorded in P.B. 1, Page 249;

Thence along the east line of said Lot 10, N 05°55'15" E a distance of 171.67 feet to a point in the aforementioned south right of way line of Curtis Street;

Thence along said south right of way line, S 83°48'23" E a distance of 110.12 feet to the point of beginning.

Containing 0.434 acres, more or less.

Bearings are based on the Ohio State Plane Coordinate System South Zone as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)(NAD83).

The above description is based on a field survey performed by the Kleingers Group under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

**TRACT I, Parcel 2 – Auditor's Parcel No. 067-0001-0188: (Fee Simple)**

2363 St. James Avenue

Situated in Section 7, Town 3, Fractional Range 1, BTM, City of Cincinnati, Hamilton County, Ohio and being part of Lot 1 of the John H. Rodgers Subdivision conveyed to the Hamilton County Land Reutilization Corporation in O.R. 13370, Page 1844 of the Hamilton County Ohio Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a cross notch found in the west right of way line of St. James Avenue, said point being S 05°55'15" W a distance of 171.67 feet from a cross notch found at the intersection of said west right of way line with the south right of way line of Curtis Road;

Thence along said west right of way line, S 05°55'15" W a distance of 86.65 feet to a 5/8" iron pin set in the north line of Lot 2 of said John H. Rodgers Subdivision;

Thence along said north line, N 83°48'23" W a distance of 252.30 feet to an 5/8" iron pin set at the southeast corner of a tract of land conveyed to 2400 Gilbert, LLC in O.R. 9721, Pg. 1766;

Thence along the east line of said 2400 Gilbert, LLC's tract, N 05°55'15" E a distance of 56.65 feet to an iron pin set;

Thence along a new division line, S 83°48'23" E a distance of 142.18 feet to a 5/8" iron pin set;

Thence continuing, N 05°55'15" E a distance of 30.00 feet to an iron pin found at the southwest corner of Lot 11 of the George C. Curtis Subdivision as recorded in P.B. 1, Pg. 249;

Thence along the south line of said Lot 11, and along the south lines of Lots 12, 13 and 14, S 83°48'23" E a distance of 110.12 feet to the point of beginning.

Containing 0.404 acres, more or less.

Bearings are based on the Ohio State Plane Coordinates South Zone (OSPC) as derived from the Ohio Department of Transportation's Virtual Reference Stationing System.

The above description is based on a field survey performed by the Kleingers Group under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

**TRACT II, Parcel 1 – Auditor's Parcel No. 067-0001-0182 through 185, cons.: (Fee Simple)**

Situate in the City of Cincinnati, County of Hamilton and State of Ohio and being all of Lots 7, 8, 9 and 10 of the George C. Curtis' Subdivision of Walnut Hills, as shown by the plat thereof recorded in Plat Book 1, Page 165 of the Plat Records in the Recorder's Office of Hamilton County, Ohio.

**TRACT II, Parcel 2 – Auditor's Parcel No. 067-0001-0187: (Fee Simple)**

Situated in Section 7, Town 3, Fractional Range 2, BTM, City of Cincinnati, Hamilton County, Ohio and being part of Lot 1 of the John H. Rodgers Subdivision as conveyed to the Hamilton County Land Reutilization Corporation in O.R. 13370 Pg. 1844 of the Hamilton County Ohio, Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at an iron pin found in the north line of said Lot 1, said point being S05°55'15"W a distance of 171.67 feet and N83°48'23"W a distance of 110.12 feet from a cross notch found at the intersection of the west right of way line of St James Avenue with the south right of way line of Curtis Road; thence along a new division line, S05°55'15"W a distance of 30.00 feet to a 5/8" iron pin set; thence continuing, N83°48'23"W a distance of 142.18 feet to a 5/8" iron pin set in the easterly line of a tract of land conveyed to 2400 Gilbert, LLC in O.R. 9721 Pg.1766; thence with said easterly line, N05°55'15"E a distance of 30.00 feet to point in the south line of Lot 6 of the George C. Curtis Subdivision as recorded in P.B. 1 Pg. 249, witness a building corner 0.7 feet south and 2.0 feet west; thence in part along said south line and along the south lines of Lots 7, 8, 9 and 10, S83°48'23"E a distance of 142.18 feet to the point of beginning.

Containing 0.098 acres, more or less. Bearings are based on the Ohio State Plane Coordinates South Zone (OSPC) as derived from the Ohio Department of Transportation's Virtual Reference Stationing System. The above description is based on a field survey performed by the Kleingers Group under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

**TRACT III: (Easement)**

TOGETHER WITH an easement for ingress and egress across the property designated St. James Avenue as set forth in Declaration of Access Easement by Hamilton County Land Reutilization Corporation, an Ohio non profit community improvement corporation organized and existing under Ohio Revised Code Chapters 1724 and 1702, dated December 15, 2017 and recorded January 12, 2018 in Official Record Book 13583, Page 233, Hamilton County, Ohio Records.

**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 CURTIS STREET INVESTMENTS, 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 921-925 Curtis Street and 2363 St. James Avenue, Cincinnati, Ohio 45206 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed the remodeling of a building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing 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 (i) a major tenant of the Company intends to relocate its operations and approximately 87 jobs to the Property from the City of Norwood, and (ii) the Company and its major tenants do not intend to relocate any other portion of their operations to the City from any other 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. The Company acknowledges that the Walnut Hills neighborhood is a rising neighborhood in need of resources for development, neighborhood improvements, amenities, and organizations oriented towards neighborhood services. The Company anticipates that future development, improvements, amenities and organizations will contribute to the quality and vitality of the neighborhood, therefore increasing the value of the Property and directly and indirectly contributing to the Project's success. The Project's success, in turn, will benefit the neighborhood. Although this feedback effect will promote the revitalization and redevelopment of the City, it could also impact the affordability of property in the area. Therefore, in support of the Walnut Hills neighborhood and with the intention of preserving and improving the availability of quality, reliable affordable housing on a City-wide basis, as a material inducement to the City to enter into this Agreement, the Company hereby represents to the City that it will enter into a voluntary tax incentive contribution agreement ("VTICA") with a City-designated third-party non-profit administrative organization (the "Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the Walnut Hills neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a

City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

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

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the Property to create approximately 31,000 square feet of commercial space, consisting of approximately 20,500 square feet of office space and approximately 10,500 square feet of warehouse space (the "Improvements") at an estimated aggregate cost of \$2,315,000, to commence after the execution of this Agreement and to be completed no later than August 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 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, 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 (15<sup>th</sup>) 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.<sup>1</sup>

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

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<sup>1</sup> 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.

as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company and its major tenants have (a) no existing employment at the Property, (b) no full-time equivalent employees in the City of Cincinnati, and (c) 87 full-time equivalent employees at another location in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Retained by the Company. The Company agrees to use its best efforts to retain and relocate the jobs referenced in Section 12(c) of this Agreement to the Property in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 6 full-time permanent jobs, and (ii) 25 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.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$500,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$1,350,000 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. 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:

Curtis Street Investments, LLC  
Attn: Robert Sanders  
121 E 4th Street  
Covington, KY 41011

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

CURTIS STREET INVESTMENTS, 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**

**TRACT I, Parcel 1- Auditor's Parcel No. 067-0001-0191: (Fee Simple)**

8th Series Reference: 69/272

923-925 Curtis Street

Situated in Section 7, Town 3, Fractional Range 2, BTM, City of Cincinnati, Hamilton County, Ohio and being all of the lands conveyed to Nassau Avenue Investments, LLC in O.R. 13731, Pg. 2026 of the Hamilton County, Ohio Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a cross notch found at the intersection of the south right of way line of Curtis Street with the west right of way line of St. James Avenue;

Thence with said west right of way line, S 05°55'15" W a distance of 171.67 feet to a cross notch found in the north line of Lot 1 of John H. Rogers Estate as recorded in P.B. 2, Pg. 87;

Thence along said north line, N 83°48'23" W a distance of 110.12 feet to a 5/8" iron pin found at the southeast corner of Lot 10 of George C. Curtis Subdivision as recorded in P.B. 1, Page 249;

Thence along the east line of said Lot 10, N 05°55'15" E a distance of 171.67 feet to a point in the aforementioned south right of way line of Curtis Street;

Thence along said south right of way line, S 83°48'23" E a distance of 110.12 feet to the point of beginning.

Containing 0.434 acres, more or less.

Bearings are based on the Ohio State Plane Coordinate System South Zone as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)(NAD83).

The above description is based on a field survey performed by the Kleingers Group under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

**TRACT I, Parcel 2 – Auditor's Parcel No. 067-0001-0188: (Fee Simple)**

2363 St. James Avenue

Situated in Section 7, Town 3, Fractional Range 1, BTM, City of Cincinnati, Hamilton County, Ohio and being part of Lot 1 of the John H. Rodgers Subdivision conveyed to the Hamilton County Land Reutilization Corporation in O.R. 13370, Page 1844 of the Hamilton County Ohio Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a cross notch found in the west right of way line of St. James Avenue, said point being S 05°55'15" W a distance of 171.67 feet from a cross notch found at the intersection of said west right of way line with the south right of way line of Curtis Road;

Thence along said west right of way line, S 05°55'15" W a distance of 86.65 feet to a 5/8" iron pin set in the north line of Lot 2 of said John H. Rodgers Subdivision;

Thence along said north line, N 83°48'23" W a distance of 252.30 feet to an 5/8" iron pin set at the southeast corner of a tract of land conveyed to 2400 Gilbert, LLC in O.R. 9721, Pg. 1766;

Thence along the east line of said 2400 Gilbert, LLC's tract, N 05°55'15" E a distance of 56.65 feet to an iron pin set;

Thence along a new division line, S 83°48'23" E a distance of 142.18 feet to a 5/8" iron pin set;

Thence continuing, N 05°55'15" E a distance of 30.00 feet to an iron pin found at the southwest corner of Lot 11 of the George C. Curtis Subdivision as recorded in P.B. 1, Pg. 249;

Thence along the south line of said Lot 11, and along the south lines of Lots 12, 13 and 14, S 83°48'23" E a distance of 110.12 feet to the point of beginning.

Containing 0.404 acres, more or less.

Bearings are based on the Ohio State Plane Coordinates South Zone (OSPC) as derived from the Ohio Department of Transportation's Virtual Reference Stationing System.

The above description is based on a field survey performed by the Kleingers Group under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

**TRACT II, Parcel 1 – Auditor's Parcel No. 067-0001-0182 through 185, cons.: (Fee Simple)**

Situate in the City of Cincinnati, County of Hamilton and State of Ohio and being all of Lots 7, 8, 9 and 10 of the George C. Curtis' Subdivision of Walnut Hills, as shown by the plat thereof recorded in Plat Book 1, Page 165 of the Plat Records in the Recorder's Office of Hamilton County, Ohio.

**TRACT II, Parcel 2 – Auditor's Parcel No. 067-0001-0187: (Fee Simple)**

Situated in Section 7, Town 3, Fractional Range 2, BTM, City of Cincinnati, Hamilton County, Ohio and being part of Lot 1 of the John H. Rodgers Subdivision as conveyed to the Hamilton County Land Reutilization Corporation in O.R. 13370 Pg. 1844 of the Hamilton County Ohio, Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at an iron pin found in the north line of said Lot 1, said point being S05°55'15"W a distance of 171.67 feet and N83°48'23"W a distance of 110.12 feet from a cross notch found at the intersection of the west right of way line of St James Avenue with the south right of way line of Curtis Road; thence along a new division line, S05°55'15"W a distance of 30.00 feet to a 5/8" iron pin set; thence continuing, N83°48'23"W a distance of 142.18 feet to a 5/8" iron pin set in the easterly line of a tract of land conveyed to 2400 Gilbert, LLC in O.R. 9721 Pg.1766; thence with said easterly line, N05°55'15"E a distance of 30.00 feet to point in the south line of Lot 6 of the George C. Curtis Subdivision as recorded in P.B. 1 Pg. 249, witness a building corner 0.7 feet south and 2.0 feet west; thence in part along said south line and along the south lines of Lots 7, 8, 9 and 10, S83°48'23"E a distance of 142.18 feet to the point of beginning.

Containing 0.098 acres, more or less. Bearings are based on the Ohio State Plane Coordinates South Zone (OSPC) as derived from the Ohio Department of Transportation's Virtual Reference Stationing System. The above description is based on a field survey performed by the Kleingers Group under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

**TRACT III: (Easement)**

TOGETHER WITH an easement for ingress and egress across the property designated St. James Avenue as set forth in Declaration of Access Easement by Hamilton County Land Reutilization Corporation, an Ohio non profit community improvement corporation organized and existing under Ohio Revised Code Chapters 1724 and 1702, dated December 15, 2017 and recorded January 12, 2018 in Official Record Book 13583, Page 233, Hamilton County, Ohio Records.

**Exhibit B to CRA Agreement**  
**APPLICATION FOR TAX EXEMPTION**

TO BE ATTACHED

Date: June 16, 2021

To: Mayor and Members of City Council 202102235  
From: Paula Boggs Muething, City Manager  
Subject: EMERGENCY ORDINANCE - OHIO URBAN TRANSIT PROGRAM APPLICATION

---

Attached is an emergency ordinance captioned as follows:

AUTHORIZING the City Manager to apply for financial assistance from the Ohio Department of Transportation for transit purposes under the Ohio Urban Transit Program for state fiscal year 2022.

There is no local match required.

The reason for the emergency is the immediate need to submit an application to ODOT under the Urban Transit Program in order to meet applicable program deadlines.

The Administration recommends passage of the attached emergency ordinance.

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



EMERGENCY

City of Cincinnati

JRS

AWB

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

- 2021

**AUTHORIZING** the City Manager to apply for financial assistance from the Ohio Department of Transportation for transit purposes under the Ohio Urban Transit Program for state fiscal year 2022.

WHEREAS, the Ohio Department of Transportation (“ODOT”) has been delegated authority to award state financial assistance for transit projects under the Ohio Urban Transit Program (“UTP”), and the City of Cincinnati (“City”) wishes to apply for such financial assistance and other grants and assistance made available for the state fiscal year 2022; and

WHEREAS, the City is a direct recipient of Federal Transit Administration Section 5307 funds and is eligible to apply for financial assistance for the Cincinnati Bell Connector streetcar project under the UTP for fiscal year 2022; and

WHEREAS, there is no local match required for UTP project awards; and

WHEREAS, ODOT requires applicants for funding to include legislative authorization as part of the application process for award of UTP funds; and

WHEREAS, in making UTP applications for such financial assistance, the City will provide annual certifications and assurances to the State of Ohio required for the Cincinnati Bell Connector streetcar project pursuant to any grants and to its status as a grantee; 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 to the Ohio Department of Transportation (“ODOT”) for state financial assistance in state fiscal year 2022 for eligible transit purposes under the Ohio Urban Transit Program (“UTP”).

Section 2. That the proper city officials are authorized to take all necessary and proper actions to provide certifications, assurances, and other documents that ODOT requires in advance of awarding financial assistance under the UTP.

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 submit an application to ODOT under the UTP in order to meet applicable program deadlines.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**June 16, 2021**

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

202102236

**From:** Paula Boggs Muething, City Manager

**Subject: Emergency Ordinance – Acceptance of Donation from Cincinnati Recreation Foundation**

---

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to accept and appropriate a donation in an amount up to \$10,000 from the Cincinnati Recreation Foundation to the Cincinnati Recreation Commission for the purpose of funding swim admission passes at the Hirsch Recreation Center pool for Avondale community youth; and **AUTHORIZING** the Finance Director to deposit the grant funds in Fund 319, "Contributions for Recreation Purposes."

This Emergency Ordinance authorizes the City Manager to accept and appropriate a donation up to \$10,000 from the Cincinnati Recreation Foundation (CRF) for the purpose of funding swim admission passes at the Hirsch Recreation Center. SALT Ministries is donating the funds to the CRF. The purpose of this donation is to provide financial resources for Avondale community youth to swim at Hirsch Recreation Center Pool. This Emergency Ordinance will also authorize the Finance Director to deposit the donated funds into Contributions for Recreation Purposes Fund 319.

This Emergency Ordinance is in accordance with the "Collaborate" goal to "Unite our Communities" as described on page 210 of Plan Cincinnati (2012).

The reason for the emergency is the need to accept the donation so the pool admission passes are available as soon as possible to coincide with the opening of the Hirsch Recreation Center pool.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment





EMERGENCY

City of Cincinnati

CMZ

BWL

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

- 2021

**AUTHORIZING** the City Manager to accept and appropriate a donation in an amount up to \$10,000 from the Cincinnati Recreation Foundation to the Cincinnati Recreation Commission for the purpose of funding swim admission passes at the Hirsch Recreation Center pool for Avondale community youth; and **AUTHORIZING** the Finance Director to deposit the grant funds in Fund 319, "Contributions for Recreation Purposes."

WHEREAS, the SALT Ministries is donating up to \$10,000 to the Cincinnati Recreation Foundation for funding swim admission passes at the Hirsch Recreation Center pool for Avondale community youth; and

WHEREAS, this donation does not require a funding match, and there are no new FTEs associated with this project; and

WHEREAS, this ordinance is in accordance with the "Collaborate" goal to "Unite our Communities" as described on page 210 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 accept and appropriate a donation in an amount up to \$10,000 from the Cincinnati Recreation Foundation to Cincinnati Recreation Commission for the purpose of funding swim admission passes at the Hirsch Recreation Center pool for Avondale community youth.

Section 2. That the Director of Finance is hereby authorized to receive and deposit the donation resources into in Fund 319, "Contributions for Recreation Purposes."

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 be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is

the need to accept the donation so the pool admission passes are available as soon as possible to coincide with the opening of the Hirsch Recreation Center pool.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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



June 16, 2021

**To:** Mayor and Members of City Council 202102237

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – Community Development Block Grant (CDBG) 2021 Annual Action Plan Amendment**

---

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the acceptance and appropriation of a grant of \$170,998 from the U.S. Department of Housing and Urban Development to Community Development Block Grant Fund 304; and **ANNOUNCING** the City's intention to use said funds for various projects and operating allocations for the Community Development Block Grant Program for Calendar Year 2021 and to file the 2021 Annual Action Plan Amendment in accordance with the attached Appropriation Schedule.

Approval of this Emergency Ordinance authorizes the City Manager to accept and appropriate a grant of \$170,998 from the U.S. Department of Housing and Urban Development (HUD) to Community Development Block Grant Fund 304. Approval of this Emergency Ordinance will further announce the City's intention to use said funds for various projects and operating allocations for the Community Development Block Grant (CDBG) Program for Calendar Year 2021 and to file the 2021 Annual Action Plan Amendment in accordance with the attached Appropriation Schedule.

HUD announced the grant allocation of \$11,603,976 for the 2021 CDBG program (Assistance Listing No. 14.218) via Award B-21-MC-39-0003 on February 25, 2021. This entitlement grant of \$11,603,976 was accepted and appropriated by Ordinance No. 0136-2021 on April 21, 2021.

However, HUD announced an increase to the 2021 CDBG program (Assistance Listing No. 14.218) allocation via Award B-21-MC-39-0003 on May 13, 2021, increasing the City's entitlement grant by \$170,998, for a total grant allocation of \$11,774,974. The additional \$170,998 must now be accepted and appropriated.

This Emergency Ordinance is in accordance with the "Live" strategy to "Support and stabilize our neighborhoods" as described on page 160, and the "Compete" initiative area to "Be the pivotal economic force in the region" as described on page 101 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to provide funding for the continuation of vital City programs.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment





## EMERGENCY

City of Cincinnati

LES

*AWB*

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

- 2021

**AUTHORIZING** the acceptance and appropriation of a grant of \$170,998 from the U.S. Department of Housing and Urban Development to Community Development Block Grant Fund 304; and **ANNOUNCING** the City's intention to use said funds for various projects and operating allocations for the Community Development Block Grant Program for Calendar Year 2021 and to file the 2021 Annual Action Plan Amendment in accordance with the attached Appropriation Schedule.

WHEREAS, the Community Development Block Grant ("CDBG") Program began in 1974 and is one of the longest continuously run programs at the U.S. Department of Housing and Urban Development ("HUD"), through which HUD provides annual grants to local communities to address a wide range of unique community development needs; and

WHEREAS, HUD announced the grant allocation of \$11,603,976 for the 2021 CDBG program (Assistance Listing No. 14.218) via Award B-21-MC-39-0003 on February 25, 2021; and

WHEREAS, the entitlement grant of \$11,603,976 was accepted and appropriated by Ordinance No. 0136-2021 on April 21, 2021; and

WHEREAS, HUD announced an increase to the 2021 CDBG program (Assistance Listing No. 14.218) allocation via Award B-21-MC-39-0003 on May 13, 2021, increasing the City's entitlement grant by \$170,998, for a total grant allocation of \$11,774,974; and

WHEREAS, the CDBG grant is one of four HUD entitlement grants awarded to the City for Calendar Year 2021 that when combined create the 2021 Annual Action Plan, which must be submitted to HUD within 60 days of the award announcement; and

WHEREAS, accepting and appropriating funds from the CDBG Program is in accordance with the "Live" strategy to "Support and stabilize our neighborhoods" as described on pages 160-163, and with the "Compete" goal to "Be the pivotal economic force in the region" as described on pages 101-102 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the acceptance and appropriation of \$170,998 to Community Development Block Grant Fund 304 is hereby authorized in accordance with the attached Appropriation Schedule, for the purpose of funding various projects and operating allocations for the Community Development Block Grant Program for Calendar Year 2021.

Section 2. That Council hereby announces the intent of the City of Cincinnati to use said sum of \$170,998 for various projects and operating allocations in its Calendar Year 2021 Community Development Block Grant Program and to file the 2021 Annual Action Plan Amendment according to the attached Appropriation Schedule.

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

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to provide funding for the continuation of vital City programs.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

# RECONCILIATION SCHEDULE

## INCREASE OF EXISTING COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM RECONCILIATION SCHEDULE

Grant Program	Fund	Agency	Project Account No.	Project Title	Original Authorization	Amount to be Increased	Revised Authorization
CDBG	304	164	30421611	Commercial and Industrial Redevelopment '21	\$201,545.00	\$7,214.00	\$208,759.00
CDBG	304	161	30421142	Concentrated Code Enforcement '21	\$575,000.00	\$7,214.00	\$582,214.00
CDBG	304	162	30421123	Emergency Mortgage Assistance '21	\$190,000.00	\$7,214.00	\$197,214.00
CDBG	304	162	30421122	Fair Housing Services '21	\$170,000.00	\$7,214.00	\$177,214.00
CDBG	304	161	30421802	Findlay Market Operating Support '21	\$90,000.00	\$7,214.00	\$97,214.00
CDBG	304	162	30421124	Hand Up Initiative '21	\$1,260,000.00	\$7,214.00	\$1,267,214.00
CDBG	304	161	30421136	Hazard Abatement Program '21	\$750,000.00	\$7,214.00	\$757,214.00
CDBG	304	161	30421137	Historic Stabilization of Structures '21	\$200,000.00	\$7,214.00	\$207,214.00
CDBG	304	161	30421904	Homeowner Assistance Repairs and Building Order Remission '21	\$250,000.00	\$7,214.00	\$257,214.00
CDBG	304	161	30421103	Housing Choice Mobility Program '21	\$25,000.00	\$7,214.00	\$32,214.00
CDBG	304	162	30421015	Housing Repair Services '21	\$1,850,000.00	\$7,214.00	\$1,857,214.00
CDBG	304	161	30421411	Lead Hazard Testing Program '21	\$100,000.00	\$7,214.00	\$107,214.00
CDBG	304	164	30421221	NBD Improvement Program '21	\$900,000.00	\$7,214.00	\$907,214.00
CDBG	304	162	30421244	Operating Support for CDCs '21	\$300,000.00	\$7,214.00	\$307,214.00
CDBG	304	162	30421777	Project Lift '21	\$600,000.00	\$7,214.00	\$607,214.00
CDBG	304	164	30421201	Small Business Services '21	\$150,000.00	\$7,214.00	\$157,214.00
CDBG	304	162	30421431	Strategic Housing Initiatives Program '21	\$349,367.00	\$7,216.00	\$356,583.00
CDBG	304	162	30421121	Tenant Representation '21	\$230,000.00	\$7,214.00	\$237,214.00
CDBG	304	161	30421621	Youth and Young Adult Employment Program '21	\$725,000.00	\$7,214.00	\$732,214.00
CDBG	304	161	30421000	Administration - CDBG '21	\$1,761,064.00	\$33,930.00	\$1,794,994.00
TOTAL					\$10,676,976.00	\$170,998.00	\$10,847,974.00

# RECONCILIATION SCHEDULE

## INCREASE OF EXISTING COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM RECONCILIATION SCHEDULE

Grant Program	Fund	Agency	Project Account No.	Project Title	Original Authorization	Amount to be Increased	Revised Authorization
CDBG	304	164	30421611	Commercial and Industrial Redevelopment '21	\$201,545.00	\$7,214.00	\$208,759.00
CDBG	304	161	30421142	Concentrated Code Enforcement '21	\$575,000.00	\$7,214.00	\$582,214.00
CDBG	304	162	30421123	Emergency Mortgage Assistance '21	\$190,000.00	\$7,214.00	\$197,214.00
CDBG	304	162	30421122	Fair Housing Services '21	\$170,000.00	\$7,214.00	\$177,214.00
CDBG	304	161	30421802	Findlay Market Operating Support '21	\$90,000.00	\$7,214.00	\$97,214.00
CDBG	304	162	30421124	Hand Up Initiative '21	\$1,260,000.00	\$7,214.00	\$1,267,214.00
CDBG	304	161	30421136	Hazard Abatement Program '21	\$750,000.00	\$7,214.00	\$757,214.00
CDBG	304	161	30421137	Historic Stabilization of Structures '21	\$200,000.00	\$7,214.00	\$207,214.00
CDBG	304	161	30421904	Homeowner Assistance Repairs and Building Order Remission '21	\$250,000.00	\$7,214.00	\$257,214.00
CDBG	304	161	30421103	Housing Choice Mobility Program '21	\$25,000.00	\$7,214.00	\$32,214.00
CDBG	304	162	30421015	Housing Repair Services '21	\$1,850,000.00	\$7,214.00	\$1,857,214.00
CDBG	304	161	30421411	Lead Hazard Testing Program '21	\$100,000.00	\$7,214.00	\$107,214.00
CDBG	304	164	30421221	NBD Improvement Program '21	\$900,000.00	\$7,214.00	\$907,214.00
CDBG	304	162	30421244	Operating Support for CDCs '21	\$300,000.00	\$7,214.00	\$307,214.00
CDBG	304	162	30421777	Project Lift '21	\$600,000.00	\$7,214.00	\$607,214.00
CDBG	304	164	30421201	Small Business Services '21	\$150,000.00	\$7,214.00	\$157,214.00
CDBG	304	162	30421431	Strategic Housing Initiatives Program '21	\$349,367.00	\$7,216.00	\$356,583.00
CDBG	304	162	30421121	Tenant Representation '21	\$230,000.00	\$7,214.00	\$237,214.00
CDBG	304	161	30421621	Youth and Young Adult Employment Program '21	\$725,000.00	\$7,214.00	\$732,214.00
CDBG	304	161	30421000	Administration - CDBG '21	\$1,761,064.00	\$33,930.00	\$1,794,994.00
TOTAL					\$10,676,976.00	\$170,998.00	\$10,847,974.00

**June 16, 2020**

**To:** Mayor and Members of City Council 202102238

**From:** Paula Boggs Muething, City Manager

**Subject: Ordinance – Cincinnati Fire Department Boat Slip In-Kind Donation**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to accept an in-kind donation of a slip space from the Four Seasons Marina for the purpose of docking the Cincinnati Fire Department's fire boat.

Approval of this Ordinance authorizes the City Manager to accept an in-kind donation of a slip space from the Four Seasons Marina for the purpose of housing the Cincinnati Fire Department's fire boat. The value of the donation is less than \$500.

This donation does not require additional FTE or matching funds.

This Ordinance is in accordance with the "Live" goal to "create a more livable community" as described on page 156 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment



**KKF**

**- 2021**

**AUTHORIZING** the City Manager to accept an in-kind donation of a slip space from the Four Seasons Marina for the purpose of docking the Cincinnati Fire Department's fire boat.

WHEREAS, the Four Seasons Marina has offered to donate a slip space to dock the Cincinnati Fire Department's fire boat; and

WHEREAS, use of the slip space will enable the Fire Department to respond to river emergencies in a more timely manner, benefitting residents and visitors who experience waterway emergencies; and

WHEREAS, the value of the donation is less than \$500; and

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

WHEREAS, this ordinance is 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 City Manager is hereby authorized to accept an in-kind donation from the Four Seasons Marina of a boat slip space valued at less than \$500 for the purpose of docking the Cincinnati Fire Department's fire boat.

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

Section 3. 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

June 16, 2020

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

202102239

**From:** Paula Boggs Muething, City Manager

**Subject: Ordinance – Cincinnati Fire Foundation AisleMaster Chair In-Kind Donation**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to accept an in-kind donation from the Cincinnati Fire Foundation of an AisleMaster chair valued at up to \$2,500, for use at Cincinnati Fire Department Station 18 to transport patients onto and from aircraft.

Approval of this Ordinance authorizes the City Manager to accept an in-kind donation from the Cincinnati Fire Foundation of an AisleMaster chair valued at up to \$2,500, for use at Cincinnati Fire Department Station 18, located at Lunken Airport, to transport patients onto and from aircraft.

This donation does not require additional FTE or matching funds.

This Ordinance is in accordance with the “Live” goal to “create a more livable community” as described on page 156 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

CFG

AWB

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

- 2021

**AUTHORIZING** the City Manager to accept an in-kind donation from the Cincinnati Fire Foundation of an AisleMaster chair valued at up to \$2,500, for use at Cincinnati Fire Department Station 18 to transport patients onto and from aircraft.

WHEREAS, the Cincinnati Fire Foundation has offered to donate an AisleMaster chair to the Cincinnati Fire Department ("CFD") to assist in serving patients using aircraft; and

WHEREAS, use of the aisle chair will enable CFD to transport patients more safely and efficiently onto and from aircraft at the Cincinnati Municipal Lunken Airport; and

WHEREAS, the value of the donation is up to \$2,500; and

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

WHEREAS, this ordinance is 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 City Manager is hereby authorized to accept an in-kind donation from the Cincinnati Fire Foundation of an AisleMaster chair valued at up to \$2,500 for use at Cincinnati Fire Department Station 18 to transport patients onto and from aircraft.

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

Section 3. 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

**June 16, 2021**  
202102241

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

**From:** Paula Boggs Muething, City Manager

**Subject: Ordinance – Accept and Appropriate Donation from Clifton Resident, Timothy Maxey**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to accept, with gratitude, and appropriate a donation in an amount of up to \$2,920 from Clifton resident Timothy Maxey to existing capital improvement program project account no. 980x232x212383, “Pedestrian Safety Improvements,” for the purpose of providing resources for the purchase of two new solar powered blinking stop signs requested by the Clifton Town Meeting for the intersection of Middleton Avenue and Resor Avenue.

Approval of this Ordinance will authorize the City Manager to accept and appropriate a donation in the amount of up to \$2,920 from Clifton resident, Timothy Maxey, to existing capital improvement program project, “Pedestrian Safety Improvements,” for the purpose of providing resources to purchase two new solar powered blinking stop signs for the intersection of Middleton Avenue and Resor Avenue.

The Clifton Town Meeting requested that blinking stop signs be added to the intersection of Middleton Avenue and Resor Avenue as one of their top priority projects. Blinking stop signs have never been utilized in Cincinnati. The Clifton Town Meeting plans to enable a pilot of their use in the Clifton neighborhood to promote traffic safety and increase neighborhood vitality. Timothy Maxey generously offered, on behalf of the Clifton Town Meeting, to share in the additional cost required to install blinking stop signs over the cost of standard stop signs.

There are no new FTEs associated with this donation.

The installation of blinking stop signs is in accordance with the “Connect” goal to “develop an efficient multi-modal transportation system that supports neighborhood livability” and 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



**AUTHORIZING** the City Manager to accept, with gratitude, and appropriate a donation in an amount up to \$2,920 from Clifton resident Timothy Maxey to existing capital improvement program project account no. 980x232x212383, “Pedestrian Safety Improvements,” for the purpose of providing resources for the purchase of two new solar powered blinking stop signs requested by the Clifton Town Meeting for the intersection of Middleton Avenue and Resor Avenue.

WHEREAS, the Clifton Town Meeting is an official community council whose goal is to preserve and develop the community of Clifton; and

WHEREAS, Clifton Town Meeting requested that blinking stop signs be added at the intersection of Middleton Avenue and Resor Avenue as one of their priority projects; and

WHEREAS, blinking stop signs have never before been utilized in Cincinnati; and

WHEREAS, Clifton Town Meeting would like to enable a pilot of their use in the Clifton neighborhood; and

WHEREAS, blinking stop signs at the intersection of Middleton Avenue and Resor Avenue will promote traffic safety and increase neighborhood vitality; and

WHEREAS, Clifton resident Timothy Maxey has generously offered, on behalf of the Clifton Town Meeting, to enable the installation of the blinking stop signs by sharing in the additional cost required to install blinking stop signs over the cost of installing standard stop signs; and

WHEREAS, no new FTEs are associated with this donation; and

WHEREAS, the installation of blinking stop signs is in accordance with the “Connect” goal to “develop an efficient multi-modal transportation system that supports neighborhood livability” and to “plan, design, and implement a safe and 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 hereby authorized to accept, with gratitude, and appropriate a donation in an amount up to \$2,920 from Clifton resident Timothy Maxey to existing capital improvement program project account no. 980x232x212383, “Pedestrian Safety

Improvements,” for the purpose of providing resources for the purchase of two new solar powered blinking stop signs for the intersection of Middleton Avenue and Resor Avenue.

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

Section 3. 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

June 16, 2021

**To:** Mayor and Members of City Council 202102259

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – Reappropriation of FY 2021 General Fund Budget Items**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer and appropriation of the sum of \$1,368,235 from the unappropriated surplus of General Fund 050 to various operating budget accounts according to the attached Schedule of Transfer effective July 1, 2021, for the purpose of providing funds for leveraged support commitments, an economic development deal audit, and a tax abatement study previously approved by City Council in fiscal year 2021.

Approval of this Emergency Ordinance authorizes transfer and appropriation of the sum of \$1,368,235 from the unappropriated surplus of General Fund 050 to various operating budget accounts according to the attached Schedule of Transfer effective July 1, 2021, for the purpose of providing funds for leveraged support commitments, an audit of ordinances related to economic development deals, and a tax abatement study previously approved by the City Council in fiscal year 2021.

For the various reasons outlined below, a total of \$1,368,235 will be returned to the fund balance of the General Fund at the end of FY 2021 as these funds cannot be expensed or encumbered before June 30, 2021. Thus, \$1,368,235 will be considered unappropriated surplus at the start of FY 2022. In order to make these funds available immediately in FY 2022, this Emergency Ordinance authorizes the re-appropriation of these funds, effective July 1, 2021, in order to meet the commitments outlined below. This process normally occurs during the yearend closeout process but due to the timing of the execution of the agreements, the request is to roll these funds now so that they are available for the start of the new fiscal year.

**Community Safety Response Program (\$421,323)**

Ordinance No. 0190-2020 authorized the appropriation of \$1,000,000 for the implementation of a Community Safety Response Program. This funding was subsequently allocated to various organizations for program implementation. In order to align funding with contract terms, a total of \$421,323 will be reappropriated in FY 2022. This includes \$199,200 for the Hamilton County Mental Health Recovery Board, \$124,123 for the Victim's Assistance Liaison/Cincinnati Respect Our Witness (VALU/CCROW) Unit of the Cincinnati Police Department, and \$98,000 for the Community Safety Response Program implementation.

**Safety Coordinators/Organizers Program (\$214,667)**

Ordinance No. 0328-2020 authorized the appropriation of the sum of \$200,000 for a Safety Coordinators/Organizers Program as part of the City's violence reduction initiatives. The City entered into an agreement with the Local Initiatives Support Corporation (LISC) to begin a Safety Coordinators/Organizers Program and agreed to pay an amount up to \$230,000.

Additional funds were provided from the existing FY 2021 appropriation in the Cincinnati Initiative to Reduce Violence (CIRV)'s budget. \$214,667 will be provided in FY 2022.

**Economic Development Deals Audit (\$150,000)**

Ordinance No. 0216-2021 authorized the appropriation of \$150,000 to the Office of the City Manager (CMO) for an audit of ordinances passed by the City Council related to economic development deals between January 1, 2018, and December 31, 2020. However, the CMO does not anticipate a contract will be executed prior to FY 2021 yearend.

**Residential Tax Abatement Study (\$150,000)**

Ordinance No. 0333-2020 authorized the appropriation of \$150,000 to the Department of Community and Economic Development (DCED) for a residential tax abatement study. However, DCED does not anticipate a vendor will be selected prior to FY 2021 yearend due to procurement requirements and the request for proposal (RFP) timeline.

**The Dragonfly Foundation & Rosemary's Babies (\$432,245)**

Ordinance No. 0354-2020 authorized the appropriation of \$432,245 to DCED, which included \$250,000 for The Dragonfly Foundation and \$182,245 for Rosemary's Babies. Both recipients will utilize City funding for infrastructure improvements. However, both organizations need to secure gap financing before contract with the City can be executed and funding can be disbursed. The Dragonfly Foundation and Rosemary's Babies are unable to secure the necessary gap financing before FY 2021 yearend.

The reason for the emergency is the immediate need to meet commitments and ensure contracts can be executed as soon as possible.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

## **EMERGENCY**

**KMB**

**- 2021**

**AUTHORIZING** the transfer and appropriation of the sum of \$1,368,235 from the unappropriated surplus of General Fund 050 to various operating budget accounts according to the attached Schedule of Transfer effective July 1, 2021, for the purpose of providing funds for leveraged support commitments, an economic development deal audit, and a tax abatement study previously approved by City Council in fiscal year 2021.

WHEREAS, Ordinance No. 0190-2020 authorized the appropriation of \$1,000,000 to the Office of the City Manager (CMO) for the implementation of a Community Safety Response Program as part of the Approved Fiscal Year 2021 (FY 2021) Budget Update; and

WHEREAS, \$403,904 of the \$1,000,000 included in the Approved FY 2021 Budget Update for the Community Safety Response Program was subsequently allocated to the Hamilton County Mental Health and Recovery Services Board for the expansion of existing Mobile Crisis Response Services, and \$199,200 of the \$403,904 will be provided in fiscal year 2022 (FY 2022); and

WHEREAS, \$98,000 of the \$1,000,000 included in the Approved FY 2021 Budget Update for the Community Safety Response Program will be provided in FY 2022; and

WHEREAS, Ordinance No. 0355-2020 designated \$235,000 of the \$1,000,000 included in the Approved FY 2021 Budget Update for the Community Safety Response Program for the Victims Assistance Liaison/Cincinnati Citizens Respect Our Witnesses Unit of the Cincinnati Police Department's Criminal Investigation Section; and

WHEREAS, \$124,123 of the \$235,000 allocated for the Victims Assistance Liaison/Cincinnati Citizens Respect Our Witnesses Unit of the Cincinnati Police Department's Criminal Investigation Section will be provided in FY 2022; and

WHEREAS, Ordinance No. 0328-2020 authorized the appropriation of the sum of \$200,000 from the unappropriated surplus of the General Fund 050 to the CMO for the purpose of funding a Safety Coordinators/Organizers Program as part of the City's violence reduction initiatives; and

WHEREAS, the City entered into an agreement with the Local Initiatives Support Corporation to begin a Safety Coordinators/Organizers Program and agreed to pay an amount up to \$230,000, of which \$214,667 will be provided in FY 2022; and



WHEREAS, Ordinance No. 0216-2021 authorized the appropriation of \$150,000 to the CMO for an audit of City Council ordinances that passed related to economic development deals between January 1, 2018, and December 31, 2020; and

WHEREAS, the CMO does not anticipate a vendor will be selected prior to FY 2021 year end; and

WHEREAS, Ordinance No. 0333-2020 authorized the appropriation of \$150,000 to the Department of Community and Economic Development (DCED) for a residential tax abatement study; and

WHEREAS, due to procurement requirements and the request for proposal timeline, DCED does not anticipate a vendor will be selected prior to FY 2021 year end; and

WHEREAS, Ordinance No. 0354-2020 authorized the appropriation of \$432,245 to DCED, which included \$250,000 for The Dragonfly Foundation and \$182,245 for Rosemary's Babies; and

WHEREAS, The Dragonfly Foundation and Rosemary's Babies will utilize City funding for infrastructure improvements, and both organizations need to secure gap financing before a City contract can be executed and funding can be dispersed; and

WHEREAS, The Dragonfly Foundation and Rosemary's Babies are unable to secure the necessary gap financing before FY 2021 year end; and

WHEREAS, \$1,368,235 will return to the General Fund unappropriated surplus at FY 2021 year end and City Council wishes to re-appropriate the funding in FY 2022; now, therefore,

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

Section 1. That the sum of \$1,368,235 is hereby transferred and appropriated from the unappropriated surplus of General Fund 050 to various operating budget accounts according to the attached Schedule of Transfer effective July 1, 2021, for the purpose of providing funds for leveraged support commitments, an economic development deal audit, and a tax abatement study previously approved by the City Council in fiscal year 2021.

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

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 meet commitments and ensure contracts can be executed as soon as possible.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

## SCHEDULE OF TRANSFER

### FY 2022 GENERAL FUND ADJUSTMENTS

Fund 050 General Fund

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS	050			1,368,235	OFFICE OF THE CITY MANAGER				
					OFFICE OF THE CITY MANAGER	050	101	7100	124,123
					OFFICE OF THE CITY MANAGER	050	101	7200	661,867
					DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT				
					DIRECTOR/ADMINISTRATION	050	161	7200	150,000
					ECONOMIC DEVELOPMENT DIVISION	050	164	7400	432,245
<b>TOTAL FUND REDUCTIONS</b>				<b>1,368,235</b>	<b>TOTAL FUND INCREASES</b>				<b>1,368,235</b>

June 16, 2021

To: Mayor and Members of City Council 202102265

From: Paula Boggs Muething, City Manager

Subject: **LEED COMMUNITY REINVESTMENT AREA TAX EXEMPTION  
AGREEMENT FOR CLC 300 MAIN STREET LLC**

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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 CLC 300 Main Street LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 300 Main Street, 304 Main Street, and 302 E. Third Street in the Central Business District of Cincinnati, in connection with the remodeling of the existing building into approximately 40,000 square feet of commercial office space, 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 \$7,000,000.

#### **BACKGROUND/CURRENT CONDITIONS**

This property is a multi-story vacant building in the Central Business District of Cincinnati, and it is within the Main and Third Street Historic District. The Developer submitted a CRA application to DCED requesting assistance in the redevelopment of this property.

#### **DEVELOPER INFORMATION**

CLC 300 Main Street, LLC is the development entity that will be renovating these buildings on behalf of Pure Romance. Pure Romance is an existing Cincinnati company that is moving from its current location at 655 Plum to this location across downtown. With this move, they will be adding five full time jobs to their payroll.

**PROJECT DESCRIPTION**

Once completed, this project will consist of 40,000 square feet of office space to house the new Pure Romance headquarters. In connection with this project, it is estimated that 75 temporary construction jobs will be created at a total annual payroll of \$3,950,000, 110 full-time equivalent employees will be retained at a total annual payroll of \$10,454,878, and 5 full-time equivalent employees will be created at a total annual payroll of \$325,000.

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 LEED Commercial CRA policy established by City Council, this project is located within the Streetcar VTICA Area and is therefore eligible for a 15-year net 52% CRA Tax Abatement.

<b>SUMMARY</b>	
<b>Forgone Public Benefit if Project Does not Proceed</b>	
CPS PILOT (Forgone New Revenue)	(\$588,288)
VTICA (Forgone New Revenue)	(\$267,403)
Income Tax (Forgone New Revenue)	(\$3,478,612)
<b>Total Public Benefit Lost</b>	<b>(\$4,334,303)</b>
<b>Incentive Value</b>	
Annual Net Incentive to Developer	\$61,800
<b>Total Term Incentive to Developer</b>	<b>\$926,999</b>
<b>City's Portion of Property Taxes Forgone</b>	<b>\$230,076</b>
<b>Public Benefit</b>	
CPS PILOT	
Annual CPS Pilot	\$39,219
Total Term CPS PILOT	<b>\$588,288</b>
VTICA	
Annual VTICA	\$17,827
Total Term VTICA	<b>\$267,403</b>
Income Tax (Max)	<b>\$3,478,612</b>
<b>Total Public Benefit (CPS PILOT/VTICA /Income Tax)</b>	<b>\$4,334,303</b>
Total Public Benefit ROI*	\$4.68
City's ROI*	\$18.84
*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.

Attachment: A. Property location and photographs

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

## Attachment A: Location and Photographs





EMERGENCY

City of Cincinnati

JML

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 CLC 300 Main Street LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 300 Main Street, 304 Main Street, and 302 E. Third Street in the Central Business District of Cincinnati, in connection with the remodeling of an existing building into approximately 40,000 square feet of commercial office space, 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 \$7,000,000.

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, CLC 300 Main Street LLC (the "Company") desires to remodel an existing building into approximately 40,000 square feet of commercial office space on real property at 300 Main Street, 304 Main Street, and 302 E. Third Street located within the corporate

boundaries of the City of Cincinnati, to LEED or LBC standards (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 CLC 300 Main Street 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 300 Main Street, 304 Main Street, and 302 E. Third Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building into approximately 40,000 square feet of commercial office space, 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 \$7,000,000.

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 CLC 300 Main Street 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 300 Main Street, 302 E. Third Street, and 304 Main Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- 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 on the Property into approximately 40,000 square feet of commercial office space (the "Improvements") at an estimated aggregate cost of \$7,000,000 to commence after the execution of this Agreement and to be completed no later than December 31, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in their 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 **Error! Reference source not found.** 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 **Error! Reference source not found.**, (B) the cost of **Error! Reference source not found.**, (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 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the fifteenth (15<sup>th</sup>) 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.<sup>1</sup>

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.

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<sup>1</sup> 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.

(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 (a) 110 full-time equivalent employees in the City of Cincinnati with a total annual payroll of \$10,454,878, and (b) no existing employment at the Property or at any other locations 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 cause the relocation and retention of 110 existing full-time equivalent employees to the Property, with a total annual payroll of \$10,454,878, in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 5 full-time equivalent permanent jobs and (ii) 75 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) \$325,000 of additional annual payroll with respect to the full-time equivalent permanent jobs, and (ii) \$3,950,000 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:

CLC 300 Main Street LLC  
Attention: Michelle Smith, Executive Assistant  
30 W. 3<sup>rd</sup> Street,  
Cincinnati, Ohio 45214

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

CLC 300 Main Street LLC,  
an **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**

Parcel Number: 083-0003-0002-00 & 083-0003-0001-00

Property Address: 300 Main Street, Cincinnati, Ohio 45202 & 302 E. Third Street, Cincinnati, Ohio 45202.

Situate in Section 18, Town 4, Fractional Range 1, and being more particularly described as follows:

Beginning at the Northeast corner of Third Street and Main Street; thence North 15°30' West along the East line of Main Street, 35.05 feet to a point; thence North 74°59' East, 96.10 feet to a point in the centerline of an 8.00 foot private alley; thence South 15°30" East along the said center line of the 8.00 foot wide private alley, 35.00 feet to a point in the North line of Third Street; thence South 74°57' West along the North line of Third Street, 96.10 feet to the place of beginning.

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Parcel Number: 083-0003-0003

Property Address: 304 Main Street, Cincinnati, Ohio 45202

LOCATED IN THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND BEING DESCRIBED AS THAT PLOT OF GROUND SITUATED ON THE EAST SIDE OF MAIN STREET 35 FEET NORTH OF THIRD STREET FRONTING 33 FEET, MORE OR LESS, AND BEING ALL OF THE LAND LYING BETWEEN THE MCMICKEN LOT ON THE SOUTH AND THE BERNARD MURRAY LOT ON THE NORTH, AND RUNNING EASTWARDLY BETWEEN LINES PARALLEL WITH THIRD STREET 100 FEET, MORE OR LESS, TO THE EAST LINE OF A PRIVATE ALLEY.

**Exhibit B to CRA Agreement**  
**APPLICATION FOR TAX EXEMPTION**

**TO BE 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 CLC 300 Main Street 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 300 Main Street, 302 E. Third Street, and 304 Main Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- 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 on the Property into approximately 40,000 square feet of commercial office space (the "Improvements") at an estimated aggregate cost of \$7,000,000 to commence after the execution of this Agreement and to be completed no later than December 31, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in their 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 Error! Reference source not found.** 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 **Error! Reference source not found.**, (B) the cost of **Error! Reference source not found.**, (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 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the fifteenth (15<sup>th</sup>) 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.<sup>1</sup>

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.

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<sup>1</sup> 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.

(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 (a) 110 full-time equivalent employees in the City of Cincinnati with a total annual payroll of \$10,454,878, and (b) no existing employment at the Property or at any other locations 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 cause the relocation and retention of 110 existing full-time equivalent employees to the Property, with a total annual payroll of \$10,454,878, in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 5 full-time equivalent permanent jobs and (ii) 75 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) \$325,000 of additional annual payroll with respect to the full-time equivalent permanent jobs, and (ii) \$3,950,000 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:

CLC 300 Main Street LLC  
Attention: Michelle Smith, Executive Assistant  
30 W. 3<sup>rd</sup> Street,  
Cincinnati, Ohio 45214

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

CLC 300 Main Street LLC,  
an **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**

Parcel Number: 083-0003-0002-00 & 083-0003-0001-00

Property Address: 300 Main Street, Cincinnati, Ohio 45202 & 302 E. Third Street, Cincinnati, Ohio 45202.

Situate in Section 18, Town 4, Fractional Range 1, and being more particularly described as follows:

Beginning at the Northeast corner of Third Street and Main Street; thence North 15°30' West along the East line of Main Street, 35.05 feet to a point; thence North 74°59' East, 96.10 feet to a point in the centerline of an 8.00 foot private alley; thence South 15°30" East along the said center line of the 8.00 foot wide private alley, 35.00 feet to a point in the North line of Third Street; thence South 74°57' West along the North line of Third Street, 96.10 feet to the place of beginning.

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Parcel Number: 083-0003-0003

Property Address: 304 Main Street, Cincinnati, Ohio 45202

LOCATED IN THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND BEING DESCRIBED AS THAT PLOT OF GROUND SITUATED ON THE EAST SIDE OF MAIN STREET 35 FEET NORTH OF THIRD STREET FRONTING 33 FEET, MORE OR LESS, AND BEING ALL OF THE LAND LYING BETWEEN THE MCMICKEN LOT ON THE SOUTH AND THE BERNARD MURRAY LOT ON THE NORTH, AND RUNNING EASTWARDLY BETWEEN LINES PARALLEL WITH THIRD STREET 100 FEET, MORE OR LESS, TO THE EAST LINE OF A PRIVATE ALLEY.

**Exhibit B to CRA Agreement**  
**APPLICATION FOR TAX EXEMPTION**

TO BE ATTACHED

June 16, 2021

To: Mayor and Members of City Council

202102266

From: Paula Boggs Muething, City Manager

Subject: **COMMUNITY REINVESTMENT AREA TAX EXEMPTION  
AGREEMENT FOR TEXTILE PARTNERS, 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 Textile Partners LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 205 W. Fourth Street in the Central Business District neighborhood of Cincinnati, in connection with the remodeling of an existing building to create approximately 7,000 square feet of commercial retail space and approximately 215,595 square feet of residential space consisting of 282 residential units, at a total construction cost of approximately \$55,347,000; and further **AUTHORIZING** a 10-year historic extension of such 15-year tax exemption.

### **BACKGROUND/CURRENT CONDITIONS**

This property is a historical office building in the Central Business District neighborhood of Cincinnati. It is within the 4<sup>th</sup> Street Historic District. The Developer is proposing an office to residential conversion development. The Developer submitted a CRA application to DCED requesting assistance in the redevelopment of this property.

### **DEVELOPER INFORMATION**

Textile Partners, LLC. is an affiliate of parent company, Bernstein Companies, a privately owned real estate firm founded in 1933, out of Washington D.C. The firm has been involved in more than \$3 billion worth of transactions and currently owns, develops, and manages a variety of product types across the country. They have a portfolio of more than 2.5 million square feet and specialize in converting historical

buildings into new uses. Bernstein Companies is also currently working on the conversion of the 23-story Mark Twain Tower in Kansas City, Mo., into 222 apartments.

### **PROJECT DESCRIPTION**

Once completed, this project will consist of 282 apartment units and approximately 7,000 square feet of commercial space. Rent will range between \$1,100-\$2,850 per month depending on the square footage of the unit. In connection with this project, it is estimated that 225 temporary construction jobs are created at a total annual payroll of \$10,000,000 and 14 full time jobs are created at a total annual payroll of \$445,000.

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 mixed-use district along the 4<sup>th</sup> street corridor and bring much needed housing and redevelopment to the Central Business District.

Pursuant to Ohio Revised Code Sections 3735.65 through 3735.70, the Developer may be eligible for an extension of the abatement term because of the historical significance of the property for up to ten years. Prior to the expiration of the original 15-year abatement term, if the City administration determines in its sole discretion that the project qualifies for a historic extension, the parties will execute a mutually satisfactory amendment to extend the abatement term for a period of ten years. The administration believes that the projects currently anticipated financial need would merits a longer incentive (for example a 25-year project TIF) if the extension were not an option at this time.



<b>SUMMARY</b>		
<b>Forgone Public Benefit if Project Does not Proceed</b>		
	CPS PILOT ( <i>Forgone New Revenue</i> )	(\$4,409,161)
	VTICA ( <i>Forgone New Revenue</i> )	(\$2,004,164)
	Income Tax ( <i>Forgone New Revenue</i> )	(\$863,625)
	<b>Total Public Benefit Lost</b>	<b>(\$7,276,949)</b>
<b>Incentive Value</b>		
	Annual Net Incentive to Developer	\$277,911
	<b>Total Term Incentive to Developer</b>	<b>\$6,947,768</b>
	<b>City's Portion of Property Taxes Forgone</b>	<b>\$1,724,398</b>
<b>Public Benefit</b>		
	CPS PILOT	
	Annual CPS Pilot	\$176,366
	<b>Total Term CPS PILOT</b>	<b>\$4,409,161</b>
	VTICA	
	Annual VTICA	\$80,167
	<b>Total Term VTICA</b>	<b>\$2,004,164</b>
	Income Tax (Max)	<b>\$863,625</b>
	<b>Total Public Benefit (CPS PILOT/VTICA /Income Tax)</b>	<b>\$7,276,949</b>
	<b>Total Public Benefit ROI*</b>	<b>\$1.05</b>
	<b>City's ROI*</b>	<b>\$4.22</b>

\*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

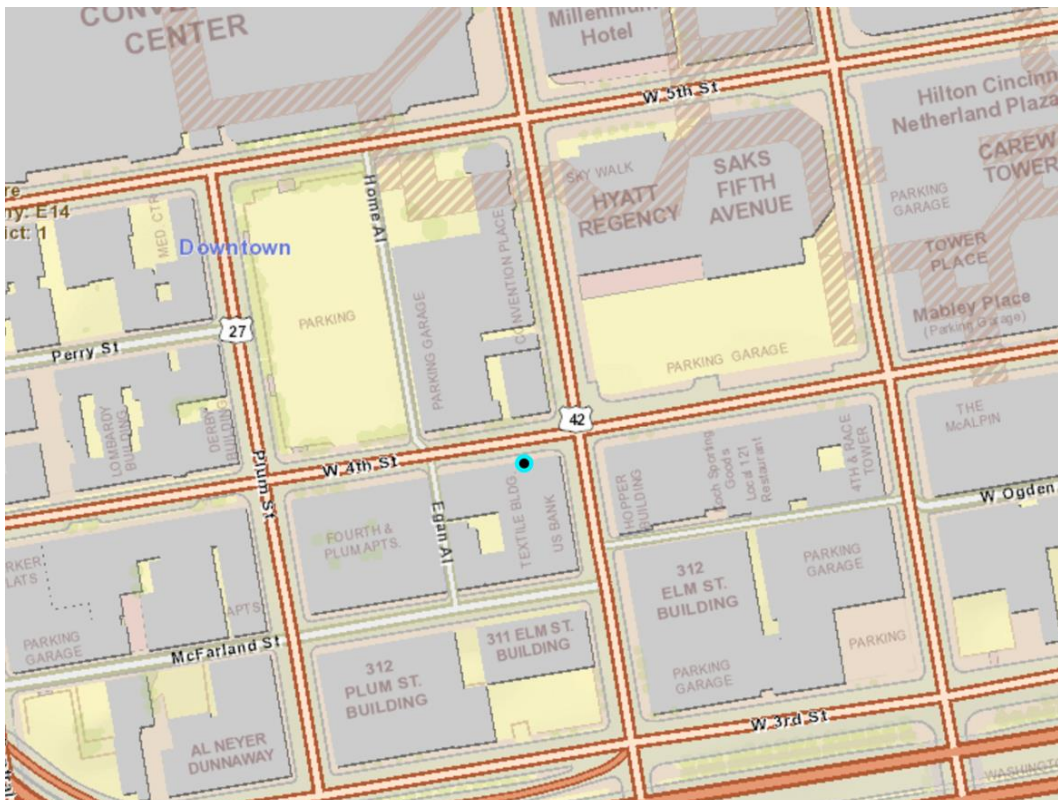
## **RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance. The 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, Director, Department of Community & Economic Development *MLC*

## Attachment A: Location and Photographs





EMERGENCY

City of Cincinnati

JML

BWB

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

- 2021

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Textile Partners, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 205 W. Fourth Street in the Central Business District neighborhood of Cincinnati, in connection with the remodeling of an existing building to create approximately 7,000 square feet of commercial retail space and 215,595 square feet of residential space consisting of 282 residential units, at a total construction cost of approximately \$55,347,000; and further **AUTHORIZING** a 10-year historic extension of such 15-year tax exemption.

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, Textile Partners, LLC (the “Company”) desires to remodel an existing building to create approximately 7,000 square feet of commercial retail space and 215,595 square feet of residential space consisting of 282 residential units on real property at 205 W. Fourth Street located within the corporate boundaries of the City of Cincinnati (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 (the “Agreement”), to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the Statute authorizes Council to extend for up to an additional ten (10) years the real property tax exemption for multifamily dwelling structures of historical or architectural significance that have been certified as historic structures, that have been subject to

federal tax treatment under 26 U.S.C. 47 and 170(h), and that have had units within such structures leased to individual tenants for at least five consecutive years (the “Statutory Requirements”); and

WHEREAS, to provide an additional development incentive for the Improvements, this Council finds that, provided that the Company satisfies the Statutory Requirements and the other terms of the Agreement, the Company may be eligible for a historic extension of up to ten years; 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 Textile Partners, 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 205 W. Fourth Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building to create approximately 7,000 square feet of commercial retail space and 215,595 square feet of residential space consisting of 282 residential units, to be completed at a total construction cost of approximately \$55,347,000; and

further authorizing a 10-year extension of such 15-year tax exemption provided the company satisfies certain conditions as described in the Agreement, including compliance with all statutory requirements (the "Historic Extension").

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; and
- (v) to execute an amendment to the Agreement for the Historic Extension, as contemplated in 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 TEXTILE PARTNERS, 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 205 W. Fourth 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 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 to create approximately 7,000 square feet of commercial retail space and 215,595 square feet of residential space consisting of 282 residential units (the "Improvements") at an estimated aggregate cost of \$55,347,000 to commence after the execution of this Agreement and to be completed no later than December 31, 2023, *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in their 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 2024 nor extend beyond the earlier of (i) tax year 2038 or (ii) the end of the fifteenth (15<sup>th</sup>) 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.<sup>1</sup>

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

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<sup>1</sup> 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 one existing employee at the Property, with an annual payroll of \$65,000 (the "Retained Employee"), and no other existing employment at the Property or at other locations in the State.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 8 full-time permanent jobs, (ii) 150 full-time temporary construction jobs, (iii) 6 part-time permanent jobs, and (iv) 75 part-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.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$311,500 of additional annual payroll with respect to the full-time permanent jobs, (ii) \$7,000,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs, (iii) \$133,500 of additional annual payroll with respect to the part-time permanent jobs, and (iv) \$3,000,000 of additional annual payroll prior to the completion of the Project with respect to the part-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:

Textile Partners, LLC  
Attention: Phil Aftuck  
3299 K St. NW, 7<sup>th</sup> Floor  
Washington, DC 20007

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.

Section 39. Historic Extension. The parties acknowledge that the Company may be eligible for an extension of the abatement term because of the historical significance of the Property for up to ten years pursuant to the Statute (as may be amended from time to time). Once the Company has satisfied

the requirements of the Statute and no later than 180 days prior to the end of the abatement term pursuant to this Agreement, the Company shall provide the City with (i)(a) income tax statements verifying that the Property has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h) or (b) a certification from the Company's accountant confirming that the Property has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), (ii) such other documentation as requested in writing by DCED to verify the eligibility of the Property for an extension of the abatement term pursuant to the Statute, and (iii) operating revenue and expenses for the prior five years; each of the foregoing must be provided in a format acceptable to the City in its sole and absolute discretion. Following the City's review of the foregoing materials, if the Property qualifies for a historic extension pursuant to the Statute, the parties will execute a mutually satisfactory amendment to this Agreement to extend the abatement term for a period of ten years.

Section 40. General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, the Company agrees on its own behalf to defend, indemnify and hold the City, its officers, employees, agents, and City Council members (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including without limitation attorneys' fees), demands, judgments, liability and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from this Agreement. The Company's indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto.

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

**Error! Reference source not found.,**  
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**

**Property Address:** 205 W. Fourth Street, Cincinnati, Ohio 45202

**Auditor's Parcel ID:** 145-0001-0452-00

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

Situated in Section 18, Town 4, Fractional Range 1, Miami Purchase in the City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

Beginning at a point in the intersection of the South line of Fourth Street and the West line of Elm Street;

Thence with the West line of said Elm Street South 16 deg. 00' East to a distance of 169.00 feet to a point in the North line of McFarland Street;

Thence with the North line of said McFarland Street South 74 deg. 17' West and a distance of 135.49 feet to a point said point being the Southeast corner of Registered Land Certificate Number 36985;

Thence along the East line of the said Registered Land Parcel the following 3 courses:

North 16 deg. 00' West and a distance of 84.50 feet to a point;

North 74 deg. 23' East and a distance of 35.43 feet to a point;

North 16 deg. 00' West and a distance of 84.73 feet to a point in the South line of said Fourth Street;

Thence along the South line of said Fourth Street North 74 deg. 23' East 100.06 feet to the point of beginning.

Being all of Lots 27, 28, 29, 30, 40, 41, 42 and Part of Lots 31 & 43 of William McFarland Sub Square 2 as recorded in Deed Book H, Pages 78-79.

Property Address: 205 West Fourth Street, Cincinnati, OH  
Parcel Number: 145-0001-0163 (thru 167-178 thru 182 cons.)

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**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 TEXTILE PARTNERS, 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 205 W. Fourth 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 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 to create approximately 7,000 square feet of commercial retail space and 215,595 square feet of residential space consisting of 282 residential units (the "Improvements") at an estimated aggregate cost of \$55,347,000 to commence after the execution of this Agreement and to be completed no later than December 31, 2023, *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in their 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 2024 nor extend beyond the earlier of (i) tax year 2038 or (ii) the end of the fifteenth (15<sup>th</sup>) 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.<sup>1</sup>

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

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<sup>1</sup> 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 one existing employee at the Property, with an annual payroll of \$65,000 (the "Retained Employee"), and no other existing employment at the Property or at other locations in the State.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 8 full-time permanent jobs, (ii) 150 full-time temporary construction jobs, (iii) 6 part-time permanent jobs, and (iv) 75 part-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.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$311,500 of additional annual payroll with respect to the full-time permanent jobs, (ii) \$7,000,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs, (iii) \$133,500 of additional annual payroll with respect to the part-time permanent jobs, and (iv) \$3,000,000 of additional annual payroll prior to the completion of the Project with respect to the part-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:

Textile Partners, LLC  
Attention: Phil Aftuck  
3299 K St. NW, 7<sup>th</sup> Floor  
Washington, DC 20007

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.

Section 39. Historic Extension. The parties acknowledge that the Company may be eligible for an extension of the abatement term because of the historical significance of the Property for up to ten years pursuant to the Statute (as may be amended from time to time). Once the Company has satisfied



the requirements of the Statute and no later than 180 days prior to the end of the abatement term pursuant to this Agreement, the Company shall provide the City with (i)(a) income tax statements verifying that the Property has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h) or (b) a certification from the Company's accountant confirming that the Property has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), (ii) such other documentation as requested in writing by DCED to verify the eligibility of the Property for an extension of the abatement term pursuant to the Statute, and (iii) operating revenue and expenses for the prior five years; each of the foregoing must be provided in a format acceptable to the City in its sole and absolute discretion. Following the City's review of the foregoing materials, if the Property qualifies for a historic extension pursuant to the Statute, the parties will execute a mutually satisfactory amendment to this Agreement to extend the abatement term for a period of ten years.

Section 40. General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, the Company agrees on its own behalf to defend, indemnify and hold the City, its officers, employees, agents, and City Council members (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including without limitation attorneys' fees), demands, judgments, liability and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from this Agreement. The Company's indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto.

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

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

Date: \_\_\_\_\_, 2021

Approved as to Form:

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

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

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

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

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

**Error! Reference source not found.,**  
an Ohio limited liability company

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

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

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

Date: \_\_\_\_\_, 2021

Authorized by resolution dated \_\_\_\_\_

**Exhibit A to CRA Agreement**

**LEGAL DESCRIPTION OF PROPERTY**

Property Address: 205 W. Fourth Street, Cincinnati, Ohio 45202

Auditor's Parcel ID: 145-0001-0452-00

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

Situated in Section 18, Town 4, Fractional Range 1, Miami Purchase in the City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

Beginning at a point in the intersection of the South line of Fourth Street and the West line of Elm Street;

Thence with the West line of said Elm Street South 16 deg. 00' East to a distance of 169.00 feet to a point in the North line of McFarland Street;

Thence with the North line of said McFarland Street South 74 deg. 17' West and a distance of 135.49 feet to a point said point being the Southeast corner of Registered Land Certificate Number 36985;

Thence along the East line of the said Registered Land Parcel the following 3 courses:

North 16 deg. 00' West and a distance of 84.50 feet to a point;

North 74 deg. 23' East and a distance of 35.43 feet to a point;

North 16 deg. 00' West and a distance of 84.73 feet to a point in the South line of said Fourth Street;

Thence along the South line of said Fourth Street North 74 deg. 23' East 100.06 feet to the point of beginning.

Being all of Lots 27, 28, 29, 30, 40, 41, 42 and Part of Lots 31 & 43 of William McFarland Sub Square 2 as recorded in Deed Book H, Pages 78-79.

Property Address: 205 West Fourth Street, Cincinnati, OH  
Parcel Number: 145-0001-0163 (thru 167-178 thru 182 cons.)

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**Exhibit B to CRA Agreement**  
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

June 16, 2021

To: Mayor and Members of City Council

202102267

From: Paula Boggs Muething, City Manager

Subject: **ORDINANCE – DEVELOPMENT AGREEMENT - WALWORTH**

---

Attached is an Emergency Ordinance captioned as follows:

**AUTHORIZING** the City Manager to execute a Development Agreement with East End Development LLC pertaining to the redevelopment of property located south of Columbia Parkway along Walworth Avenue in the East End neighborhood of Cincinnati, pursuant to which the City will assign special assessment revenue and service payments in lieu of taxes received by the City to the Port of Greater Cincinnati Development Authority to facilitate the redevelopment project, which consists of environmental remediation and construction of various public improvements including public infrastructure, an extension of Walworth Avenue, and related improvements in support of a housing subdivision and related private improvements.

### **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 Development, LLC.

### **DEVELOPER INFORMATION**

East End Development, 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 Development, 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.

### **FINANCIAL INCENTIVE STRUCTURE**

City Council previously approved:

1. A Tax Increment Financing Project in December of 2019 providing for a 100% TIF Exemption for a term of 30 years with a 25% payment to Cincinnati Public Schools and
2. A special assessment on 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.

This ordinance would allow the City Administration to enter into a Development Agreement with the Developer and related agreements including a Cooperative Agreement with the Port Authority for an issuance of debt to pay for the construction of public infrastructure and environmental remediation at the site. The agreements would provide the TIF and Special Assessment revenues collected by the City from homes constructed at the project site for the repayment of the debt. The estimated debt to be issued would be in four series as follows:

1. Series A-1: principal amount not to exceed \$2,975,000, for a 15-year term.
2. Series A-2: principal amount not to exceed \$895,000, for a 15-year term.
3. Series B-1: in a principal amount not to exceed \$6,375,000, for a 30-year term.
4. Series B-2: in a principal amount not to exceed \$2,465,000, for a 30-year term.

Total debt issuance is estimated to be \$12,710,000 including \$3,870,000 in bonds primarily serviced by Special Assessments (A Series) and \$8,840,000 in bonds primarily serviced by Project TIF (B Series).

The City would provide a non-tax pledge as a credit enhancement to the Series A-1 only as the Series A-1 bonds would repay costs related to the Walworth Avenue extension which will be a public street. The City's pledge of its non-tax revenue would

be fourth in the payment waterfall for Series A-1. The first payment source on the Series A-1 would be 100% of the Special Assessment Revenue. The second payment source on the Series A-1 would be 100% of the Project TIF revenue. The third payment source on the Series A-1 would be a payment guarantee by the Developer's principals (TJ Ackermann and Ralph Meierjohan). Only if the first three payment sources are insufficient would the City's non-tax revenue be required as a fourth source of repayment.

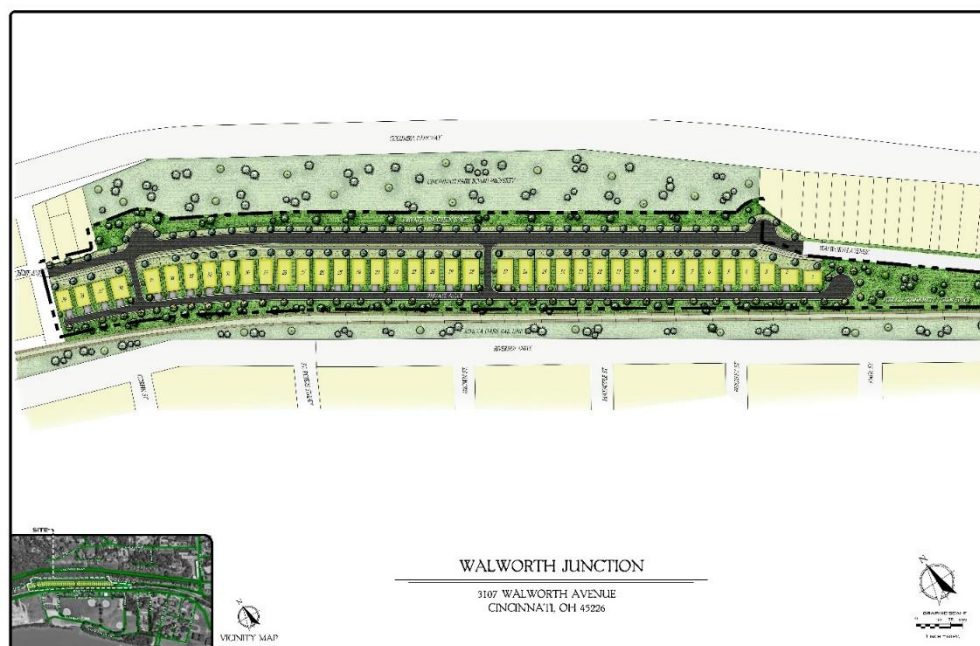
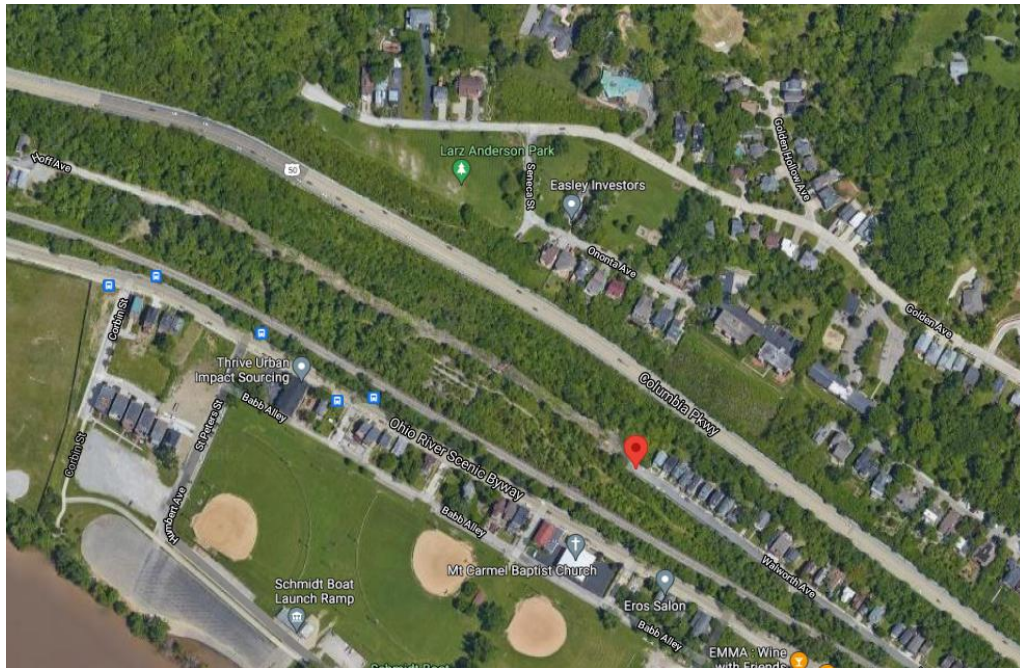
### **RECOMMENDATION**

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. Project Site Plan & Map

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

**Attachment A: Site Plan & Map**





EMERGENCY

City of Cincinnati

SSB

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

- 2021

AWB

**AUTHORIZING** the City Manager to execute a *Development Agreement* with East End Development LLC pertaining to the redevelopment of property located south of Columbia Parkway along Walworth Avenue in the East End neighborhood of Cincinnati, pursuant to which the City will assign special assessment revenue and service payments in lieu of taxes received by the City to the Port of Greater Cincinnati Development Authority to facilitate the redevelopment project, which consists of environmental remediation and construction of various public improvements including public infrastructure, an extension of Walworth Avenue, and related improvements in support of a housing subdivision and related private improvements.

WHEREAS, the City and East End Development LLC (“Developer”) are parties to that certain *Property Sale and Development Agreement* dated April 1, 2020, pursuant to which the City conveyed certain real property south of Columbia Parkway at the then-existing terminus of Walworth Avenue for consolidation with Developer’s abutting property (collectively, the “Project Site”); and

WHEREAS, Developer and the City desire to enter into a *Development Agreement*, substantially in the form of Attachment A hereto (the “Development Agreement”), pertaining to Developer’s redevelopment of the Project Site into a housing subdivision consisting of (i) site preparation and related development to create buildable lots for the eventual construction of 39 single-family homes (the “Private Improvements”) at a total estimated cost of \$4,612,366.27 for the Private Improvements; and (ii) environmental remediation and construction of various public improvements including utility infrastructure and an extension of Walworth Avenue and related improvements in support of the Private Improvements (the “Public Infrastructure Improvements”; and jointly with the Private Improvements, the “Project”), at a total estimated cost of approximately \$13,965,354.19 for the Public Infrastructure Improvements; and

WHEREAS, on December 18, 2019, this Council passed Ordinance No. 540-2019 (the “TIF Ordinance”), pursuant to which the City declared that the Improvement (as defined in Ohio Revised Code (“ORC”) Section 5709.40(A)(4)) to the Project Site constitutes a public purpose and exempted 100% of the Improvement from real property taxation for a period of 30 years pursuant to ORC Section 5709.40(B) (the “TIF Exemption”); and

WHEREAS, the Project Site is located in the TIF District known as “District 26 - Eastern River Incentive District” (the “District”), established by Ordinance No. 512-2019, passed by this Council on December 18, 2019; and

WHEREAS, the City anticipates that it will keep the Project Site within the District and, by separate ordinance, layer the TIF Exemption over the exemption provided by the District, stating that the TIF Exemption will have priority over the District exemption; and

WHEREAS, pursuant to the TIF Ordinance, the current and future owners of the Project Site are required to make service payments in lieu of taxes in an amount equal to the amount of real property taxes that would have been paid on the Project Site had the TIF Exemption not been granted (the “Statutory Service Payments”); and

WHEREAS, 100% of the owners of a portion of the Project Site (the “Assessed Property”) executed and filed with Council a *Petition* for Special Assessments proposing the necessity of levying special assessments to pay a portion of the costs of the Public Infrastructure Improvements; and

WHEREAS, pursuant to Resolution No. 23-2021 passed by this Council on March 17, 2021, and Ordinance Nos. 101-2021 and 103-2021 passed by this Council on March 31, 2021 (collectively, the “Assessment Legislation”), the City has levied special assessments pursuant to ORC Chapter 727 against the Assessed Property (the “Assessment”); and

WHEREAS, the City anticipates that the Assessment revenue and the Statutory Service Payments will be used (as applicable): (i) to pay certain administrative fees to the Hamilton County, Ohio Auditor and the City; (ii) to make payments to the Board of Education of the Cincinnati School District under the City’s Agreement with the School Board dated July 2, 1999, as amended; (iii) to facilitate a bond issuance by the Port of Greater Cincinnati Development Authority to finance a portion of the Public Infrastructure Improvements (the “Bonds”); and (iv) to be retained by the City and used for any lawful purpose, in each case in the manner set forth in the Development Agreement; and

WHEREAS, the City and the Bank of New York Mellon Trust Company, N.A., as trustee, have entered into that certain *Trust Agreement* dated as of May 1, 1996 (as amended and supplemented the “City Trust Agreement”), pursuant to which the City has pledged the Special Funds (as defined in the City Trust Agreement) to repay various obligations of the City; and

WHEREAS, the City anticipates that it will pledge a portion of the Special Funds to further secure the obligation to pay amounts due with respect to the Bonds, to be evidenced by bonds issued by the City pursuant to a separate ordinance, and in the manner set forth in the Development Agreement; and

WHEREAS, the City will receive substantial economic and non-economic benefits from the Project in that the Project will create additional housing, stimulate economic growth in the East End neighborhood of Cincinnati and in surrounding areas, and enable the Project Site to be put to its highest and best use, for the benefit of the people of the City; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing; and

WHEREAS, the City believes that the Project will promote urban redevelopment in the East End neighborhood of Cincinnati, is in the vital and best interests of the City and the health, safety, and welfare of its residents, and is in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements; 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 *Development Agreement* with East End Development LLC (“Developer”), in substantially the form attached as Attachment A to this ordinance (the “Development Agreement”), pertaining to a redevelopment project located south of Columbia Parkway along Walworth Avenue, as more particularly described in the Development Agreement (the “Project” and the “Project Site”, as applicable).

Section 2. That the proper City officials are hereby authorized to take all necessary and proper actions to fulfill the terms of this ordinance, the Development Agreement, any and all Project-related documents described in or contemplated by the Development Agreement (including, without limitation, a cooperative agreement, as more particularly described therein), and all ancillary agreements, amendments, and other documents related to the Project and/or the Project Site, all as deemed necessary or appropriate by the City Manager.

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 enable the parties to execute the Development Agreement as soon as possible so that the parties can promptly move forward with financing the Project, thereby creating additional housing and other significant economic benefits to the City at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

ATTACHMENT A

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

## **DEVELOPMENT AGREEMENT**

*between the*

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

*and*

**EAST END DEVELOPMENT LLC,**  
an Ohio limited liability company

**Project Name: Walworth Junction**

(development of residential subdivision, including 39 buildable lots  
and associated public infrastructure improvements)

Dated: \_\_\_\_\_, 2021

## DEVELOPMENT AGREEMENT (Walworth Junction)

THIS DEVELOPMENT AGREEMENT (this "**Agreement**") is made and entered into effective as of the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), and **EAST END DEVELOPMENT LLC**, an Ohio limited liability company, 4010 North Bend Road, Suite 301, Cincinnati, Ohio 45211 ("**Developer**").

### Recitals:

A. The City and Developer are parties to that certain *Property Sale and Development Agreement* dated April 1, 2020 (the "**Sale Agreement**"), pursuant to which the City conveyed 1.6724 acres of real property south of Columbia Parkway at the terminus of Walworth Avenue in the East End neighborhood of Cincinnati for consolidation with Developer's abutting property, as depicted on Exhibit A (Site Plan) hereto (collectively, the "**Property**" or the "**Project Site**", as applicable).

B. Developer desires to redevelop the Project Site into a housing subdivision consisting of Developer's (i) site preparation and development to create buildable lots for the eventual construction of 39 single-family homes, as more particularly described on Exhibit B-1 (Description of Private Improvements) hereto (the "**Private Improvements**"); and (ii) environmental remediation and construction of various public improvements including utility infrastructure and an extension of Walworth Avenue and related improvements in support of the Private Improvements, as more particularly described on Exhibit B-2 (Description of Public Infrastructure Improvements) hereto (the "**Public Infrastructure Improvements**"; and jointly with the Private Improvements, the "**Project**").

C. The total estimated cost (including, without limitation, hard construction costs, soft costs, and acquisition costs) of (i) the Private Improvements is approximately \$4,612,366.27, as more particularly described on Exhibit C-1 (Sources and Uses – Private Improvements), and (ii) the Public Infrastructure Improvements is approximately \$13,965,354.19, as more particularly described on Exhibit C-2 (Sources and Uses – Public Infrastructure Improvements) hereto. Developer has represented to the City that it intends to use various sources of funds to finance the costs associated with the Project, as set forth on Exhibits C-1 and C-2 hereto.

D. Pursuant to Ordinance No. 540-2019, passed by City Council on December 18, 2019, the City created a so-called project-based TIF for the Project Site under Ohio Revised Code ("**ORC**") Section 5709.40(B), declaring Improvement (as defined in ORC Section 5709.40) to the Project Site to be a public purpose and exempt from real property taxation for a period of 30 years (the "**TIF Ordinance**" and the "**TIF Exemption**", as applicable).

E. Pursuant to the TIF Ordinance, the current and future owners of the Project Site are required to make service payments in lieu of taxes in an amount equal to the amount of real property taxes that would have been paid on the Project Site had the TIF Exemption not been granted (the "**Statutory Service Payments**").

F. One hundred percent (100%) of the owners of a portion of the Project Site (the "**Assessed Property**") have executed and filed with City Council a *Petition* for Special Assessments proposing the necessity of levying special assessments to pay a portion of the costs of the Public Infrastructure Improvements.

G. Pursuant to Resolution No. 23-2021 passed by City Council on March 17, 2021, and Ordinance Nos. 101-2021 and 103-2021 passed by City Council on March 31, 2021 (collectively, the "**Assessment Legislation**"), the City has levied special assessments pursuant to ORC Chapter 727 (the "**Assessment**") against the Assessed Property. The amount of the Assessment is currently anticipated to be \$330,000 annually (the "**Assessment Revenue**").

H. The City and the Bank of New York Mellon Trust Company, N.A., as trustee, have entered into that certain *Trust Agreement* dated as of May 1, 1996 (as amended and supplemented, the "**City Trust Agreement**"), pursuant to which the City has pledged the Special Funds (as defined in the City Trust Agreement) to repay various obligations of the City.

I. The parties currently anticipate that the Public Infrastructure Improvements will be financed by the Port of Greater Cincinnati Development Authority (the "**Port Authority**"). Developer presently intends to finance the construction

of the Public Infrastructure Improvements by entering into a separate construction agreement, cooperative agreement(s), and other ancillary agreements with the City and/or the Port Authority pursuant to which:

- (i) the Port Authority will issue multiple series of special obligation development revenue bonds (collectively, the "**Bonds**"), as more particularly described in the Port Authority Documents (as defined below), but generally in accordance with the following terms:
  - (a) Series A-1: in a principal amount not to exceed \$2,975,000, having a term not to exceed 15 years (the "**Series A-1 Bonds**"),
  - (b) Series A-2: in a principal amount not to exceed \$895,000, having a term not to exceed 15 years (the "**Series A-2 Bonds**"; and jointly with the Series A-1 Bonds, the "**Series A Bonds**"),
  - (c) Series B-1: in a principal amount not to exceed \$6,375,000, having a term not to exceed 30 years (the "**Series B-1 Bonds**"), and
  - (d) Series B-2: in a principal amount not to exceed \$2,465,000, having a term not to exceed 30 years (the "**Series B-2 Bonds**"; and jointly with the Series B-1 Bonds, the "**Series B Bonds**");
- (ii) the Port Authority will make the net proceeds from the Bonds available to Developer to pay, or reimburse for, the costs of constructing the Public Infrastructure Improvements, as will be determined by such separate agreements as may be entered into by the Port Authority, the City, and Developer;
- (iii) the City will receive from the Hamilton County Treasurer the Assessment Revenue and use the same, (a) first, to pay any fees charged by the Hamilton County Auditor or any other governmental entity, (b) second, to make payments to the Port Authority in amounts not to exceed the amount necessary to pay principal, interest, and other amounts due with respect to the Series A-1 Bonds, and (c) third, to make payments to the Port Authority in the amount necessary to pay principal, interest, and other amounts due with respect to the Series A-2 Bonds;
- (iv) the City will receive from the Hamilton County Treasurer the Statutory Service Payments generated from the Private Improvements pursuant to the TIF Ordinance ("**Project TIF Revenue**"), and use the same, (a) first, to pay any fees charged by the Hamilton County Auditor or any other governmental entity, (b) second, to satisfy the City's obligation to the Board of Education of the City School District of the City of Cincinnati (the "**School Board**") under that certain Agreement by and between the City and the School Board dated July 2, 1999, as amended, (c) third, to pay the City's fees described in Section 11 of this Agreement, (d) fourth, to make payments to the Port Authority in an amount not to exceed the amount necessary to pay principal, interest, and other amounts due with respect to the Series A-1 Bonds (after application of the Assessment Revenue as described in paragraph (iii) above), and (e) fifth, to make payments to the Port Authority in an amount not to exceed the amount necessary to pay principal, interest, and other amounts due with respect to the Series B Bonds, with any and all surplus Project TIF Revenue in any given year to be retained by the City or returned to the City, as applicable, and used for any lawful purpose;
- (v) Thomas J. Ackermann and Ralph Meierjohan have agreed to guaranty repayment of the Series A-1 Bonds by execution of a Guaranty Agreement (the repayment guaranty evidenced by the Guaranty Agreements being referred to herein as the "**Guaranty**"); and
- (vi) the City will pledge a portion of the City's Special Funds (as defined in the City Trust Agreement) to the Port Authority as the issuer of the Series A-1 Bonds, to further secure the obligation to pay principal and interest due with respect to the Series A-1 Bonds, to be evidenced by bonds issued by the City (the "**City Bonds**"); *provided that* principal and interest on the City Bonds shall be payable only to the extent the Assessment Revenue, the Project TIF Revenue, and amounts required to be



paid pursuant to the Guaranty are insufficient or unavailable to pay principal and interest due and payable on the Series A-1 Bonds.

J. The cooperative agreement(s) referred to herein, together with such other documents with respect to the Project and the Bonds entered into with the Port Authority and Developer to which the City is a party, are referred to herein as the **"Port Authority Documents"**; and the Port Authority Documents, this Agreement, the Sale Agreement, and such other ancillary documents and instruments executed by Developer and the City, or executed by Developer in favor of the City, are referred to herein as the **"Project Documents"**.

K. All or a portion of the Project Site is located in the TIF District known as "District 26 - Eastern River Incentive District" (the **"District"**), established by Ordinance No. 512-2019, passed by City Council on December 18, 2019. The City anticipates that it will keep the Project Site within the District and "layer" the TIF Exemption over the existing exemption provided by the District, stating that the TIF Exemption will have priority over the District exemption.

L. Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing.

M. The City, upon recommendation of the City's Department of Community and Economic Development (**"DCED"**), believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements and for this reason the City desires to facilitate the Project by entering into this Agreement, levying special assessments against the Assessed Property to generate the Assessment Revenue, and providing the TIF Exemption and requiring the Statutory Service Payments as described herein and in the cooperative agreement.

N. Execution of this Agreement was authorized by the TIF Ordinance, the Assessment Legislation, and Ordinance No. [ ]-2021, passed by City Council on [ ], 2021. Notwithstanding anything to the contrary in this Agreement, the City's obligations hereunder are conditioned upon the passage of any and all other required legislation by City Council.

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

#### **1. DUE DILIGENCE INVESTIGATIONS.**

(A) Due Diligence Items. Following the parties' execution of this Agreement and at such time as such documents become available, Developer, at its sole expense, shall obtain and deliver to the City the following items (the **"Due Diligence Items"**):

- (i) *Survey*: One or more ALTA boundary survey(s) of the Project Site showing all easements and other matters of record that can be shown on a survey;
- (ii) *Appraisal*: A projected "as-built" appraisal of the Private Improvements (but only if such an appraisal is required by the Port Authority);
- (iii) *Site Plan*: A detailed site plan showing the proposed location of the Private Improvements and the Public Infrastructure Improvements, as applicable;
- (iv) *Environmental*: A copy of whatever environmental reports Developer may obtain or has obtained in connection with the Project, including, at a minimum, a Phase I environmental site assessment under current ASTM standards;
- (v) *Engineering Studies*. Geotechnical or other engineering studies for the parcels upon which the Public Infrastructure Improvements will be constructed;
- (vi) *Construction Schedules*: A detailed construction timeline showing anticipated commencement and completion dates for the Project, including significant milestones;
- (vii) *Budget*: A detailed and updated budget for the Project;
- (viii) *Financing*: Evidence satisfactory to the City that Developer has obtained all financing necessary to complete the Project;



- (ix) *New Legal Descriptions and Surveys*: Updated legal descriptions and ALTA property surveys for the Project Site, if applicable;
- (x) *Service Payment Projections*: A detailed analysis showing the projected Statutory Service Payments that will be generated from the Project;
- (xi) *Port Authority Documents*: Such other information and documentation as may be required by the Port Authority; and
- (xii) *Other Information*: Such other information and documents pertaining to Developer or the Project as the City may reasonably require.

(B) Copies of Due Diligence Items to Be Provided to City. Without limitation of Developer's other obligations under this Agreement, prior to the issuance of the Bonds, and as such Due Diligence Items are obtained by Developer, Developer, at no cost to the City, shall provide DCED with copies of the inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer.

(C) Contingency for City's Satisfaction with Due Diligence Investigations. All reports and the like obtained by Developer from third parties and delivered to the City shall be recent (*i.e.*, prepared or updated, as the case may be, within three (3) months from the date that the item is delivered to the City) and shall be prepared by properly licensed and qualified companies or individuals acceptable to the City. In addition to the Due Diligence Items, Developer and the City may conduct whatever additional investigations concerning the Project as they deem necessary, including, without limitation, investigations into the feasibility and likelihood of Developer obtaining all building, zoning, and other approvals from the City's Department of Buildings and Inspections ("**B&I**"), the Department of City Planning ("**Planning**"), the City Planning Commission, and any other applicable City departments, agencies or boards. If, prior to the issuance of the Bonds, any party hereto determines that the Project is not feasible or desirable for any reason, then, notwithstanding anything in this Agreement to the contrary, such party may terminate this Agreement by giving the other party written notice thereof, whereupon this Agreement shall terminate and the parties hereto shall thereafter have no rights or obligations hereunder. Unless otherwise directed by the DCED Director, Developer shall deliver all the Due Diligence Items to be provided by Developer to the City under this Agreement to the DCED Director (for review by DCED and other City departments as deemed necessary or appropriate by DCED) and shall generally coordinate all aspects of the Project (as they relate to the City) through DCED. The termination rights of the parties under this paragraph shall automatically terminate upon the issuance of the Bonds.

## 2. PLANS AND CONSTRUCTION.

(A) Preparation of Plans and Specifications. Developer shall prepare plans and specifications for the Project and shall submit the same to DCED for review and approval; *provided that* DCED may only withhold approval if such plans and specifications (i) reduce or diminish the size, scope, quality, or site plan of the Project, (ii) could reasonably be expected to reduce the hard construction costs of the Project, or (iii) are otherwise inconsistent with zoning laws or any planned development approved by the City Planning Commission and City Council with respect to the Project or are materially inconsistent with Exhibits B-1 and B-2 hereto, in each case as determined in the DCED Director's sole and absolute discretion. The approved plans and specifications for the Project (including any and all changes thereto, subject to the City's review and approval on the criteria provided in the immediately preceding sentence) are referred to herein as the "**Final Plans**" with respect to the Project. Developer shall submit any and all proposed changes to the Final Plans to DCED and all governmental departments, agencies, and entities with jurisdiction for review and approval.

(B) Commencement and Completion of Construction. Developer shall complete the Project, and all components thereof, in accordance with Exhibits B-1 and B-2, and substantially as reflected in the Final Plans, and in compliance with all applicable laws by December 31, 2024.

(C) Dedicated ROW. The parties acknowledge that, upon completion, Developer intends to dedicate the public right-of-way portion of the Public Infrastructure Improvements, as depicted on Exhibit A-1 (the "**Dedicated ROW**"), for public use, and intends for the City to accept the Dedicated ROW (subject to all approvals as required by the City's Department of Transportation & Engineering ("**DOT**"), the City's Office of Environment and Sustainability, and City Planning Commission, and subject to the passage by Cincinnati City Council of an ordinance to accept the dedication). Developer shall prepare all survey plats, legal descriptions, and other documents as may be required by the City and the Hamilton County Auditor and Recorder in connection with such dedication and acceptance, all at no cost to the City. Developer acknowledges that, (i) if Developer does not construct the Dedicated ROW in accordance with DOTE, Greater Cincinnati Water Works, or Metropolitan Sewer District of Greater Cincinnati requirements, the City will not accept the

dedication of the Dedicated ROW, and (ii) the City makes no guarantee that Cincinnati City Council will pass an ordinance to accept the dedication.

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

(E) Applicable Laws. Developer shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the Project. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits, or other approvals from Planning, B&I, DOTE, other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(F) Inspection of Work. During construction, the City, its employees, and agents shall have the right at all reasonable times to enter upon the construction site to examine and inspect the progress of construction to determine whether Developer is complying with the requirements of this Agreement. Notwithstanding anything to the contrary in this paragraph (F) or this Agreement, nothing herein shall in any way limit the inspection rights the City otherwise legally possesses, whether in connection with its police powers, permitting, or otherwise.

(G) Mechanics' Liens. Developer shall not permit any mechanics' or other liens to be filed against the portion of the Project Site comprising the Dedicated ROW during construction of the Public Infrastructure Improvements. If a mechanics' lien shall at any time be filed, Developer shall within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record.

(H) Environmental Indemnity. As a material inducement to the City to enter into this Agreement, Developer does hereby agree that, with respect to any environmental condition on or otherwise affecting the Project Site that exists at or prior to the time of the City's execution of this Agreement (herein, a "pre-existing environmental condition"), and regardless of whether or not such pre-existing environmental condition is described in any environmental assessment or any other environmental report that may have been previously furnished by Developer to the City, Developer shall (i) at no expense to the City, promptly take all steps necessary to remediate such pre-existing environmental condition in accordance with applicable laws and regulations, within a reasonable time after discovery, to the satisfaction of the City's Office of Environment and Sustainability, and (ii) defend, indemnify, and hold the City harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, reasonable attorneys' fees), demands, judgments, liability and damages suffered or incurred by or asserted against the City as a result of or arising from any such pre-existing environmental condition. Additionally, Developer shall covenant not to sell, transfer, or convey that portion of the Sale Property (as defined in the Sale Agreement) north of the southern edge of the Walworth Avenue right-of-way by executing and promptly thereafter recording with the Hamilton County Recorder, a restrictive covenant, in substantially the form of Exhibit D (Form of Restrictive Covenant) hereto. Developer's remediation and indemnity obligations under this paragraph shall survive the completion of the Project.

### **3. CITY'S FINANCIAL ASSISTANCE.**

(A) Funding for Public Infrastructure Improvements. For the avoidance of doubt, Developer acknowledges that the City's financial assistance is limited to the funds identified in this Agreement, which shall be used exclusively for costs associated with the construction of the Public Infrastructure Improvements. The City's commitment to provide the funding described herein shall be (i) subject to and contingent upon, without limitation, the execution and continued effectiveness of this Agreement and the Port Authority Documents, and (ii) limited to providing the funding described herein to the Port Authority for payment of the Bond obligations, all in accordance with the Port Authority Documents.

(i) Assessment Revenue. To facilitate the issuance of the Series A Bonds, and subject to (a) the continued effectiveness of the Assessment Legislation and the Assessment, and (b) the City's receipt of the Assessment Revenue, the City shall transfer the Assessment Revenue it actually receives to or for the benefit of the Port Authority in an amount not to exceed the amount necessary to satisfy the annual obligations associated with the Series A Bonds in accordance with the Port Authority Documents.

(ii) Project TIF Revenue. To facilitate the issuance of the Series A-1 Bonds and the Series B Bonds, and subject to the City's receipt of the Project TIF Revenue, the City shall transfer the Project TIF Revenue it actually receives to or for the benefit of the Port Authority in an amount not to exceed the amount necessary to satisfy the annual obligations associated with the Series A-1 Bonds and Series B Bonds in accordance with the Port Authority Documents and following payment of the obligations outlined in Recital I(iv) hereto. Developer acknowledges and agrees that the City will not provide the Project TIF Revenue to or for the benefit of the Port Authority for payment of the Bond obligations other than with respect to Statutory Service Payments for tax years falling within the period of the TIF Exemption that are actually paid and actually received by the City. To the extent the Project TIF Revenue in any year exceeds the amount payable to or for the benefit of the Port Authority for payment of the Bond obligations for such year, as more particularly described in the Port Authority Documents, the City shall be entitled to retain and use such excess Project TIF Revenue for any lawful purpose. For the avoidance of doubt, to the extent the Project TIF Revenue associated with any portion of the Project is not required to be used to pay or secure Bond obligations, for any reason, the City shall be entitled to retain and use such excess Project TIF Revenue for any lawful purpose.

(iii) City Bonds. To facilitate the issuance of the Series A-1 Bonds, the City shall pledge the Special Funds (as defined in the City Trust Agreement) towards the repayment of the City Bonds for the benefit of the holders of the Series A-1 Bonds, and shall permit the transfer to or for the benefit of the Port Authority, from Special Funds or other amounts available to the City, an amount necessary to satisfy the annual obligations associated with the Series A-1 Bonds to the extent required under the Port Authority Documents. For the avoidance of doubt, Developer acknowledges that the principal and interest on the City Bonds shall be payable from funds of the City as described in this Section 3(A)(iii) only to the extent the Assessment Revenue, Project TIF Revenue, and amounts required to be paid pursuant to the Guaranty are insufficient or unavailable to pay principal and interest due and payable on the Series A-1 Bonds.

(B) No Other City Assistance. As a material inducement to the City to enter into this Agreement, Developer agrees that it shall not request or expect to receive any additional funding, real estate or income tax abatements, or other financial assistance from the City in connection with the Project in the future, either for itself, for the benefit of tenants or other occupants of the Project Site, or for the benefit of any other third party unless the City agrees to the contrary in writing. Notwithstanding the foregoing, nothing in this Agreement is intended to limit the rights of homeowners from applying for and receiving (if eligible) residential property tax abatements available within the City of Cincinnati pursuant to the City's generally applicable community reinvestment area program.

#### **4. INSURANCE; INDEMNITY.**

(A) Insurance during Construction. Until such time as all construction work associated with the Project has been completed, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$5,000,000 per occurrence, combined single limit/\$10,000,000 aggregate, naming the City as an additional insured with respect to the Project; (ii) builder's risk insurance in the amount of one-hundred percent (100%) of the value of the improvements constructed as part of the Project; (iii) worker's compensation insurance in such amount as required by law; (iv) all insurance as may be required by Developer's construction lenders or by the Port Authority; and (v) such other insurance as may be reasonably required by the City. Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City. Prior to commencement of construction of the Project, Developer shall send proof of all such insurance to the City at 805 Central Avenue, Suite 700, Cincinnati, Ohio 45202, Attention: Monitoring and Compliance Division, or such other address as may be specified by the City from time to time; *provided that* if the City requests an additional insured endorsement with respect to the Commercial General Liability insurance described above, Developer shall have 6 months following the date of the City's request to obtain such an endorsement from its insurer and provide the original endorsement to the City.

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

Developer shall cause its property insurance policies to include a waiver of subrogation provision consistent with the foregoing waiver.

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

5. **CASUALTY; EMINENT DOMAIN**. If the Project is damaged or destroyed by fire or other casualty during construction, or if any portion of the Project Site is taken by exercise of eminent domain (federal, state, or local) during construction, Developer shall repair and restore the affected property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Project Site was in immediately prior to such occurrence. To the extent the City's participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including, without limitation, obtaining the City's approval of the plans and specifications if they deviate from the original City-approved plans. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Project Site is being repaired or restored.

## 6. **DEFAULT; REMEDIES**.

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

(i) Prior to the expiration of the TIF Exemption:

(a) the dissolution of Developer, the filing of any bankruptcy or insolvency proceedings by Developer, or the making by any such entity of an assignment for the benefit of creditors; or

(b) the filing of any bankruptcy or insolvency proceedings by or against Developer, the appointment of a receiver (temporary or permanent) for Developer, the attachment of, levy upon, or seizure by legal process of any property of Developer, or the insolvency of Developer, unless such appointment, attachment, levy, seizure, or insolvency is cured, dismissed, or otherwise resolved to the City's satisfaction within sixty (60) days following the date thereof.

(ii) The occurrence of a Specified Default (as defined below), or a failure of Developer to perform or observe (or cause to be performed or observed) any obligation, duty, or responsibility under this Agreement or any other Project Document, and failure by Developer to correct such default within thirty (30) days after the receipt by Developer of written notice thereof from the City (the "**Cure Period**"), other than a Payment Default (as described below), in which case there shall be a Cure Period of 5 business days after Developer's receipt of written notice thereof from the City; *provided, however*, that if the nature of the default is such that it cannot reasonably be cured during the Cure Period, Developer shall not be in default under this Agreement so long as Developer commences to cure the default within such Cure Period and thereafter diligently completes such cure within sixty (60) days after receipt of the City's initial notice of default. Notwithstanding the foregoing, if Developer's failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City in good faith, an event of default shall be deemed to have occurred if Developer fails to take reasonable corrective action immediately upon discovering such dangerous condition or emergency. As used in this section, "**Specified Default**" means the occurrence of any of the following:

- (a) Development Default. Developer (1) fails to (x) diligently prosecute the work related to the Project as provided herein, or (y) complete the Project in accordance with Exhibits B-1 and B-2 and substantially in accordance with the Final Plans for the Project; or (2) abandons the Project.
- (b) Misrepresentation. Any representation, warranty, or certification of Developer made in connection with this Agreement or any other Project Document shall prove to have been false or materially misleading when made.

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

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

To the City:  
City Manager  
City of Cincinnati  
801 Plum Street  
Cincinnati, Ohio 45202

To Developer:  
East End Development LLC  
4010 North Bend Road, Suite 301  
Cincinnati, Ohio 45211

with a copy to:  
Director, Dept. of Community and  
Economic Development  
City of Cincinnati  
805 Central Avenue, Suite 700  
Cincinnati, Ohio 45202

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

8. REPRESENTATIONS, WARRANTIES, AND COVENANTS OF DEVELOPER. Developer hereby makes the following representations, warranties, and covenants to induce the City to enter into this Agreement:

(i) Developer is a limited liability company duly organized and validly existing under the laws of the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement or any other Project Document.

(ii) Developer has full power and authority to execute and deliver this Agreement and every other Project Document to which it is or will be a party and to carry out the transactions provided for herein and therein. This Agreement and each other Project Document to which Developer is a party has by proper action been duly authorized, executed, and delivered by Developer and all actions necessary have been taken to constitute this Agreement

and the other Project Documents to which Developer is a party, when executed and delivered, valid and binding obligations of Developer.

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

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

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

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

(vii) With reference to Section 301-20 (*Delinquencies in Accounts Receivable and Loans Receivable; Policy*) of the Cincinnati Municipal Code, neither Developer nor its affiliates is in breach of any of its obligations to the City under any existing agreements with the City nor does Developer or any of its affiliates owe any fines, penalties, judgment awards, or any other amounts to the City.

## **9. REPORTING REQUIREMENTS.**

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

(B) City's Right to Inspect and Audit. During construction of the Project and thereafter until the Retention Termination Date, Developer shall permit the City and its designees and auditors to have full access to and to inspect and audit the Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

## **10. GENERAL PROVISIONS.**

(A) Assignment; Change of Control.

(i) Assignment. Developer shall not assign its rights or interests under this Agreement to any third party without the prior written consent of the City Manager; and *provided*, that the City may require the execution of an amendment hereto or other clerical documentation to effect such assignment or substitution of parties. The City hereby

consents to Developer's collateral assignment of its rights under this Agreement or the Project Documents to the Port Authority.

(ii) Change of Control. Developer shall not permit a Change of Control (as defined below) without the prior written consent of the City. As used herein, "**Change of Control**" means a change in the ownership of Developer such that Thomas J. Ackermann or Ralph Meierjohan has less than a 51% direct or indirect voting interest in Developer and lacks the power to direct or cause the direction of the management and policies of Developer, whether through the ownership of ownership interests in Developer, by contract, or otherwise.

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

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

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

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

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

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

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

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

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

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

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

(M) Recognition of City Support. In connection with the construction and opening of the Project, the parties shall acknowledge the support of the City with respect to the Project in all printed promotional materials (including, without limitation, 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) relating to the Project. In identifying the City as a Project partner, the parties shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logo type or other form of acknowledgement that has been approved in advance in writing by the City.

(N) Applicable Laws. Developer shall obtain and maintain all necessary City and other governmental permits, licenses, and other approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements, including, without limitation, those set forth on Exhibit E (Additional Requirements) that are applicable to the Project.

(O) Counterparts and Electronic Signatures. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same Agreement. 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.

**11. FEES AND EXPENSES.**

(A) Initial Administrative Fee. Upon the execution of this Agreement, Developer shall pay a non-refundable administrative fee of \$15,000 to cover the City's out-of-pocket and administrative costs and expenses in establishing the project-based TIF, preparing this Agreement and other documents relating hereto, and effecting the transactions contemplated hereby.

(B) Monitoring and Servicing Fee; Out-of-Pocket Expenses. The City shall withhold and retain from the Statutory Service Payments an annual monitoring and servicing fee equal to the greater of (i) 1.0% of the Statutory Service Payments paid (or due, if unpaid) with respect to the Property the current tax year; or (ii) the documented, reasonable out-of-pocket fees, costs, charges, and expenses incurred by the City in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other Project Documents, together with the City's monitoring and servicing costs and expenses with respect to the transactions contemplated thereby. To the extent the Statutory Service Payments are not made or are ineligible to be made for any reason, the City may elect to require Developer to pay such monitoring and servicing fees in another manner. This Section 11(B) shall terminate and cease to be effective in the event the City's obligation to transfer amounts to the Port Authority for payment of the Bond Obligations permanently cease in accordance with the provisions of this Agreement and the other Project Documents. For the avoidance of doubt, suspension (without permanent termination) of the City's transferring amounts to the Port Authority for payment of the Bond Obligations shall not cause the provisions of this Section 11(B) of this Agreement to cease or be modified in any way (either permanently or during the period of any such suspension). The fees described in this Section 11(B) are not refundable once withheld by the City or otherwise paid.

(C) City's Outside Counsel Fees Associated with Bonds. Developer shall pay any and all outside counsel fees incurred by the City related to the negotiations and issuance of the Bonds out of the proceeds of the Bonds, or in some other manner mutually acceptable to Developer and the City.

**12. EXEMPTION APPLICATION.** Developer, or its representatives (as applicable), shall prepare, in a timely fashion, and the City shall execute, and (following the City's prior receipt of copies for review and approval in the City's sole and absolute discretion) file such applications, documents, and other information with the appropriate officials of the State of Ohio and Hamilton County, or other public body as may be required to effect and maintain during the period of the TIF Exemption as described in ORC Chapter 5709 the exemption from real property taxation as contemplated by said Chapter. Developer and the City currently expect that such exemption from real property taxation shall apply initially to the 2021 tax year.

**13. EXHIBITS.** The following exhibits are attached hereto and made a part hereof:

<u>Exhibit A</u>	- <i>Site Plan</i>
<u>Exhibit B-1</u>	- <i>Description of Private Improvements</i>
<u>Exhibit B-2</u>	- <i>Description of Public Infrastructure Improvements</i>
<u>Exhibit C-1</u>	- <i>Sources and Uses – Private Improvements</i>
<u>Exhibit C-2</u>	- <i>Sources and Uses – Public Infrastructure Improvements</i>
<u>Exhibit D</u>	- <i>Form of Restrictive Covenant</i>
<u>Exhibit E</u>	- <i>Additional Requirements</i>



(incl. Addendum I - City's Prevailing Wage Determination)

*[SIGNATURES ON FOLLOWING PAGE]*

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

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Paula Bogs Muething, City Manager

Date: \_\_\_\_\_, 2021

**EAST END DEVELOPMENT LLC**

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

Printed name: \_\_\_\_\_

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

Date: \_\_\_\_\_, 2021

Approved as to Form:

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

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

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

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

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

Exhibit A  
to Development Agreement  
(Walworth Junction)

Site Plan

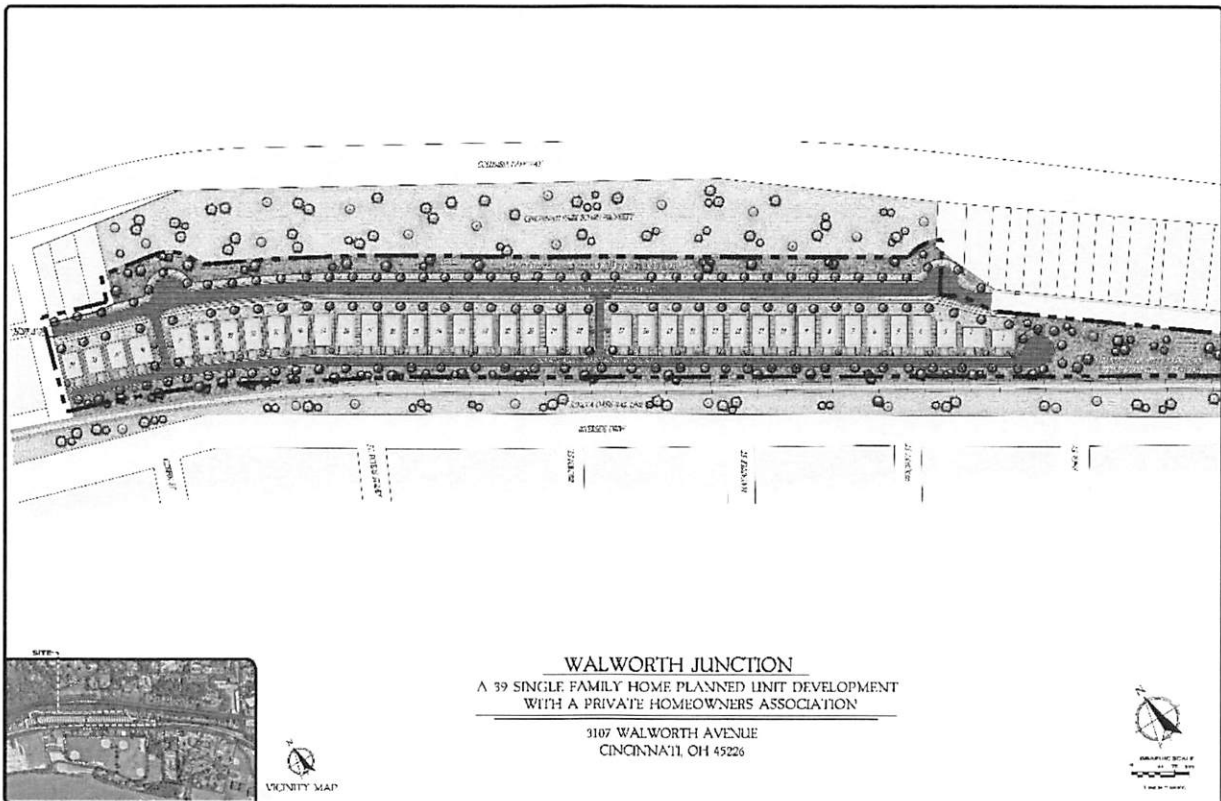


Exhibit B-1  
to Development Agreement  
(Walworth Junction)

*Description of Private Improvements*

The Walworth Junction development, location of the 2020 HOMERAMA, is a housing subdivision consisting of the construction of 39 single-family homes located east of the existing terminus of Walworth Avenue, Cincinnati, Ohio 45226.

**INFRASTRUCTURE**

The development consists of both public and private infrastructure improvements. The private infrastructure improvements include the following:

- 1) Rough grading of all areas outside of public right of way and establishment of compacted soil suitable for construction of standard single-family home basement structures
- 2) Finish grading of all areas outside of public right of way and establishment of appropriate temporary and permanent vegetation to protect against erosion
- 3) Construction of permanent detention basin for stormwater management on private property
- 4) Storm sewer piping and related inlet structures outside of public right of way for management of water from new homes and on private roadways
- 5) Construction of private roadway and access drives to service rear garage areas of all 39 lots. Roadway is built within private easement areas on lots and land owned by the Homeowner's Association (the "HOA").
- 6) Water line connection and private supply services to all lots
- 7) Landscaping in private areas outside of public right of way

Description and quantity list of the private infrastructure improvements:

**UNIT**

L.S. Lump Sum  
AC ACRES  
CY CUBICK YARDS  
LF LINEAL FEET  
SY SQUARE YARDS

<b><u>ITEM</u></b>	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
<b><u>MOBILIZATION</u></b>	1	Each
Clearing and Grubbing	4.5	ACRE
Construction Entrance	1	EACH
Clay Excavation to Subgrade	6.5	CY
Clay Embankment to Subgrade	13,000	CY
Topsoil Stripping and Stockpiling	4,250	CY
Topsoil Redistribution to Final Grade	4,250	CY

<b><u>STORM SEWER</u></b>	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
8" Downspout Collector/Sump Line	1,376	LF
8" Downspout Collector Line Cleanout	6	EACH
6" Downspout Lateral	390	LF
8"X6" Downspout Tee	39	EACH
12" Storm Sewer AASTO M294	709	LF

15" Storm Sewer AASTO M294	41	LF
18" Storm Sewer AASTO M294	494	LF
18" Storm Sewer Conc. Class IV	120	LF
24" Storm Sewer Conc. Class IV	751	LF
Catch Basin 2-2	2	EACH
Catch Basin 2-2	9	EACH
HW 2.1	1	EACH
Tie Prop. STM MH INTO EX. 54" STM (Incl. MH)	1	EACH

#### **PAVEMENT**

	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
Concrete Pavement	3,850	SY

#### **SEDIMENT AND EROSION CONTROL**

	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
Inlet Filter	11	EACH
Inspection and Maintenance of Erosion Controls	1	LS
Temporary Sediment Basin	1	EACH
Restoration Seeding	0.5	ACRE

#### **LOT DEVELOPMENT STANDARDS**

The majority of lots in Walworth Junction will accommodate homes that are 30' in width and +50' in depth. The three lots at the entrance (lot #'s 1, 2, & 3) allow for wider but shallower homes. Home widths are limited by the lot size (40' with 1 5' minimum side yard requirement) and the depths are limited by the sanitary sewer utility easement that encumbers the rear of these lots.

All homes are required to have rear entry garages in the basements and two full finished floors of living space above grade with a partially enclosed third floor and an open air "roof deck". Floor heights are planned to be the following: basement=10'; first floor=11'; second floor=10'; third floor "bonus room"=9'.

All homes must be comprised of exterior finishes that are natural, or man-made hard surface materials. Stone, brick, cement board, or metal are all acceptable materials for this application.

The homes' enclosed finished floor space above grade is expected to range from a minimum of 3000 square feet to upwards of 6000 square feet.

The lot and home designs allow for at minimum two car parking spaces inside the building and two car parking spaces on the private driveways in the rear adjoining the private alley way.

All homes must conform with Developer's established architectural design standards established as part of the HOA. The HOA is responsible for monitoring and enforcing these standards.

All homes in the development are required to attain a minimum Leadership in Energy and Environmental Design (LEED) rating of GOLD. The development has applied for a "LEED Neighborhood Development" rating ("LEED ND") with United States Green Building Council (USGBC), and anticipate that Walworth Junction will be the first LEED ND with all Gold level certified homes in the United States.

All the homes are designed to have exposed lower levels on the rear alley side of each building and both the HOA and Developer have required that all garages be in the rear lower level of each home. This protects and enhances the value of the homes by preserving and presenting an attractive street façade of front porches connected by public sidewalks along the entire length of Walworth Avenue.

Exhibit B-2  
to Development Agreement  
(Walworth Junction)

*Description of Public Infrastructure Improvements*

Developer will construct various Public Infrastructure Improvements including sidewalks, street, irrigation, public signage, remediation of certain environmental conditions, and other related improvements to the Walworth Junction subdivision.

**UNIT**

L.S. Lump Sum  
AC ACRES  
CUBICK  
CY YARDS  
LF LINEAL FEET  
SQUARE  
SY YARDS

<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT</u>
<b><u>MOBILIZATION</u></b>	1	EACH
Clearing and Grubbing	2	ACRE
Construction Entrance	1	EACH
Clay Embankment to Subgrade	19,000	CY
Topsoil Stripping and Stockpiling	750	CY
Topsoil Redistribution to Final Grade	750	CY
Fine Grade Streets/Subgrade	5,732	SY
Fine Grade Green Spaces and R/W	1	SY
Build Detention Pond with Dirt	1	LS
Backfill behind Lagging Wall		LS
Stabilize Hillside		
Miscellaneous Other Grading		
Miscellaneous Site Work		

**UTILITY CROSSOVERS**

	<u>QUANTITY</u>	<u>UNIT</u>
4-4" PVC (Concrete Encased)	0	

**SANITARY SEWER**

	<u>QUANTITY</u>	<u>UNIT</u>
6" Sanitary Sewer (House Laterals)	390	LF
Clean Outs	39	EACH
8" Sanitary Sewer SDR-35	1,614	LF
Standard Manholes	6	EACH
Remodel Existing Manholes	2	EACH
8"x6" Tees	39	EACH
MSD Inspection	1	LS
Tie Wall Drains		

**STORM SEWER**

	<b>QUANTITY</b>	<b>UNIT</b>
12" Storm Sewer Class IV Concrete	232	LF
15" Storm Sewer Class IV Concrete	580	LF
18" Storm Sewer Class IV Concrete	455	LF
54" Storm Sewer Class IV Concrete	72	LF
Cleanout	1	EACH
Combination Inlet Manhole	1	EACH
Curb Inlet	7	EACH
Detention Structure	1	EACH
Headwall	1	EACH
Manhole	4	EACH
Raise MH Cover to Prop. Grade	2	EACH
Remodel Ex. MH to Curb Inlet	1	EACH
Rock Channel Protect	30	CY
Tie Prop. STM MH Into Ex. 24" STM (Inc. MH)	1	EACH
Tie Prop. STM MH Into Ex. 54" STM (Inc. MH)	2	EACH
Wall Underdrain	700	LF

**WATERLINE**

	<b>QUANTITY</b>	<b>UNIT</b>
8" Waterline (Including Bends)	1,870	LF
Field Loc Gaskets	1	SL
6" Fire Hydrant	4	EACH
6" Mega Lugs	1	LS
8" Valve and Chamber	2	EACH

**SEDIMENT AND EROSION CONTROL**

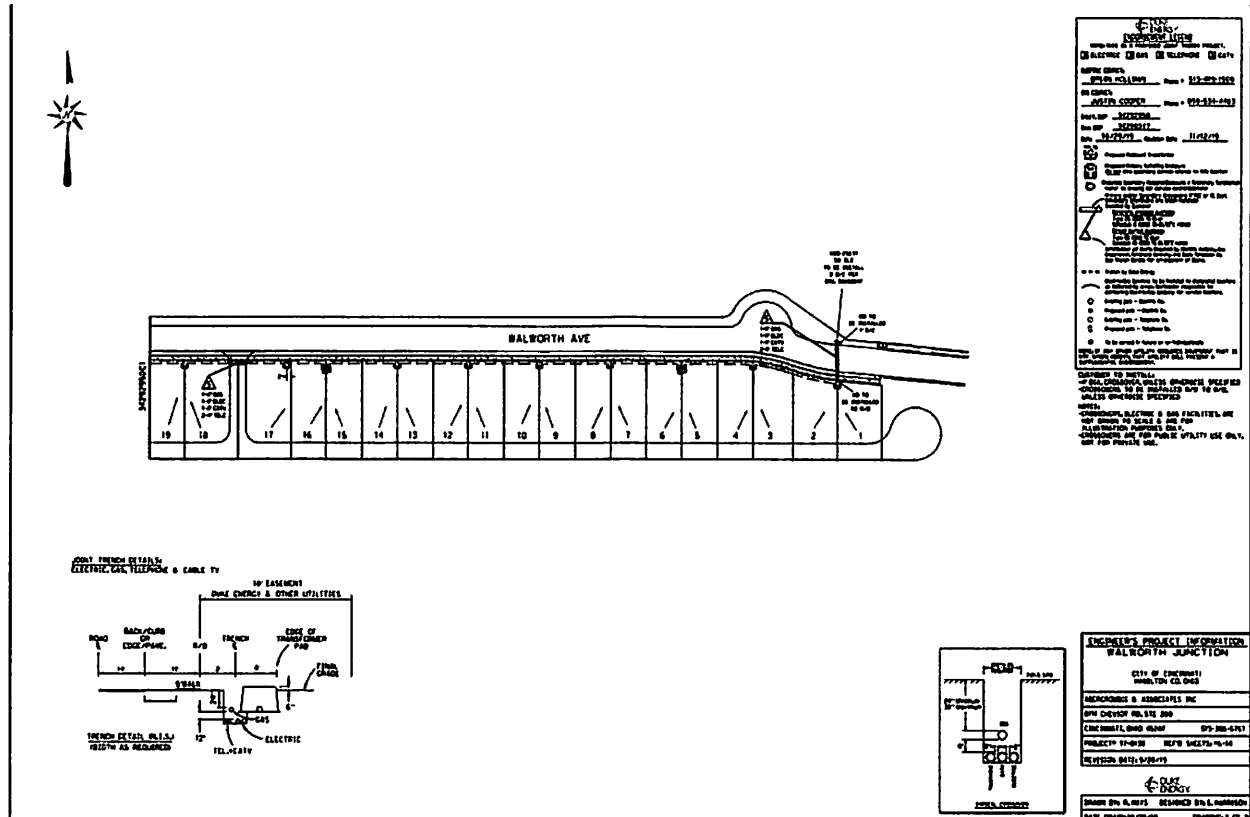
	<b>QUANTITY</b>	<b>UNIT</b>
Silt Fence	1,650	LF
Inlet Filter	8	EACH
Inspection and Maintenance of Erosion Controls	1	LS
Temporary Sediment Basin	1	EACH
Restoration Seeding	4.5	ACRE
8" Mega Lugs	1	LS
¾" Branches	39	EACH
GCWW Inspection	1	LS
Relocate Fire Hydrant	1	EACH
Tie Prop 8" Water Main Into EX. 8" Dip Water Main	2	EACH
Waterline Testing	1	LS

**PAVEMENT**

	<b>QUANTITY</b>	<b>UNIT</b>
6" Limestone	5,732	SY
6" 301 Asphalt Base (Curb Seal)	4,760	SY

1.5" 448 Type 2 Intermediate	4,760	SY
1.5" 448 Type 1 Surface W/Tack	0	SY
Concrete Curb and Gutter	3,240	LF
Concrete Driveway Apron	2	EACH

## GAS LINES



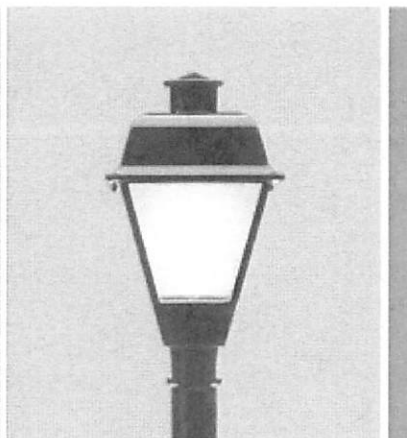
## STREETLIGHTS

Quantity: 11  
 Light Source: LED  
 Wattage: 50 Watts  
 Lumens: 4,500  
 Light Pattern: IESNA Type III (Oval)  
 IESNA Cutoff classification: Cutoff  
 Color Temperature: 4,000K  
 Warm-up and restrike time: Instant on (no warm-up or restrike time)  
 POLE: Aluminum  
 Mounting Height: 12', 17' (Style B pole only)  
 Colors: Black/Green  
 \*Lighting LED BUG Rating B-1, U-3, G-2



## Outdoor Lighting

### Traditional LED



Subject to variation from manufacturer. Contact us for region-specific details.

Illuminate pathways and residential communities with the energy-efficient Traditional LED. This Colonial lantern-style fixture will add style and charm to any neighborhood or park.

LED <i>(Light Emitting Diode)</i>	50 watts
Mounting height	12', 17' (Style B pole only)
Colors	Black Green
Poles	Style A, B, C, D, E, F
Applications	Neighborhoods Parks

## Outdoor Lighting

### Traditional LED

Light source: LED (white)

Wattage: 50

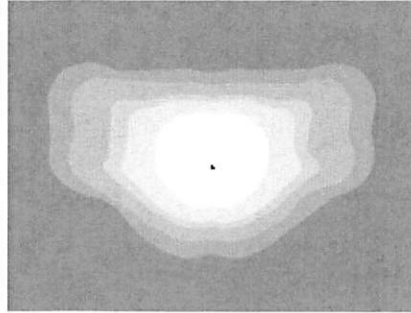
Lumens: 4,500

Light pattern: IESNA Type III (oval)

IESNA cutoff classification: Cutoff

Color temperature: 4,000K

Warm-up and restrike time: Instant on (no warm-up or restrike time)



Light distribution pattern

#### Pole available:

Name	Mounting height	Color
Aluminum	12', 17' (Style B pole only)	Black Green

#### Features

Little to no upfront capital cost required

Design services by lighting professionals included

Maintenance included

Electricity included

Warranty included

One low monthly cost on your electric bill

Turnkey operation

Backed by over 125 years of experience

#### Benefits

Frees up capital for other projects

Meets industry standards and lighting ordinances

Eliminates high and unexpected repair bills

Less expensive than metered service

Worry-free

Convenience and savings for you

Provides hassle-free installation and service

A name you can trust today ... and tomorrow

### RETAINING WALL

Solider Pier I Beam walls with Allan Block Facing tied back with Geogrid

Completed geogrid Reinforced Hickory Allan Block Retaining Walls.

TO INCLUDE: Footer excavation, compacted limestone base, allan block, geogrid, compacted sand back fill, drain tile, cap and corner block.

- 2 Walls on the North Side of Street  
Roughly 9000 Square feet
- 1 Wall on the East Entry to the Development  
Roughly 700 Square Feet
- Wall 3 – 770 Square feet
- Wall 4 – 550 Square feet

### ENVIRONMENTAL REMEDIATION

Developer hired Terracon Engineering firm and Environmental Management Specialists to complete the investigation, remediation, documentation, and complete coordination and submission to Ohio EPA to achieve compliance with an "Unrestricted Residential Use" designation for the site.

Environmental Testing: Environmental research including Phase I and Phase II testing throughout the 6 acre site at 3101 Walworth Avenue.

Site Preparation: Addition of temporary site access roads; removal of approx. 20,000 tons of clean concrete

Removal of Contaminated Soil: Removal of 80,000 Cubic Yards of material taking a minimum of 2' of material across the whole site with greater amounts removed from areas of environmental concern. These materials were excavated, tested, and removed to an offsite EPA regulated landfill.

Addition of Clean Fill to the Site: Following the removal of contaminated soil, clean soil was delivered from off-site, off loaded, and compacted to fill in all the areas that previously held contaminated soil.

All work was fully documented and recorded by certified engineers and professionals.

At the completion of the remediation process a "Certified Professional" submitted a detailed report to attest to the process and certify that all work was completed correctly, all lab tests verified compliance, and that the site meets the criteria of an "unrestricted residential use" as stipulated by the Ohio EPA.

The Ohio EPA reviewed our submission and granted us a Covenant Not to Sue for the site and all parties involved. This certification is attached to the deeds of the properties and remains in full force and effect with all subsequent property owners.

Exhibit C-1  
to Development Agreement  
(Walworth Junction)

*Sources and Uses – Private Improvements*

**Sources of Funding**

Developer Equity/Short Term Financing	\$ 4,612,366.27
<b>Total Sources</b>	<b>\$ 4,612,366.27</b>

**Uses of Funding**

<b><u>Hard Costs</u></b>	
Land Acquisition	\$ 875,273.62
Private Infrastructure	\$ 680,995.20
Overhead Management	\$ 226,847.22
<b>Subtotal Hard Costs</b>	<b>\$ 1,783,116.04</b>

<b><u>Soft Costs</u></b>	
Title Insurance & Legal	\$ 69,588.67
Heritage Bank Closing Fees	\$ 36,792.50
Guarantee Fee - Eliot Myers	\$ 17,500.00
Private Developer Counsel	\$ 101,967.45
Subdivision/Community Maintenance	\$ 47,798.13
Cluster Mailboxes	\$ 3,585.00
Public Relations & Community Outreach	\$ 61,585.14
Marketing	\$ 21,996.41
Interest	\$ 1,727,739.21
Real Estate Taxes	\$ 1,947.72
HBA Fees	\$ 250,000.00
Contingency	\$ -
Commission	\$ 50,000.00
Developer Fee	\$ 438,750.00
<b>Subtotal Soft Costs</b>	<b>\$ 2,829,250.23</b>

<b>Total Private Improvement Costs</b>	<b>\$ 4,612,366.27</b>
--	------------------------

Exhibit C-2  
to Development Agreement  
(Walworth Junction)

*Sources and Uses – Public Infrastructure Improvements*

**Sources of Funding**

Special Assessment Bonds (Net Amount)	\$ 3,073,661.83
Project TIF Bonds (Net Amount)	\$ 6,444,010.34
Developer Equity/Short Term Financing	\$ 4,447,682.02
<b>Total Sources</b>	<b>\$ 13,965,354.19</b>

**Uses of Funding**

<b><u>Hard Costs</u></b>	
Land Acquisition (including ROW and green space)	\$ 260,761.68
Environmental Remediation	\$ 4,516,248.57
Public Infrastructure	\$ 1,572,708.98
Soil Import required by Remediation	\$ 3,394,368.80
Retaining Walls	\$ 1,454,108.89
Gas Service	\$ 59,577.81
Underground Electric	\$ 123,507.01
Street Lights ROW	\$ 20,785.19
Street Trees	\$ 30,606.00
Street Signs	\$ -
Bond Insurance for Public ROW Improvements	\$ 675.00
Site Landscaping (ROW)	\$ 65,768.67
Site Landscaping entryway	\$ 83,447.06
<b>Subtotal Hard Costs</b>	<b>\$ 11,582,563.66</b>
<b><u>Soft Costs</u></b>	
Land Planning, Concept Plans, Traffic Research	\$ 6,232.25
Environmental Research: Phase 1 & testing for Phase 2	\$ 215,428.34
Engineering: Civil and Surveying	\$ 192,686.62
Legal: City, OEPA Environmental (NFA & CNS), Financing	\$ 330,151.78
Geotech: Initial investigation and Inspections during Dev	\$ 95,730.49
Environmental Insurance	\$ 2,951.00
Development Insurance	\$ 21,645.58
Environmental: Phase 2 Remediation Testing and OEPA submittals	\$ 243,688.88
Municipal Inspections	\$ 45,767.59
Overhead Management	\$ 1,227,833.00
Bond Insurance for Public ROW Improvements	\$ 675.00

<b>Subtotal Soft Costs</b>	<b>\$ 2,382,790.53</b>
<b>Total Public Infrastructure Improvement Costs</b>	<b>\$ 13,965,354.19</b>

\*It is anticipated that the Totals Costs listed are the Net Bond Proceeds available for reimbursement of eligible project costs. It is understood that the Net Bond Proceeds may increase or decrease from the estimated amounts. The Director of DCED at her sole discretion may permit, via written approval, adjustments to the budget line items at the request of Developer should the Net Bond Proceeds be more or less than the estimated amount.

Exhibit D  
to Development Agreement  
(Walworth Junction)

*Form of Restrictive Covenant*

TO BE ATTACHED

Exhibit E  
to Development Agreement  
(Walworth Junction)

*Additional Requirements*

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

This Exhibit serves two functions:

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

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

(A) Construction Workforce.

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

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

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "**Construction Workforce Goals**").



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

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

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

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

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

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

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

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Conferring with Trade Unions.

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

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

(ii) Contracts and Subcontracts; Competitive Bidding.

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

(b) Requirement. If CMC Chapter 321 applies to the Project, Developer is required to ensure that all contracts and subcontracts for the Project are awarded pursuant to a competitive bidding process that is approved by the City in writing. All bids shall be subject to review by the City. All contracts and subcontracts shall be expressly

required by written agreement to comply with the provisions of this Agreement and the applicable City and State of Ohio laws, ordinances and regulations with respect to such matters as allocation of subcontracts among trade crafts, Small Business Enterprise Program, Equal Employment Opportunity, and Construction Workforce Goals.

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

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

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

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

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

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

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

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

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

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

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

(F) Small Business Enterprise Program.<sup>1</sup>

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

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

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

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

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

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

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

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

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be

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<sup>1</sup> Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement, this section will be revised.

necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

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

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

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

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

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

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

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

(M) Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

(N) Americans With Disabilities Act: Accessibility.

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

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which

the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of "qualifying incentives" for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines "qualifying incentives" as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

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

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

*Addendum I*  
*to*  
*Additional Requirements Exhibit*

City's Prevailing Wage Determination

TO BE ATTACHED

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

## **DEVELOPMENT AGREEMENT**

*between the*

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

*and*

**EAST END DEVELOPMENT LLC,**  
an Ohio limited liability company

**Project Name: Walworth Junction**

(development of residential subdivision, including 39 buildable lots  
and associated public infrastructure improvements)

Dated: \_\_\_\_\_, 2021



## DEVELOPMENT AGREEMENT (Walworth Junction)

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is made and entered into effective as of the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **EAST END DEVELOPMENT LLC**, an Ohio limited liability company, 4010 North Bend Road, Suite 301, Cincinnati, Ohio 45211 (“**Developer**”).

### Recitals:

A. The City and Developer are parties to that certain *Property Sale and Development Agreement* dated April 1, 2020 (the “**Sale Agreement**”), pursuant to which the City conveyed 1.6724 acres of real property south of Columbia Parkway at the terminus of Walworth Avenue in the East End neighborhood of Cincinnati for consolidation with Developer’s abutting property, as depicted on Exhibit A (Site Plan) hereto (collectively, the “**Property**” or the “**Project Site**”, as applicable).

B. Developer desires to redevelop the Project Site into a housing subdivision consisting of Developer’s (i) site preparation and development to create buildable lots for the eventual construction of 39 single-family homes, as more particularly described on Exhibit B-1 (Description of Private Improvements) hereto (the “**Private Improvements**”); and (ii) environmental remediation and construction of various public improvements including utility infrastructure and an extension of Walworth Avenue and related improvements in support of the Private Improvements, as more particularly described on Exhibit B-2 (Description of Public Infrastructure Improvements) hereto (the “**Public Infrastructure Improvements**”; and jointly with the Private Improvements, the “**Project**”).

C. The total estimated cost (including, without limitation, hard construction costs, soft costs, and acquisition costs) of (i) the Private Improvements is approximately \$4,612,366.27, as more particularly described on Exhibit C-1 (Sources and Uses – Private Improvements), and (ii) the Public Infrastructure Improvements is approximately \$13,965,354.19, as more particularly described on Exhibit C-2 (Sources and Uses – Public Infrastructure Improvements) hereto. Developer has represented to the City that it intends to use various sources of funds to finance the costs associated with the Project, as set forth on Exhibits C-1 and C-2 hereto.

D. Pursuant to Ordinance No. 540-2019, passed by City Council on December 18, 2019, the City created a so-called project-based TIF for the Project Site under Ohio Revised Code (“**ORC**”) Section 5709.40(B), declaring Improvement (as defined in ORC Section 5709.40) to the Project Site to be a public purpose and exempt from real property taxation for a period of 30 years (the “**TIF Ordinance**” and the “**TIF Exemption**”, as applicable).

E. Pursuant to the TIF Ordinance, the current and future owners of the Project Site are required to make service payments in lieu of taxes in an amount equal to the amount of real property taxes that would have been paid on the Project Site had the TIF Exemption not been granted (the “**Statutory Service Payments**”).

F. One hundred percent (100%) of the owners of a portion of the Project Site (the “**Assessed Property**”) have executed and filed with City Council a *Petition* for Special Assessments proposing the necessity of levying special assessments to pay a portion of the costs of the Public Infrastructure Improvements.

G. Pursuant to Resolution No. 23-2021 passed by City Council on March 17, 2021, and Ordinance Nos. 101-2021 and 103-2021 passed by City Council on March 31, 2021 (collectively, the “**Assessment Legislation**”), the City has levied special assessments pursuant to ORC Chapter 727 (the “**Assessment**”) against the Assessed Property. The amount of the Assessment is currently anticipated to be \$330,000 annually (the “**Assessment Revenue**”).

H. The City and the Bank of New York Mellon Trust Company, N.A., as trustee, have entered into that certain *Trust Agreement* dated as of May 1, 1996 (as amended and supplemented, the “**City Trust Agreement**”), pursuant to which the City has pledged the Special Funds (as defined in the City Trust Agreement) to repay various obligations of the City.

I. The parties currently anticipate that the Public Infrastructure Improvements will be financed by the Port of Greater Cincinnati Development Authority (the “**Port Authority**”). Developer presently intends to finance the construction

of the Public Infrastructure Improvements by entering into a separate construction agreement, cooperative agreement(s), and other ancillary agreements with the City and/or the Port Authority pursuant to which:

- (i) the Port Authority will issue multiple series of special obligation development revenue bonds (collectively, the **"Bonds"**), as more particularly described in the Port Authority Documents (as defined below), but generally in accordance with the following terms:
  - (a) Series A-1: in a principal amount not to exceed \$2,975,000, having a term not to exceed 15 years (the **"Series A-1 Bonds"**),
  - (b) Series A-2: in a principal amount not to exceed \$895,000, having a term not to exceed 15 years (the **"Series A-2 Bonds"**; and jointly with the Series A-1 Bonds, the **"Series A Bonds"**),
  - (c) Series B-1: in a principal amount not to exceed \$6,375,000, having a term not to exceed 30 years (the **"Series B-1 Bonds"**), and
  - (d) Series B-2: in a principal amount not to exceed \$2,465,000, having a term not to exceed 30 years (the **"Series B-2 Bonds"**; and jointly with the Series B-1 Bonds, the **"Series B Bonds"**);
- (ii) the Port Authority will make the net proceeds from the Bonds available to Developer to pay, or reimburse for, the costs of constructing the Public Infrastructure Improvements, as will be determined by such separate agreements as may be entered into by the Port Authority, the City, and Developer;
- (iii) the City will receive from the Hamilton County Treasurer the Assessment Revenue and use the same, (a) first, to pay any fees charged by the Hamilton County Auditor or any other governmental entity, (b) second, to make payments to the Port Authority in amounts not to exceed the amount necessary to pay principal, interest, and other amounts due with respect to the Series A-1 Bonds, and (c) third, to make payments to the Port Authority in the amount necessary to pay principal, interest, and other amounts due with respect to the Series A-2 Bonds;
- (iv) the City will receive from the Hamilton County Treasurer the Statutory Service Payments generated from the Private Improvements pursuant to the TIF Ordinance (**"Project TIF Revenue"**), and use the same, (a) first, to pay any fees charged by the Hamilton County Auditor or any other governmental entity, (b) second, to satisfy the City's obligation to the Board of Education of the City School District of the City of Cincinnati (the **"School Board"**) under that certain Agreement by and between the City and the School Board dated July 2, 1999, as amended, (c) third, to pay the City's fees described in Section 11 of this Agreement, (d) fourth, to make payments to the Port Authority in an amount not to exceed the amount necessary to pay principal, interest, and other amounts due with respect to the Series A-1 Bonds (after application of the Assessment Revenue as described in paragraph (iii) above), and (e) fifth, to make payments to the Port Authority in an amount not to exceed the amount necessary to pay principal, interest, and other amounts due with respect to the Series B Bonds, with any and all surplus Project TIF Revenue in any given year to be retained by the City or returned to the City, as applicable, and used for any lawful purpose;
- (v) Thomas J. Ackermann and Ralph Meierjohan have agreed to guaranty repayment of the Series A-1 Bonds by execution of a Guaranty Agreement (the repayment guaranty evidenced by the Guaranty Agreements being referred to herein as the **"Guaranty"**); and
- (vi) the City will pledge a portion of the City's Special Funds (as defined in the City Trust Agreement) to the Port Authority as the issuer of the Series A-1 Bonds, to further secure the obligation to pay principal and interest due with respect to the Series A-1 Bonds, to be evidenced by bonds issued by the City (the **"City Bonds"**); *provided that* principal and interest on the City Bonds shall be payable only to the extent the Assessment Revenue, the Project TIF Revenue, and amounts required to be

paid pursuant to the Guaranty are insufficient or unavailable to pay principal and interest due and payable on the Series A-1 Bonds.

J. The cooperative agreement(s) referred to herein, together with such other documents with respect to the Project and the Bonds entered into with the Port Authority and Developer to which the City is a party, are referred to herein as the “**Port Authority Documents**”; and the Port Authority Documents, this Agreement, the Sale Agreement, and such other ancillary documents and instruments executed by Developer and the City, or executed by Developer in favor of the City, are referred to herein as the “**Project Documents**”.

K. All or a portion of the Project Site is located in the TIF District known as “District 26 - Eastern River Incentive District” (the “**District**”), established by Ordinance No. 512-2019, passed by City Council on December 18, 2019. The City anticipates that it will keep the Project Site within the District and “layer” the TIF Exemption over the existing exemption provided by the District, stating that the TIF Exemption will have priority over the District exemption.

L. Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing.

M. The City, upon recommendation of the City’s Department of Community and Economic Development (“**DCED**”), believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements and for this reason the City desires to facilitate the Project by entering into this Agreement, levying special assessments against the Assessed Property to generate the Assessment Revenue, and providing the TIF Exemption and requiring the Statutory Service Payments as described herein and in the cooperative agreement.

N. Execution of this Agreement was authorized by the TIF Ordinance, the Assessment Legislation, and Ordinance No. [ ]-2021, passed by City Council on [ ], 2021. Notwithstanding anything to the contrary in this Agreement, the City’s obligations hereunder are conditioned upon the passage of any and all other required legislation by City Council.

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

## **1. DUE DILIGENCE INVESTIGATIONS.**

(A) Due Diligence Items. Following the parties’ execution of this Agreement and at such time as such documents become available, Developer, at its sole expense, shall obtain and deliver to the City the following items (the “**Due Diligence Items**”):

- (i) *Survey*: One or more ALTA boundary survey(s) of the Project Site showing all easements and other matters of record that can be shown on a survey;
- (ii) *Appraisal*: A projected “as-built” appraisal of the Private Improvements (but only if such an appraisal is required by the Port Authority);
- (iii) *Site Plan*: A detailed site plan showing the proposed location of the Private Improvements and the Public Infrastructure Improvements, as applicable;
- (iv) *Environmental*: A copy of whatever environmental reports Developer may obtain or has obtained in connection with the Project, including, at a minimum, a Phase I environmental site assessment under current ASTM standards;
- (v) *Engineering Studies*. Geotechnical or other engineering studies for the parcels upon which the Public Infrastructure Improvements will be constructed;
- (vi) *Construction Schedules*: A detailed construction timeline showing anticipated commencement and completion dates for the Project, including significant milestones;
- (vii) *Budget*: A detailed and updated budget for the Project;
- (viii) *Financing*: Evidence satisfactory to the City that Developer has obtained all financing necessary to complete the Project;

- (ix) *New Legal Descriptions and Surveys*: Updated legal descriptions and ALTA property surveys for the Project Site, if applicable;
- (x) *Service Payment Projections*: A detailed analysis showing the projected Statutory Service Payments that will be generated from the Project;
- (xi) *Port Authority Documents*: Such other information and documentation as may be required by the Port Authority; and
- (xii) *Other Information*: Such other information and documents pertaining to Developer or the Project as the City may reasonably require.

(B) Copies of Due Diligence Items to Be Provided to City. Without limitation of Developer's other obligations under this Agreement, prior to the issuance of the Bonds, and as such Due Diligence Items are obtained by Developer, Developer, at no cost to the City, shall provide DCED with copies of the inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer.

(C) Contingency for City's Satisfaction with Due Diligence Investigations. All reports and the like obtained by Developer from third parties and delivered to the City shall be recent (i.e., prepared or updated, as the case may be, within three (3) months from the date that the item is delivered to the City) and shall be prepared by properly licensed and qualified companies or individuals acceptable to the City. In addition to the Due Diligence Items, Developer and the City may conduct whatever additional investigations concerning the Project as they deem necessary, including, without limitation, investigations into the feasibility and likelihood of Developer obtaining all building, zoning, and other approvals from the City's Department of Buildings and Inspections ("**B&I**"), the Department of City Planning ("**Planning**"), the City Planning Commission, and any other applicable City departments, agencies or boards. If, prior to the issuance of the Bonds, any party hereto determines that the Project is not feasible or desirable for any reason, then, notwithstanding anything in this Agreement to the contrary, such party may terminate this Agreement by giving the other party written notice thereof, whereupon this Agreement shall terminate and the parties hereto shall thereafter have no rights or obligations hereunder. Unless otherwise directed by the DCED Director, Developer shall deliver all the Due Diligence Items to be provided by Developer to the City under this Agreement to the DCED Director (for review by DCED and other City departments as deemed necessary or appropriate by DCED) and shall generally coordinate all aspects of the Project (as they relate to the City) through DCED. The termination rights of the parties under this paragraph shall automatically terminate upon the issuance of the Bonds.

## 2. PLANS AND CONSTRUCTION.

(A) Preparation of Plans and Specifications. Developer shall prepare plans and specifications for the Project and shall submit the same to DCED for review and approval; *provided that* DCED may only withhold approval if such plans and specifications (i) reduce or diminish the size, scope, quality, or site plan of the Project, (ii) could reasonably be expected to reduce the hard construction costs of the Project, or (iii) are otherwise inconsistent with zoning laws or any planned development approved by the City Planning Commission and City Council with respect to the Project or are materially inconsistent with Exhibits B-1 and B-2 hereto, in each case as determined in the DCED Director's sole and absolute discretion. The approved plans and specifications for the Project (including any and all changes thereto, subject to the City's review and approval on the criteria provided in the immediately preceding sentence) are referred to herein as the "**Final Plans**" with respect to the Project. Developer shall submit any and all proposed changes to the Final Plans to DCED and all governmental departments, agencies, and entities with jurisdiction for review and approval.

(B) Commencement and Completion of Construction. Developer shall complete the Project, and all components thereof, in accordance with Exhibits B-1 and B-2, and substantially as reflected in the Final Plans, and in compliance with all applicable laws by December 31, 2024.

(C) Dedicated ROW. The parties acknowledge that, upon completion, Developer intends to dedicate the public right-of-way portion of the Public Infrastructure Improvements, as depicted on Exhibit A-1 (the "**Dedicated ROW**"), for public use, and intends for the City to accept the Dedicated ROW (subject to all approvals as required by the City's Department of Transportation & Engineering ("**DOT**"), the City's Office of Environment and Sustainability, and City Planning Commission, and subject to the passage by Cincinnati City Council of an ordinance to accept the dedication). Developer shall prepare all survey plats, legal descriptions, and other documents as may be required by the City and the Hamilton County Auditor and Recorder in connection with such dedication and acceptance, all at no cost to the City. Developer acknowledges that, (i) if Developer does not construct the Dedicated ROW in accordance with DOTE, Greater Cincinnati Water Works, or Metropolitan Sewer District of Greater Cincinnati requirements, the City will not accept the

dedication of the Dedicated ROW, and (ii) the City makes no guarantee that Cincinnati City Council will pass an ordinance to accept the dedication.

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

(E) Applicable Laws. Developer shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the Project. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits, or other approvals from Planning, B&I, DOTE, other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(F) Inspection of Work. During construction, the City, its employees, and agents shall have the right at all reasonable times to enter upon the construction site to examine and inspect the progress of construction to determine whether Developer is complying with the requirements of this Agreement. Notwithstanding anything to the contrary in this paragraph (F) or this Agreement, nothing herein shall in any way limit the inspection rights the City otherwise legally possesses, whether in connection with its police powers, permitting, or otherwise.

(G) Mechanics' Liens. Developer shall not permit any mechanics' or other liens to be filed against the portion of the Project Site comprising the Dedicated ROW during construction of the Public Infrastructure Improvements. If a mechanics' lien shall at any time be filed, Developer shall within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record.

(H) Environmental Indemnity. As a material inducement to the City to enter into this Agreement, Developer does hereby agree that, with respect to any environmental condition on or otherwise affecting the Project Site that exists at or prior to the time of the City's execution of this Agreement (herein, a "pre-existing environmental condition"), and regardless of whether or not such pre-existing environmental condition is described in any environmental assessment or any other environmental report that may have been previously furnished by Developer to the City, Developer shall (i) at no expense to the City, promptly take all steps necessary to remediate such pre-existing environmental condition in accordance with applicable laws and regulations, within a reasonable time after discovery, to the satisfaction of the City's Office of Environment and Sustainability, and (ii) defend, indemnify, and hold the City harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, reasonable attorneys' fees), demands, judgments, liability and damages suffered or incurred by or asserted against the City as a result of or arising from any such pre-existing environmental condition. Additionally, Developer shall covenant not to sell, transfer, or convey that portion of the Sale Property (as defined in the Sale Agreement) north of the southern edge of the Walworth Avenue right-of-way by executing and promptly thereafter recording with the Hamilton County Recorder, a restrictive covenant, in substantially the form of Exhibit D (Form of Restrictive Covenant) hereto. Developer's remediation and indemnity obligations under this paragraph shall survive the completion of the Project.

### **3. CITY'S FINANCIAL ASSISTANCE.**

(A) Funding for Public Infrastructure Improvements. For the avoidance of doubt, Developer acknowledges that the City's financial assistance is limited to the funds identified in this Agreement, which shall be used exclusively for costs associated with the construction of the Public Infrastructure Improvements. The City's commitment to provide the funding described herein shall be (i) subject to and contingent upon, without limitation, the execution and continued effectiveness of this Agreement and the Port Authority Documents, and (ii) limited to providing the funding described herein to the Port Authority for payment of the Bond obligations, all in accordance with the Port Authority Documents.

(i) Assessment Revenue. To facilitate the issuance of the Series A Bonds, and subject to (a) the continued effectiveness of the Assessment Legislation and the Assessment, and (b) the City's receipt of the Assessment Revenue, the City shall transfer the Assessment Revenue it actually receives to or for the benefit of the Port Authority in an amount not to exceed the amount necessary to satisfy the annual obligations associated with the Series A Bonds in accordance with the Port Authority Documents.

(ii) *Project TIF Revenue.* To facilitate the issuance of the Series A-1 Bonds and the Series B Bonds, and subject to the City's receipt of the Project TIF Revenue, the City shall transfer the Project TIF Revenue it actually receives to or for the benefit of the Port Authority in an amount not to exceed the amount necessary to satisfy the annual obligations associated with the Series A-1 Bonds and Series B Bonds in accordance with the Port Authority Documents and following payment of the obligations outlined in Recital I(iv) hereto. Developer acknowledges and agrees that the City will not provide the Project TIF Revenue to or for the benefit of the Port Authority for payment of the Bond obligations other than with respect to Statutory Service Payments for tax years falling within the period of the TIF Exemption that are actually paid and actually received by the City. To the extent the Project TIF Revenue in any year exceeds the amount payable to or for the benefit of the Port Authority for payment of the Bond obligations for such year, as more particularly described in the Port Authority Documents, the City shall be entitled to retain and use such excess Project TIF Revenue for any lawful purpose. For the avoidance of doubt, to the extent the Project TIF Revenue associated with any portion of the Project is not required to be used to pay or secure Bond obligations, for any reason, the City shall be entitled to retain and use such excess Project TIF Revenue for any lawful purpose.

(iii) *City Bonds.* To facilitate the issuance of the Series A-1 Bonds, the City shall pledge the Special Funds (as defined in the City Trust Agreement) towards the repayment of the City Bonds for the benefit of the holders of the Series A-1 Bonds, and shall permit the transfer to or for the benefit of the Port Authority, from Special Funds or other amounts available to the City, an amount necessary to satisfy the annual obligations associated with the Series A-1 Bonds to the extent required under the Port Authority Documents. For the avoidance of doubt, Developer acknowledges that the principal and interest on the City Bonds shall be payable from funds of the City as described in this Section 3(A)(iii) only to the extent the Assessment Revenue, Project TIF Revenue, and amounts required to be paid pursuant to the Guaranty are insufficient or unavailable to pay principal and interest due and payable on the Series A-1 Bonds.

(B) No Other City Assistance. As a material inducement to the City to enter into this Agreement, Developer agrees that it shall not request or expect to receive any additional funding, real estate or income tax abatements, or other financial assistance from the City in connection with the Project in the future, either for itself, for the benefit of tenants or other occupants of the Project Site, or for the benefit of any other third party unless the City agrees to the contrary in writing. Notwithstanding the foregoing, nothing in this Agreement is intended to limit the rights of homeowners from applying for and receiving (if eligible) residential property tax abatements available within the City of Cincinnati pursuant to the City's generally applicable community reinvestment area program.

#### **4. INSURANCE; INDEMNITY.**

(A) Insurance during Construction. Until such time as all construction work associated with the Project has been completed, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$5,000,000 per occurrence, combined single limit/\$10,000,000 aggregate, naming the City as an additional insured with respect to the Project; (ii) builder's risk insurance in the amount of one-hundred percent (100%) of the value of the improvements constructed as part of the Project; (iii) worker's compensation insurance in such amount as required by law; (iv) all insurance as may be required by Developer's construction lenders or by the Port Authority; and (v) such other insurance as may be reasonably required by the City. Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City. Prior to commencement of construction of the Project, Developer shall send proof of all such insurance to the City at 805 Central Avenue, Suite 700, Cincinnati, Ohio 45202, Attention: Monitoring and Compliance Division, or such other address as may be specified by the City from time to time; *provided that* if the City requests an additional insured endorsement with respect to the Commercial General Liability insurance described above, Developer shall have 6 months following the date of the City's request to obtain such an endorsement from its insurer and provide the original endorsement to the City.

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

Developer shall cause its property insurance policies to include a waiver of subrogation provision consistent with the foregoing waiver.

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

5. **CASUALTY; EMINENT DOMAIN.** If the Project is damaged or destroyed by fire or other casualty during construction, or if any portion of the Project Site is taken by exercise of eminent domain (federal, state, or local) during construction, Developer shall repair and restore the affected property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Project Site was in immediately prior to such occurrence. To the extent the City’s participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including, without limitation, obtaining the City’s approval of the plans and specifications if they deviate from the original City-approved plans. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Project Site is being repaired or restored.

## 6. **DEFAULT; REMEDIES.**

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

(i) Prior to the expiration of the TIF Exemption:

(a) the dissolution of Developer, the filing of any bankruptcy or insolvency proceedings by Developer, or the making by any such entity of an assignment for the benefit of creditors; or

(b) the filing of any bankruptcy or insolvency proceedings by or against Developer, the appointment of a receiver (temporary or permanent) for Developer, the attachment of, levy upon, or seizure by legal process of any property of Developer, or the insolvency of Developer, unless such appointment, attachment, levy, seizure, or insolvency is cured, dismissed, or otherwise resolved to the City’s satisfaction within sixty (60) days following the date thereof.

(ii) The occurrence of a Specified Default (as defined below), or a failure of Developer to perform or observe (or cause to be performed or observed) any obligation, duty, or responsibility under this Agreement or any other Project Document, and failure by Developer to correct such default within thirty (30) days after the receipt by Developer of written notice thereof from the City (the “**Cure Period**”), other than a Payment Default (as described below), in which case there shall be a Cure Period of 5 business days after Developer’s receipt of written notice thereof from the City; *provided, however*, that if the nature of the default is such that it cannot reasonably be cured during the Cure Period, Developer shall not be in default under this Agreement so long as Developer commences to cure the default within such Cure Period and thereafter diligently completes such cure within sixty (60) days after receipt of the City’s initial notice of default. Notwithstanding the foregoing, if Developer’s failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City in good faith, an event of default shall be deemed to have occurred if Developer fails to take reasonable corrective action immediately upon discovering such dangerous condition or emergency. As used in this section, “**Specified Default**” means the occurrence of any of the following:

- (a) Development Default. Developer (1) fails to (x) diligently prosecute the work related to the Project as provided herein, or (y) complete the Project in accordance with Exhibits B-1 and B-2 and substantially in accordance with the Final Plans for the Project; or (2) abandons the Project.
- (b) Misrepresentation. Any representation, warranty, or certification of Developer made in connection with this Agreement or any other Project Document shall prove to have been false or materially misleading when made.

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

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

To the City:  
City Manager  
City of Cincinnati  
801 Plum Street  
Cincinnati, Ohio 45202

To Developer:  
East End Development LLC  
4010 North Bend Road, Suite 301  
Cincinnati, Ohio 45211

with a copy to:  
Director, Dept. of Community and  
Economic Development  
City of Cincinnati  
805 Central Avenue, Suite 700  
Cincinnati, Ohio 45202

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

**8. REPRESENTATIONS, WARRANTIES, AND COVENANTS OF DEVELOPER.** Developer hereby makes the following representations, warranties, and covenants to induce the City to enter into this Agreement:

- (i) Developer is a limited liability company duly organized and validly existing under the laws of the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement or any other Project Document.
- (ii) Developer has full power and authority to execute and deliver this Agreement and every other Project Document to which it is or will be a party and to carry out the transactions provided for herein and therein. This Agreement and each other Project Document to which Developer is a party has by proper action been duly authorized, executed, and delivered by Developer and all actions necessary have been taken to constitute this Agreement



and the other Project Documents to which Developer is a party, when executed and delivered, valid and binding obligations of Developer.

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

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

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

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

(vii) With reference to Section 301-20 (*Delinquencies in Accounts Receivable and Loans Receivable; Policy*) of the Cincinnati Municipal Code, neither Developer nor its affiliates is in breach of any of its obligations to the City under any existing agreements with the City nor does Developer or any of its affiliates owe any fines, penalties, judgment awards, or any other amounts to the City.

## **9. REPORTING REQUIREMENTS.**

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

(B) City's Right to Inspect and Audit. During construction of the Project and thereafter until the Retention Termination Date, Developer shall permit the City and its designees and auditors to have full access to and to inspect and audit the Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

## **10. GENERAL PROVISIONS.**

(A) Assignment; Change of Control.

(i) Assignment. Developer shall not assign its rights or interests under this Agreement to any third party without the prior written consent of the City Manager; and *provided*, that the City may require the execution of an amendment hereto or other clerical documentation to effect such assignment or substitution of parties. The City hereby

consents to Developer's collateral assignment of its rights under this Agreement or the Project Documents to the Port Authority.

(ii) Change of Control. Developer shall not permit a Change of Control (as defined below) without the prior written consent of the City. As used herein, "**Change of Control**" means a change in the ownership of Developer such that Thomas J. Ackermann or Ralph Meierjohan has less than a 51% direct or indirect voting interest in Developer and lacks the power to direct or cause the direction of the management and policies of Developer, whether through the ownership of ownership interests in Developer, by contract, or otherwise.

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

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

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

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

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

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

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

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

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

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

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

(M) Recognition of City Support. In connection with the construction and opening of the Project, the parties shall acknowledge the support of the City with respect to the Project in all printed promotional materials (including, without limitation, 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) relating to the Project. In identifying the City as a Project partner, the parties shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logo or other form of acknowledgement that has been approved in advance in writing by the City.

(N) Applicable Laws. Developer shall obtain and maintain all necessary City and other governmental permits, licenses, and other approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements, including, without limitation, those set forth on Exhibit E (Additional Requirements) that are applicable to the Project.

(O) Counterparts and Electronic Signatures. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same Agreement. 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.

## **11. FEES AND EXPENSES.**

(A) Initial Administrative Fee. Upon the execution of this Agreement, Developer shall pay a non-refundable administrative fee of \$15,000 to cover the City's out-of-pocket and administrative costs and expenses in establishing the project-based TIF, preparing this Agreement and other documents relating hereto, and effecting the transactions contemplated hereby.

(B) Monitoring and Servicing Fee; Out-of-Pocket Expenses. The City shall withhold and retain from the Statutory Service Payments an annual monitoring and servicing fee equal to the greater of (i) 1.0% of the Statutory Service Payments paid (or due, if unpaid) with respect to the Property the current tax year; or (ii) the documented, reasonable out-of-pocket fees, costs, charges, and expenses incurred by the City in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other Project Documents, together with the City's monitoring and servicing costs and expenses with respect to the transactions contemplated thereby. To the extent the Statutory Service Payments are not made or are ineligible to be made for any reason, the City may elect to require Developer to pay such monitoring and servicing fees in another manner. This Section 11(B) shall terminate and cease to be effective in the event the City's obligation to transfer amounts to the Port Authority for payment of the Bond Obligations permanently cease in accordance with the provisions of this Agreement and the other Project Documents. For the avoidance of doubt, suspension (without permanent termination) of the City's transferring amounts to the Port Authority for payment of the Bond Obligations shall not cause the provisions of this Section 11(B) of this Agreement to cease or be modified in any way (either permanently or during the period of any such suspension). The fees described in this Section 11(B) are not refundable once withheld by the City or otherwise paid.

(C) City's Outside Counsel Fees Associated with Bonds. Developer shall pay any and all outside counsel fees incurred by the City related to the negotiations and issuance of the Bonds out of the proceeds of the Bonds, or in some other manner mutually acceptable to Developer and the City.

**12. EXEMPTION APPLICATION.** Developer, or its representatives (as applicable), shall prepare, in a timely fashion, and the City shall execute, and (following the City's prior receipt of copies for review and approval in the City's sole and absolute discretion) file such applications, documents, and other information with the appropriate officials of the State of Ohio and Hamilton County, or other public body as may be required to effect and maintain during the period of the TIF Exemption as described in ORC Chapter 5709 the exemption from real property taxation as contemplated by said Chapter. Developer and the City currently expect that such exemption from real property taxation shall apply initially to the 2021 tax year.

**13. EXHIBITS.** The following exhibits are attached hereto and made a part hereof:

<u>Exhibit A</u>	- <i>Site Plan</i>
<u>Exhibit B-1</u>	- <i>Description of Private Improvements</i>
<u>Exhibit B-2</u>	- <i>Description of Public Infrastructure Improvements</i>
<u>Exhibit C-1</u>	- <i>Sources and Uses – Private Improvements</i>
<u>Exhibit C-2</u>	- <i>Sources and Uses – Public Infrastructure Improvements</i>
<u>Exhibit D</u>	- <i>Form of Restrictive Covenant</i>
<u>Exhibit E</u>	- <i>Additional Requirements</i>

(incl. Addendum I - City's Prevailing Wage Determination)

*[SIGNATURES ON FOLLOWING PAGE]*

Executed by the entities below on the dates indicated below their signatures, effective as of the later of such dates (the “**Effective Date**”).

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Paula Bogs Muething, City Manager

Date: \_\_\_\_\_, 2021

**EAST END DEVELOPMENT LLC**

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

Printed name: \_\_\_\_\_

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

Date: \_\_\_\_\_, 2021

Approved as to Form:

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

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

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

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

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

Exhibit A  
to Development Agreement  
(Walworth Junction)

*Site Plan*



Exhibit B-1  
to Development Agreement  
(Walworth Junction)

*Description of Private Improvements*

The Walworth Junction development, location of the 2020 HOMERAMA, is a housing subdivision consisting of the construction of 39 single-family homes located east of the existing terminus of Walworth Avenue, Cincinnati, Ohio 45226.

**INFRASTRUCTURE**

The development consists of both public and private infrastructure improvements. The private infrastructure improvements include the following:

- 1) Rough grading of all areas outside of public right of way and establishment of compacted soil suitable for construction of standard single-family home basement structures
- 2) Finish grading of all areas outside of public right of way and establishment of appropriate temporary and permanent vegetation to protect against erosion
- 3) Construction of permanent detention basin for stormwater management on private property
- 4) Storm sewer piping and related inlet structures outside of public right of way for management of water from new homes and on private roadways
- 5) Construction of private roadway and access drives to service rear garage areas of all 39 lots. Roadway is built within private easement areas on lots and land owned by the Homeowner's Association (the "HOA").
- 6) Water line connection and private supply services to all lots
- 7) Landscaping in private areas outside of public right of way

Description and quantity list of the private infrastructure improvements:

**UNIT**

L.S. Lump Sum  
AC ACRES  
CY CUBICK YARDS  
LF LINEAL FEET  
SY SQUARE YARDS

<b><u>ITEM</u></b>	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
<b><u>MOBILIZATION</u></b>	1	Each
Clearing and Grubbing	4.5	ACRE
Construction Entrance	1	EACH
Clay Excavation to Subgrade	6.5	CY
Clay Embankment to Subgrade	13,000	CY
Topsoil Stripping and Stockpiling	4,250	CY
Topsoil Redistribution to Final Grade	4,250	CY

<b><u>STORM SEWER</u></b>	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
8" Downspout Collector/Sump Line	1,376	LF
8" Downspout Collector Line Cleanout	6	EACH
6" Downspout Lateral	390	LF
8"X6" Downspout Tee	39	EACH
12" Storm Sewer AASTO M294	709	LF

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15" Storm Sewer AASTO M294	41	LF
18" Storm Sewer AASTO M294	494	LF
18" Storm Sewer Conc. Class IV	120	LF
24" Storm Sewer Conc. Class IV	751	LF
Catch Basin 2-2	2	EACH
Catch Basin 2-2	9	EACH
HW 2.1	1	EACH
Tie Prop. STM MH INTO EX. 54" STM (Incl. MH)	1	EACH

#### **PAVEMENT**

	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
Concrete Pavement	3,850	SY

#### **SEDIMENT AND EROSION CONTROL**

	<b><u>QUANTITY</u></b>	<b><u>UNIT</u></b>
Inlet Filter	11	EACH
Inspection and Maintenance of Erosion Controls	1	LS
Temporary Sediment Basin	1	EACH
Restoration Seeding	0.5	ACRE

#### **LOT DEVELOPMENT STANDARDS**

The majority of lots in Walworth Junction will accommodate homes that are 30' in width and +50' in depth. The three lots at the entrance (lot #'s 1, 2, & 3) allow for wider but shallower homes. Home widths are limited by the lot size (40' with 1 5' minimum side yard requirement) and the depths are limited by the sanitary sewer utility easement that encumbers the rear of these lots.

All homes are required to have rear entry garages in the basements and two full finished floors of living space above grade with a partially enclosed third floor and an open air "roof deck". Floor heights are planned to be the following: basement=10'; first floor=11'; second floor=10'; third floor "bonus room"=9'.

All homes must be comprised of exterior finishes that are natural, or man-made hard surface materials. Stone, brick, cement board, or metal are all acceptable materials for this application.

The homes' enclosed finished floor space above grade is expected to range from a minimum of 3000 square feet to upwards of 6000 square feet.

The lot and home designs allow for at minimum two car parking spaces inside the building and two car parking spaces on the private driveways in the rear adjoining the private alley way.

All homes must conform with Developer's established architectural design standards established as part of the HOA. The HOA is responsible for monitoring and enforcing these standards.

All homes in the development are required to attain a minimum Leadership in Energy and Environmental Design (LEED) rating of GOLD. The development has applied for a "LEED Neighborhood Development" rating ("LEED ND") with United States Green Building Council (USGBC), and anticipate that Walworth Junction will be the first LEED ND with all Gold level certified homes in the United States.

All the homes are designed to have exposed lower levels on the rear alley side of each building and both the HOA and Developer have required that all garages be in the rear lower level of each home. This protects and enhances the value of the homes by preserving and presenting an attractive street façade of front porches connected by public sidewalks along the entire length of Walworth Avenue.

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Exhibit B-2  
to Development Agreement  
(Walworth Junction)

*Description of Public Infrastructure Improvements*

Developer will construct various Public Infrastructure Improvements including sidewalks, street, irrigation, public signage, remediation of certain environmental conditions, and other related improvements to the Walworth Junction subdivision.

**UNIT**

L.S. Lump Sum  
AC ACRES  
CY CUBICK  
CY YARDS  
LF LINEAL FEET  
SQUARE  
SY YARDS

<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT</u>
<b><u>MOBILIZATION</u></b>	1	EACH
Clearing and Grubbing	2	ACRE
Construction Entrance	1	EACH
Clay Embankment to Subgrade	19,000	CY
Topsoil Stripping and Stockpiling	750	CY
Topsoil Redistribution to Final Grade	750	CY
Fine Grade Streets/Subgrade	5,732	SY
Fine Grade Green Spaces and R/W	1	SY
Build Detention Pond with Dirt	1	LS
Backfill behind Lagging Wall		LS
Stabilize Hillside		
Miscellaneous Other Grading		
Miscellaneous Site Work		

**UTILITY Crossovers**

	<u>QUANTITY</u>	<u>UNIT</u>
4-4" PVC (Concrete Encased)	0	

**SANITARY SEWER**

	<u>QUANTITY</u>	<u>UNIT</u>
6" Sanitary Sewer (House Laterals)	390	LF
Clean Outs	39	EACH
8" Sanitary Sewer SDR-35	1,614	LF
Standard Manholes	6	EACH
Remodel Existing Manholes	2	EACH
8"x6" Tees	39	EACH
MSD Inspection	1	LS
Tie Wall Drains		

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**STORM SEWER**

	<b>QUANTITY</b>	<b>UNIT</b>
12" Storm Sewer Class IV Concrete	232	LF
15" Storm Sewer Class IV Concrete	580	LF
18" Storm Sewer Class IV Concrete	455	LF
54" Storm Sewer Class IV Concrete	72	LF
Cleanout	1	EACH
Combination Inlet Manhole	1	EACH
Curb Inlet	7	EACH
Detention Structure	1	EACH
Headwall	1	EACH
Manhole	4	EACH
Raise MH Cover to Prop. Grade	2	EACH
Remodel Ex. MH to Curb Inlet	1	EACH
Rock Channel Protect	30	CY
Tie Prop. STM MH Into Ex. 24" STM (Inc. MH)	1	EACH
Tie Prop. STM MH Into Ex. 54" STM (Inc. MH)	2	EACH
Wall Underdrain	700	LF

**WATERLINE**

	<b>QUANTITY</b>	<b>UNIT</b>
8" Waterline (Including Bends)	1,870	LF
Field Loc Gaskets	1	SL
6" Fire Hydrant	4	EACH
6" Mega Lugs	1	LS
8" Valve and Chamber	2	EACH

**SEDIMENT AND EROSION CONTROL**

	<b>QUANTITY</b>	<b>UNIT</b>
Silt Fence	1,650	LF
Inlet Filter	8	EACH
Inspection and Maintenance of Erosion Controls	1	LS
Temporary Sediment Basin	1	EACH
Restoration Seeding	4.5	ACRE
8" Mega Lugs	1	LS
¾" Branches	39	EACH
GCWW Inspection	1	LS
Relocate Fire Hydrant	1	EACH
Tie Prop 8" Water Main Into EX. 8" Dip Water Main	2	EACH
Waterline Testing	1	LS

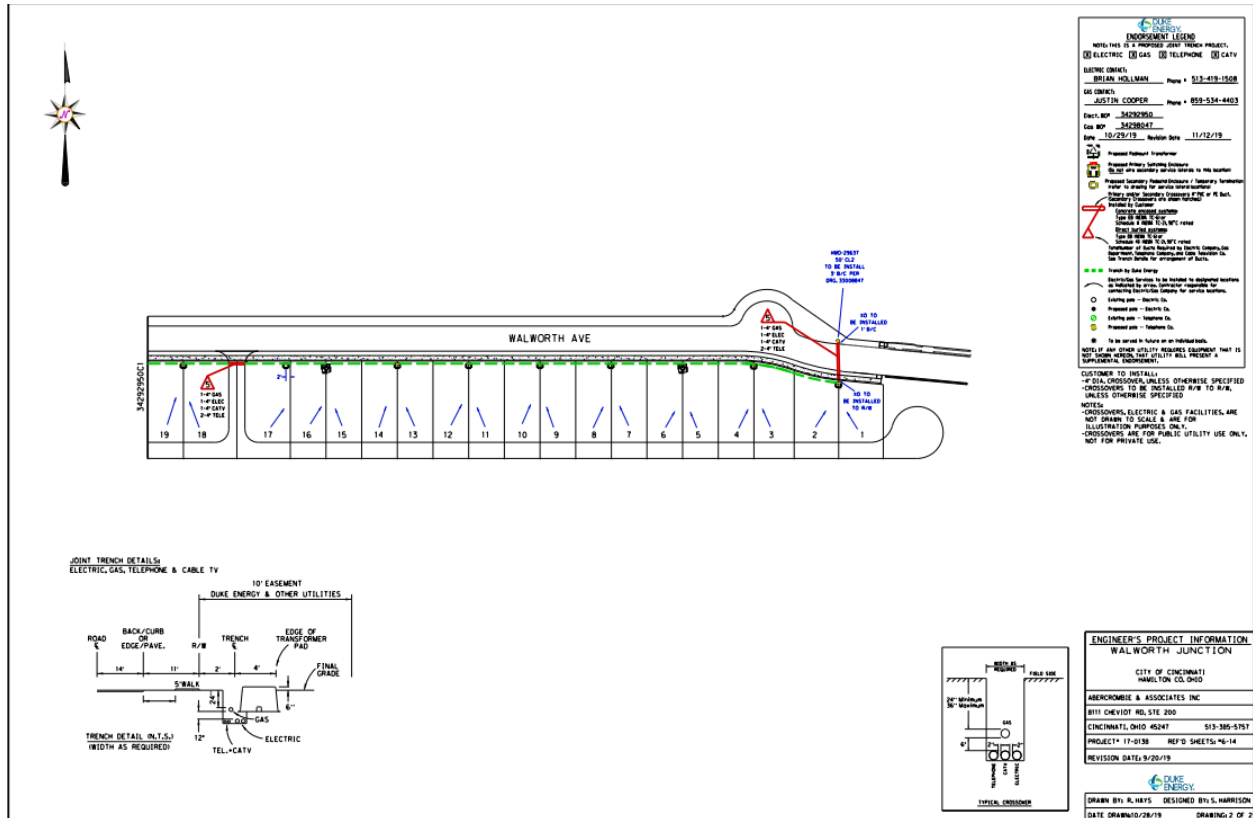
**PAVEMENT**

	<b>QUANTITY</b>	<b>UNIT</b>
6" Limestone	5,732	SY
6" 301 Asphalt Base (Curb Seal)	4,760	SY

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1.5" 448 Type 2 Intermediate	4,760	SY
1.5" 448 Type 1 Surface W/Tack	0	SY
Concrete Curb and Gutter	3,240	LF
Concrete Driveway Apron	2	EACH

## GAS LINES



## STREETLIGHTS

Quantity: 11  
 Light Source: LED  
 Wattage: 50 Watts  
 Lumens: 4,500  
 Light Pattern: IESNA Type III (Oval)  
 IESNA Cutoff classification: Cutoff  
 Color Temperature: 4,000K  
 Warm-up and restrike time: Instant on (no warm-up or restrike time)  
 POLE: Aluminum  
 Mounting Height: 12', 17' (Style B pole only)  
 Colors: Black/Green  
 \*Lighting LED BUG Rating B-1, U-3, G-2

Outdoor Lighting

Traditional LED



Subject to variance from manufacturer. Contact us for region-specific details.

Illuminate pathways and residential communities with the energy-efficient Traditional LED. This Colonial lantern-style fixture will add style and charm to any neighborhood or park.

LED	50 watts
<i>(Light Emitting Diode)</i>	
Mounting height	12', 17' (Style B pole only)
Colors	Black Green
Poles	Style A, B, C, D, E, F
Applications	Neighborhoods Parks

## Outdoor Lighting

### Traditional LED

Light source: LED (white)

Wattage: 50

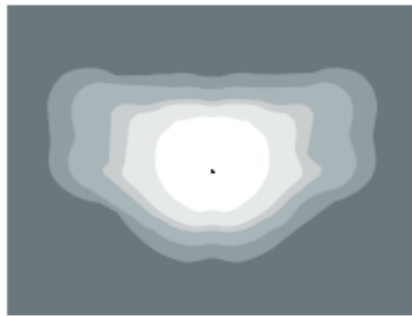
Lumens: 4,500

Light pattern: IESNA Type III (oval)

IESNA cutoff classification: Cutoff

Color temperature: 4,000K

Warm-up and restrike time: Instant on (no warm-up or restrike time)



light distribution pattern

#### Pole available:

Name	Mounting height	Color
Aluminum	12', 17' (Style B pole only)	Black Green

#### Features

Little to no upfront capital cost required

Design services by lighting professionals included

Maintenance included

Electricity included

Warranty included

One low monthly cost on your electric bill

Turnkey operation

Backed by over 125 years of experience

#### Benefits

Frees up capital for other projects

Meets industry standards and lighting ordinances

Eliminates high and unexpected repair bills

Less expensive than metered service

Worry-free

Convenience and savings for you

Provides hassle-free installation and service

A name you can trust today ... and tomorrow

### RETAINING WALL

Solider Pier I Beam walls with Allan Block Facing tied back with Geogrid

Completed geogrid Reinforced Hickory Allan Block Retaining Walls.

TO INCLUDE: Footer excavation, compacted limestone base, allan block, geogrid, compacted sand back fill, drain tile, cap and corner block.

- 2 Walls on the North Side of Street  
Roughly 9000 Square feet
- 1 Wall on the East Entry to the Development  
Roughly 700 Square Feet
- Wall 3 – 770 Square feet
- Wall 4 – 550 Square feet

### ENVIRONMENTAL REMEDIATION

Developer hired Terracon Engineering firm and Environmental Management Specialists to complete the investigation, remediation, documentation, and complete coordination and submission to Ohio EPA to achieve compliance with an "Unrestricted Residential Use" designation for the site.

Environmental Testing: Environmental research including Phase I and Phase II testing throughout the 6 acre site at 3101 Walworth Avenue.

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Site Preparation: Addition of temporary site access roads; removal of approx. 20,000 tons of clean concrete

Removal of Contaminated Soil: Removal of 80,000 Cubic Yards of material taking a minimum of 2' of material across the whole site with greater amounts removed from areas of environmental concern. These materials were excavated, tested, and removed to an offsite EPA regulated landfill.

Addition of Clean Fill to the Site: Following the removal of contaminated soil, clean soil was delivered from off-site, off loaded, and compacted to fill in all the areas that previously held contaminated soil.

All work was fully documented and recorded by certified engineers and professionals.

At the completion of the remediation process a "Certified Professional" submitted a detailed report to attest to the process and certify that all work was completed correctly, all lab tests verified compliance, and that the site meets the criteria of an "unrestricted residential use" as stipulated by the Ohio EPA.

The Ohio EPA reviewed our submission and granted us a Covenant Not to Sue for the site and all parties involved. This certification is attached to the deeds of the properties and remains in full force and effect with all subsequent property owners.

Exhibit C-1  
to Development Agreement  
(Walworth Junction)

*Sources and Uses – Private Improvements*

**Sources of Funding**

Developer Equity/Short Term Financing	\$ 4,612,366.27
<b>Total Sources</b>	<b>\$ 4,612,366.27</b>

**Uses of Funding**

<b><u>Hard Costs</u></b>	
Land Acquisition	\$ 875,273.62
Private Infrastructure	\$ 680,995.20
Overhead Management	\$ 226,847.22
<b>Subtotal Hard Costs</b>	<b>\$ 1,783,116.04</b>

<b><u>Soft Costs</u></b>	
Title Insurance & Legal	\$ 69,588.67
Heritage Bank Closing Fees	\$ 36,792.50
Guarantee Fee - Eliot Myers	\$ 17,500.00
Private Developer Counsel	\$ 101,967.45
Subdivision/Community Maintenance	\$ 47,798.13
Cluster Mailboxes	\$ 3,585.00
Public Relations & Community Outreach	\$ 61,585.14
Marketing	\$ 21,996.41
Interest	\$ 1,727,739.21
Real Estate Taxes	\$ 1,947.72
HBA Fees	\$ 250,000.00
Contingency	\$ -
Commission	\$ 50,000.00
Developer Fee	\$ 438,750.00
<b>Subtotal Soft Costs</b>	<b>\$ 2,829,250.23</b>

<b>Total Private Improvement Costs</b>	<b>\$ 4,612,366.27</b>
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Exhibit C-2  
to Development Agreement  
(Walworth Junction)

*Sources and Uses – Public Infrastructure Improvements*

**Sources of Funding**

Special Assessment Bonds (Net Amount)	\$ 3,073,661.83
Project TIF Bonds (Net Amount)	\$ 6,444,010.34
Developer Equity/Short Term Financing	\$ 4,447,682.02
<b>Total Sources</b>	<b>\$ 13,965,354.19</b>

**Uses of Funding**

<b><u>Hard Costs</u></b>	
Land Acquisition (including ROW and green space)	\$ 260,761.68
Environmental Remediation	\$ 4,516,248.57
Public Infrastructure	\$ 1,572,708.98
Soil Import required by Remediation	\$ 3,394,368.80
Retaining Walls	\$ 1,454,108.89
Gas Service	\$ 59,577.81
Underground Electric	\$ 123,507.01
Street Lights ROW	\$ 20,785.19
Street Trees	\$ 30,606.00
Street Signs	\$ -
Bond Insurance for Public ROW Improvements	\$ 675.00
Site Landscaping (ROW)	\$ 65,768.67
Site Landscaping entryway	\$ 83,447.06
<b>Subtotal Hard Costs</b>	<b>\$ 11,582,563.66</b>
<b><u>Soft Costs</u></b>	
Land Planning, Concept Plans, Traffic Research	\$ 6,232.25
Environmental Research: Phase 1 & testing for Phase 2	\$ 215,428.34
Engineering: Civil and Surveying	\$ 192,686.62
Legal: City, OEPA Environmental (NFA & CNS), Financing	\$ 330,151.78
Geotech: Initial investigation and Inspections during Dev	\$ 95,730.49
Environmental Insurance	\$ 2,951.00
Development Insurance	\$ 21,645.58
Environmental: Phase 2 Remediation Testing and OEPA submittals	\$ 243,688.88
Municipal Inspections	\$ 45,767.59
Overhead Management	\$ 1,227,833.00
Bond Insurance for Public ROW Improvements	\$ 675.00



<b>Subtotal Soft Costs</b>	<b>\$ 2,382,790.53</b>
<b>Total Public Infrastructure Improvement Costs</b>	<b>\$ 13,965,354.19</b>

\*It is anticipated that the Totals Costs listed are the Net Bond Proceeds available for reimbursement of eligible project costs. It is understood that the Net Bond Proceeds may increase or decrease from the estimated amounts. The Director of DCED at her sole discretion may permit, via written approval, adjustments to the budget line items at the request of Developer should the Net Bond Proceeds be more or less than the estimated amount.

Exhibit D  
to Development Agreement  
(Walworth Junction)

*Form of Restrictive Covenant*

TO BE ATTACHED

Exhibit E  
to Development Agreement  
(Walworth Junction)

*Additional Requirements*

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

This Exhibit serves two functions:

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

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

(A) Construction Workforce.

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

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

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "**Construction Workforce Goals**").

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

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

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

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

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

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

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

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Conferring with Trade Unions.

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

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

(ii) Contracts and Subcontracts; Competitive Bidding.

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

(b) Requirement. If CMC Chapter 321 applies to the Project, Developer is required to ensure that all contracts and subcontracts for the Project are awarded pursuant to a competitive bidding process that is approved by the City in writing. All bids shall be subject to review by the City. All contracts and subcontracts shall be expressly

required by written agreement to comply with the provisions of this Agreement and the applicable City and State of Ohio laws, ordinances and regulations with respect to such matters as allocation of subcontracts among trade crafts, Small Business Enterprise Program, Equal Employment Opportunity, and Construction Workforce Goals.

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

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

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

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

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

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

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

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

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

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

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

(F) Small Business Enterprise Program.<sup>1</sup>

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

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

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

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

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

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

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

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

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be

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<sup>1</sup> Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement, this section will be revised.

necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

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

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

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

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

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

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

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

(M) Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

(N) Americans With Disabilities Act; Accessibility.

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

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which



the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of "qualifying incentives" for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines "qualifying incentives" as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

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

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

*Addendum I*  
*to*  
*Additional Requirements Exhibit*  
City's Prevailing Wage Determination

TO BE ATTACHED

June 16, 2021

To: Mayor and Members of City Council

202102268

From: Paula Boggs Muething, City Manager

Subject: **ORDINANCE – TIF PRIORITY FOR WALWORTH  
DEVELOPMENT**

---

Attached is an Ordinance captioned as follows:

**ESTABLISHING** priority order of property tax exemptions granted for parcels of real property located south of Columbia Parkway along Walworth Avenue in the East End neighborhood of Cincinnati, within Cincinnati's Eastern River Incentive District (Eastern River TIF District), in connection with a redevelopment project undertaken by East End Development LLC.

### **BACKGROUND**

East End Development LLC (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.

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.

### **LEGISLATION DESCRIPTION**

This Ordinance will establish the following priority order of real property tax exemptions granted with respect to the project site. There was both a Project TIF established for the Development in 2019 and a District TIF established for the

broader area in 2019;

First, the project TIF Exemption, as authorized and granted by Ordinance No. 540-2019; and

Second, the District TIF Exemption, as authorized and granted by Ordinance No. 512-2019

This ordinance is necessary to ensure clarity for the Hamilton County Auditor in applying exemptions and to facilitate the development financing transaction for the project as outlined in a related ordinance.

### **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.

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

SSB  
*BWB*

**City of Cincinnati**

**An Ordinance No. \_\_\_\_\_ - 2021**

**ESTABLISHING** priority order of property tax exemptions granted for parcels of real property located south of Columbia Parkway along Walworth Avenue in the East End neighborhood of Cincinnati, within Cincinnati's Eastern River Incentive District (Eastern River TIF District), in connection with a redevelopment project undertaken by East End Development LLC.

WHEREAS, by Ordinance No. 512-2019, passed on December 18, 2019, this Council created the District 26 - Eastern River Incentive District, and declared certain improvements to parcels therein to be exempt from real property taxation pursuant to Section 5709.40(C) of the Ohio Revised Code (the "District 26 TIF" and the "District TIF Ordinance," as applicable); and

WHEREAS, by an ordinance passed by this Council prior to the passage of this ordinance, this Council authorized a *Development Agreement* between the City and East End Development LLC, pertaining to a redevelopment project located south of Columbia Parkway along Walworth Avenue, as more particularly described in Attachment A to this ordinance (the "Property"), all or parts of which are contained within the District 26 TIF; and

WHEREAS, by Ordinance No. 540-2019, passed on December 18, 2019, this Council declared improvements to the Property to be a public purpose and exempt from real property taxation pursuant to Section 5709.40(B) of the Ohio Revised Code (the "Project TIF Ordinance"), all in furtherance of the City's Eastern River Tax Increment Financing (TIF) Plan for the District 26 TIF and to create or preserve jobs and improve the economic welfare of the people of the City; and

WHEREAS, pursuant to the provisions of Section 5709.911 of the Ohio Revised Code, City Council desires to establish the priority order of the real property tax exemptions granted by the District TIF Ordinance and the Project TIF Ordinance; now, therefore,

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

Section 1. That this Council hereby finds and determines that improvements to the property located south of Columbia Parkway along Walworth Avenue in Cincinnati, as more particularly described in Attachment A to this ordinance (the "Property"), shall be subject to exemption from real property taxes in the following order: (a) the exemption granted by Ordinance No. 540-2019, passed on December 18, 2019, which declared the improvements to

the Property to be a public purpose and exempt pursuant to Section 5709.40(B) of the Ohio Revised Code, shall have priority over (b) the exemption granted by Ordinance No. 512-2019, passed on December 18, 2019, which created the District 26 - Eastern River Incentive District, and declared certain improvements to parcels therein to be exempt from real property taxation pursuant to Section 5709.40(C) of the Ohio Revised Code.

Section 2. That the Clerk is hereby directed to forward a copy of this ordinance to the Hamilton County Auditor.

Section 3. That it is hereby found and determined 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 of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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

ATTACHMENT A



**Abercrombie  
& Associates, Inc.**

Civil Engineering + Surveying

NOVEMBER 7, 2019

**LEGAL DESCRIPTION  
7.3888 ACRES**

SITUATE IN SECTION 31, TOWN 4, FRACTIONAL RANGE 2, COLUMBIA TOWNSHIP, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF HOFF AVENUE WITH THE WESTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED), BEING WITNESSED BY AN EXISTING  $\frac{5}{8}$ " IRON PIN (BENT) WHICH IS 0.28 FEET NORTH; THENCE ALONG THE WESTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED), SOUTH  $17^{\circ}51'18''$  WEST, 16.23 FEET TO A SET  $\frac{5}{8}$ " IRON PIN AND CAP (#7862); THENCE LEAVING THE WESTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED), SOUTH  $72^{\circ}08'42''$  EAST, 40.00 FEET TO A SET  $\frac{5}{8}$ " IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF KATE'S PLACE WITH THE EASTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED) AND THE REAL PLACE OF BEGINNING OF THE HEREIN DESCRIBED TRACT; THENCE CONTINUING SOUTH  $72^{\circ}08'42''$  EAST, 152.02 FEET TO A POINT; THENCE NORTH  $17^{\circ}51'18''$  EAST, 30.00 FEET TO A POINT; THENCE NORTH  $72^{\circ}08'42''$  WEST, 37.01 FEET TO A POINT; THENCE NORTH  $17^{\circ}51'18''$  EAST, 50.00 FEET TO A POINT; THENCE SOUTH  $80^{\circ}10'27''$  EAST, 90.49 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 61.00 FEET, A DISTANCE OF 78.24 FEET, THE CHORD OF SAID CURVE BEARS SOUTH  $43^{\circ}25'39''$  EAST, 72.99 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 2,181.00 FEET; A DISTANCE OF 260.64 FEET, THE CHORD OF SAID CURVE BEARS SOUTH  $62^{\circ}06'46''$  EAST, 260.49 FEET TO A POINT; THENCE SOUTH  $58^{\circ}41'21''$  EAST, 981.48 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 61.00 FEET; A DISTANCE OF 52.84 FEET, THE CHORD OF SAID CURVE BEARS NORTH  $86^{\circ}41'34''$  EAST, 51.21 FEET TO A POINT; THENCE SOUTH  $33^{\circ}30'04''$  WEST, 92.70 FEET TO A POINT; THENCE SOUTH  $52^{\circ}55'30''$  EAST, 51.57 FEET TO A POINT; THENCE SOUTH  $32^{\circ}51'05''$  EAST, 54.94 FEET TO A POINT; THENCE SOUTH  $53^{\circ}44'08''$  EAST, 754.19 FEET TO A POINT; THENCE SOUTH  $36^{\circ}59'59''$  WEST, 22.32 FEET

8111 Cheviot Road • Suite 200 • Cincinnati, Ohio 45247

Phone: (513) 385-5757 • Fax: (513) 245-5161

[www.abercrombie-associates.com](http://www.abercrombie-associates.com)



TO A POINT; THENCE NORTH 58°41'21" WEST, 1,869.41 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE LEFT, HAVING A RADIUS OF 2,000.00 FEET, A DISTANCE OF 469.70 FEET, THE CHORD OF SAID CURVE BEARS NORTH 65°25'02" WEST, 468.62 FEET TO A POINT; THENCE NORTH 72°08'42" WEST, 18.42 FEET TO A POINT; THENCE NORTH 17°51'18" EAST, 108.10 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 7.3888 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

FILE:17-0138.LD7-7.3888AC



**Abercrombie  
& Associates, Inc.**

Civil Engineering + Surveying

NOVEMBER 7, 2019

**LEGAL DESCRIPTION  
7.3888 ACRES**

SITUATE IN SECTION 31, TOWN 4, FRACTIONAL RANGE 2, COLUMBIA TOWNSHIP, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF HOFF AVENUE WITH THE WESTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED), BEING WITNESSED BY AN EXISTING  $\frac{5}{8}$ " IRON PIN (BENT) WHICH IS 0.28 FEET NORTH; THENCE ALONG THE WESTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED), SOUTH  $17^{\circ}51'18''$  WEST, 16.23 FEET TO A SET  $\frac{5}{8}$ " IRON PIN AND CAP (#7862); THENCE LEAVING THE WESTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED), SOUTH  $72^{\circ}08'42''$  EAST, 40.00 FEET TO A SET  $\frac{5}{8}$ " IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF KATE'S PLACE WITH THE EASTERLY RIGHT OF WAY OF LEVASSOR STREET (UNIMPROVED) AND THE REAL PLACE OF BEGINNING OF THE HEREIN DESCRIBED TRACT; THENCE CONTINUING SOUTH  $72^{\circ}08'42''$  EAST, 152.02 FEET A POINT; THENCE NORTH  $17^{\circ}51'18''$  EAST, 30.00 FEET TO A POINT; THENCE NORTH  $72^{\circ}08'42''$  WEST, 37.01 FEET TO A POINT; THENCE NORTH  $17^{\circ}51'18''$  EAST, 50.00 FEET TO A POINT; THENCE SOUTH  $80^{\circ}10'27''$  EAST, 90.49 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 61.00 FEET, A DISTANCE OF 78.24 FEET, THE CHORD OF SAID CURVE BEARS SOUTH  $43^{\circ}25'39''$  EAST, 72.99 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 2,181.00 FEET; A DISTANCE OF 260.64 FEET, THE CHORD OF SAID CURVE BEARS SOUTH  $62^{\circ}06'46''$  EAST, 260.49 FEET TO A POINT; THENCE SOUTH  $58^{\circ}41'21''$  EAST, 981.48 FEET TO A POINT; THENCE ALONG A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 61.00 FEET; A DISTANCE OF 52.84 FEET, THE CHORD OF SAID CURVE BEARS NORTH  $86^{\circ}41'34''$  EAST, 51.21 FEET TO A POINT; THENCE SOUTH  $33^{\circ}30'04''$  WEST, 92.70 FEET TO A POINT; THENCE SOUTH  $52^{\circ}55'30''$  EAST, 51.57 FEET TO A POINT; THENCE SOUTH  $32^{\circ}51'05''$  EAST, 54.94 FEET TO A POINT; THENCE SOUTH  $53^{\circ}44'08''$  EAST, 754.19 FEET TO A POINT; THENCE SOUTH  $36^{\circ}59'59''$  WEST, 22.32 FEET

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THUS CONTAINING 7.3888 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

FILE:17-0138.LD7-7.3888AC

202102280

**Date:** June 14, 2021

**To:** Mayor John Cranley

**From:** Andrew W. Garth, City Solicitor 

**Subject:** **Emergency Ordinance – Additional Security Details for “Bones & All”  
Movie Production**

---

Transmitted herewith is an emergency ordinance captioned as follows:

**AUTHORIZING** the transfer of \$50,000 from the General Fund balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the unappropriated surplus of General Fund 050; and **AUTHORIZING** the transfer and appropriation of \$50,000 from the unappropriated surplus of General Fund 050 to City Manager’s Office non-personnel operating budget account no. 050x101x7200 for the purpose of providing funds to the Film Commission for additional security for the film production of “Bones & All” which is currently being filmed in the City.

AWG/LSS/(lnk)  
Attachment  
341950

EMERGENCY

City of Cincinnati

LES

BWB

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

- 2021

**AUTHORIZING** the transfer of \$50,000 from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050; and **AUTHORIZING** the transfer and appropriation of \$50,000 from the unappropriated surplus of General Fund 050 to City Manager's Office non-personnel operating budget account no. 050x101x7200 for the purpose of providing funds to the Film Commission for additional security for the film production of "Bones & All" which is currently being filmed in the City.

WHEREAS, the film "Bones & All" is currently being filmed in the City of Cincinnati; and

WHEREAS, the film production provides a positive effect on the local economy through employment opportunities, lodging, and other economic impacts related to the movie production; and

WHEREAS, the film production team has experienced numerous break-ins and thefts at their local production offices; and

WHEREAS, City Council wishes to provide support to the Film Commission in the amount of \$50,000 in order to provide additional security for the production offices; and

WHEREAS, the source of funds is the "Reserve for Weather Related Events, Other Emergency and One-Time Needs"; now, therefore,

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

Section 1. That the sum of \$50,000 is hereby transferred from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050.

Section 2. That the sum of \$50,000 is hereby transferred and appropriated from the unappropriated surplus of General Fund 050 to City Manager's Office General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of providing funds to the Film Commission for additional security for the film production of "Bones & All" which is currently being filmed in the City.

Section 3. That the appropriate City officers are hereby authorized to do all things necessary and proper to implement the provisions of Sections 1 and 2 herein.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to provide the additional security while the film production is ongoing.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 21, 2021

To: Members of the Budget and Finance Committee 202102325

From: Paula Boggs Muething, City Manager

Subject: **PROPERTY SALE AGREEMENT FOR 110 AND 120 GARFIELD PLACE**

---

Attached is an Emergency Ordinance captioned as follows:

**AUTHORIZING** the City Manager to execute a *Property Sale Agreement* between the City of Cincinnati and Greenwich on Garfield, LLC, for the sale of City-owned property located at 110 and 120 Garfield Place in downtown Cincinnati.

### **BACKGROUND/CURRENT CONDITIONS**

In 1994, the City of Cincinnati entered into a 50-year lease agreement and a loan agreement with Towne Properties for the property commonly known as the Greenwich located on the northeast corner of the intersection at Garfield Place and Elm Street in the Central Business District. Per the lease, the City owns the underlying land, and Towne owns the improvements. In 2019, Towne approached the City about buying the underlying land from the City.

### **DEVELOPER INFORMATION**

This City will be entering into a sale agreement with Greenwich on Garfield LLC, a subsidiary of Towne Properties. Towne Properties has developed over 160 properties in the past sixty years, and currently manages over 12,000 apartments and over 600,000 square feet of commercial space in four different states.

### **PROPOSED SALE TERMS**

DCED is recommending the sale of the land at 110 & 120 Garfield Place at the appraised value of \$1,600,000. The City has determined that eliminating competitive bidding in connection with the sale of the Sale Property is appropriate because (i) Purchaser's affiliates effectively control the Sale Property already via the Lease, (ii) consolidating ownership of the Sale Property with the management and practical control of the Sale Property will result in efficiencies and simplify title, and (iii) the

City will receive up-front compensation for the sale that is more valuable to it than the long-term revenues it expects to realize under the Lease. Moreover, the Administration has determined that the sale property is not needed for municipal purposes, and the sale of this property would be in the best interest of the City's health, safety, and welfare.

### **RECOMMENDATION**

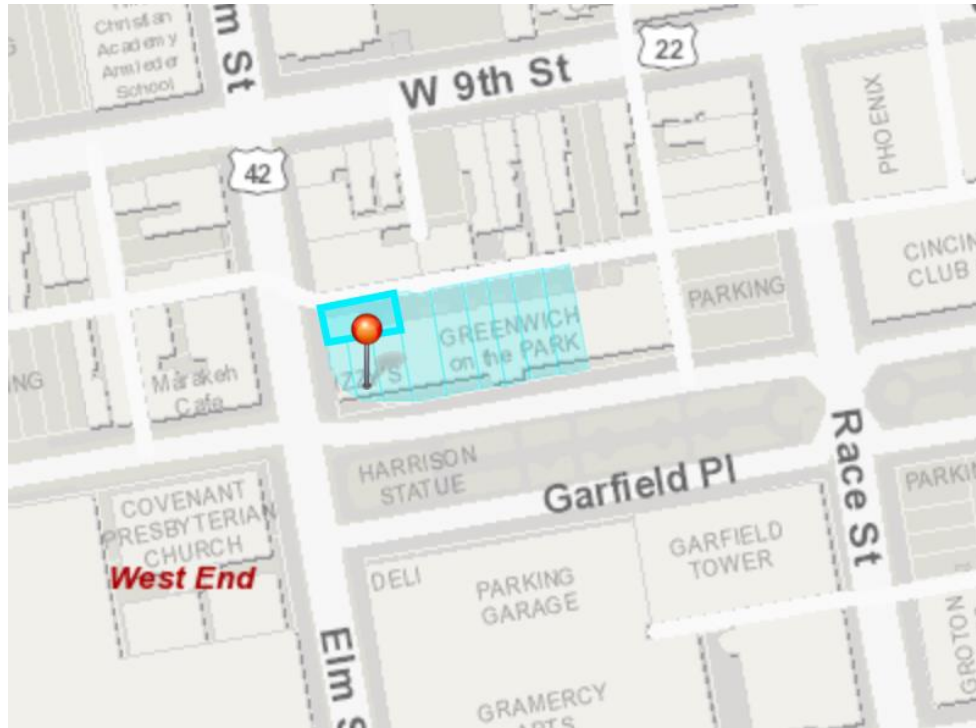
The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed to allow the developer to close on the property prior to their refinancing this summer.

Attachment: A. Property location and photographs

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



**Attachment A: Location and Photographs**



EMERGENCY

City of Cincinnati

DSC

AWB

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

- 2021

**AUTHORIZING** the City Manager to execute a *Property Sale Agreement* between the City of Cincinnati and Greenwich on Garfield, LLC, for the sale of City-owned property located at 110 and 120 Garfield Place in downtown Cincinnati.

WHEREAS, the City of Cincinnati owns certain real property located at 110 and 120 Garfield Place in Cincinnati, as more particularly described in the *Property Sale Agreement* attached to this ordinance as Attachment A (the "Property"), which is under the management and control of the City's Department of Community and Economic Development; and

WHEREAS, Piatt Park Community Urban Redevelopment Corporation and Piatt Park Associates Limited Partnership (collectively, "Lessees") leased and redeveloped the Property pursuant to a certain *Contract for Lease of Land for Private Redevelopment* dated October 21, 1994, as amended by a certain *First Amendment to Contract for Lease of Land for Private Redevelopment* dated August 23, 1995, with the City; and

WHEREAS, Greenwich on Garfield, LLC ("Purchaser"), an affiliate of Lessees, desires to acquire fee title to the Property; and

WHEREAS, the fair market value of the Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$1,600,000, which Purchaser has agreed to pay; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing; and

WHEREAS, the City has determined that: (i) the Property is not needed for municipal purposes; and (ii) eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the public because (a) Purchaser's affiliates effectively control the Property pursuant to a lease with the City, (b) consolidating ownership of the Property with the management and practical control of the Property will result in efficiencies and simplify title, and (c) the City will receive up-front compensation for the sale that is more valuable to it than the long-term revenues it expects to realize under the existing lease; and

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Property at its meeting on May 7, 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 *Property Sale Agreement*, in substantially the form attached to this ordinance as Attachment A (the “Sale Agreement”), with Greenwich on Garfield, LLC (“Purchaser”), which provides for the City’s sale of property located at 110 and 120 Garfield in Cincinnati (the “Property”) to Purchaser.

Section 2. That the Property is not needed for municipal purposes.

Section 3. That the fair market value of the Property, as determined by professional appraisal by the City’s Real Estate Services Division, is approximately \$1,600,000, which Purchaser 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 public because (a) Purchaser’s affiliates effectively control the Property pursuant to a lease with the City, (b) consolidating ownership of the Property with the management and practical control of the Property will result in efficiencies and simplify title, and (c) the City will receive up-front compensation for the sale that is more valuable to it than the long-term revenues it expects to realize under the existing lease.

Section 5. That the proceeds from the sale of the Property 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 thereof into Miscellaneous Permanent Improvement Fund 757.

Section 6. 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 the Sale Agreement, including, without limitation, executing any and all ancillary agreements, amendments, plats, deeds, and other documents.

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 expedite the City's execution of the Sale Agreement and conveyance of the Property to Purchaser, which will enable Purchaser to close on its financing at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

ATTACHMENT A

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

**PROPERTY SALE AGREEMENT**

*by and between the*

**CITY OF CINCINNATI**

*and*

**GREENWICH ON GARFIELD, LLC**

Sale of Greenwich on the Park  
(110 & 120 Garfield Place, Cincinnati, Ohio 45202)

Dated: \_\_\_\_\_, 2021



## PROPERTY SALE AGREEMENT

(Sale of Greenwich on the Park – 110 & 120 Garfield Place, Cincinnati, Ohio 45202)

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, having an address of 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **GREENWICH ON GARFIELD, LLC**, an Ohio limited liability company, having an address of 1055 St. Paul Place, Cincinnati, Ohio 45202 (“**Purchaser**”).

### Recitals:

A. Purchaser desires to acquire fee title to certain real property owned by the City located at 110 and 120 Garfield Place, Cincinnati, Ohio 45202, Auditor’s Parcel Nos. 077-0001-0102 through -0114 and -0176, as more particularly described in Exhibit A (Legal Description) hereto (the “**Sale Property**”).

B. The City, Piatt Park Community Urban Redevelopment Corporation, and Piatt Park Associates Limited Partnership (collectively, “**Lessees**”) are currently parties to a *Contract for Lease of Land for Private Redevelopment* dated October 21, 1994, as amended by *First Amendment to Contract for Lease of Land for Private Redevelopment* dated August 23, 1995 (as amended, the “**Lease**”), pursuant to which Lessees, which are affiliates of Purchaser, leased and redeveloped the Sale Property.

C. The City’s Real Estate Services Division has determined, by appraisal, that the Sale Property has a fair market value of \$1,600,000.00.

D. The City is agreeable to selling the Sale Property to Purchaser for One Million Six Hundred Thousand and 00/100 Dollars (\$1,600,000.00) (the “**Purchase Price**”), on, and subject to, the terms, conditions, and limitations of this Agreement.

E. The City has determined that eliminating competitive bidding in connection with the sale of the Sale Property is appropriate because (i) Purchaser’s affiliates effectively control the Sale Property already via the Lease, (ii) consolidating ownership of the Sale Property with the management and practical control of the Sale Property will result in efficiencies and simplify title, and (iii) the City will receive up-front compensation for the sale that is more valuable to it than the long-term revenues it expects to realize under the Lease.

F. The City has determined that the Sale Property is not needed for a municipal purpose and that the sale of the Sale Property will not be detrimental to the public interest.

G. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research.

H. Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing.

I. The City, upon recommendation of the City’s Department of Community and Economic Development, believes that it is in the best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state and local laws and requirements, to enter into this Agreement.

J. 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 May 7, 2021.

K. The execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. \_\_\_\_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**1. PURCHASE PRICE OF SALE PROPERTY; NO CITY REPRESENTATIONS OR WARRANTIES.**

(A) Purchase Price of Sale Property. City hereby agrees to sell Purchaser the Sale Property, and Purchaser hereby agrees to purchase the Sale Property for the Purchase Price, on and subject to the terms and conditions of this Agreement.

(B) No Representations or Warranties with respect to Sale Property. The City makes no representations or warranties as to the quality, marketability, or status of title to the Sale Property or to the condition of the same (including with respect to any environmental, geotechnical, legal, or other matters); the City is providing certain rights with respect to such property "as is, where is" with all faults. Purchaser acknowledges that it is represented by legal counsel in negotiating this Agreement and in conducting legal and other due diligence.

**2. CLOSING.**

(A) Conditions. The closing on the City's sale of the Sale Property to Purchaser shall not occur unless and until each of the following conditions ("**Conditions**") has been satisfied or waived:

(i) Purchaser's Due Diligence Investigations: Purchaser's approval of its due diligence investigations with respect to the Sale Property, including without limitation, title, survey, and environmental assessments, all of which shall be performed at no expense to the City;

(ii) Consolidation Plat and Legal Description: The parties' approval of a single Consolidation Plat and new legal description for the Sale Property, all of which shall be prepared by Purchaser at no expense to the City;

(iii) Termination of Lease: Purchaser will cause the Lessees to execute and deliver a Termination of Lease in the form of Exhibit B hereto, which termination shall be effective as of the Closing;

(iv) Payment of Rent: Purchaser will cause the Lessees to pay to the City Rent (as defined in the Lease) pro rata through and including the date of Closing; and

(v) No Defaults: No default (or condition which would, by the provision of notice, the passage of time, or otherwise, constitute a default) exists under this Agreement or any other documents or instruments entered into by the City and Purchaser, or any affiliates of Purchaser, including without limitation, any payment obligations pursuant to any agreements among the City and affiliates of Purchaser executed in connection herewith.

(B) Closing Date; Right to Terminate if Conditions are not Satisfied. The closing on the City's sale of the Sale Property to Purchaser ("**Closing**") shall take place promptly after the parties have mutually determined in writing that all of the Conditions have been satisfied or waived, or on such earlier or later date as the parties may agree upon. The parties presently anticipate that the Closing will occur on or about \_\_\_\_\_, 2021. If either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within 30 days after such target closing date, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party at any time thereafter, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. At such time as the parties mutually determine that all Conditions have been



satisfied or waived, the parties shall, at the request of the other party, confirm in writing that the parties' respective termination rights under this paragraph have expired.

(C) Closing Costs and Closing Documents.

(i) Closing. At Closing, Purchaser shall pay the Purchase Price in full, and the City shall convey to Purchaser all of its right, title and interest in and to the Sale Property by Quitclaim Deed in the form of Exhibit C (Form of Deed) (the "**Deed**"). The City shall convey the Sale Property to Purchaser in "as is" condition. Purchaser shall rely solely upon its own inspections to determine the condition of the Sale Property. 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 for any defects, adverse environmental condition, or any other matters affecting the Sale Property. The provisions of this Agreement shall survive the City's execution and delivery of the Deed and shall not be deemed to have been merged therein.

(ii) Closing Costs and Prorations. At Closing, Purchaser shall pay the recording fees for the Deed and any and all other customary closing costs associated with the Closing. There shall be no proration of real estate taxes and assessments at Closing, and beginning with the first real estate tax bill that comes due following the Closing and thereafter, Purchaser shall pay all real estate taxes and assessments thereafter becoming due, regardless of the period of time to which such tax bills relate. At Closing, the parties shall execute a settlement statement and any and all other customary affidavits and closing documents that are necessary for the Closing, *provided that* the City shall not be required to execute an Affidavit of Title or other similar documents pertaining to title, it being acknowledged by Purchaser that the City is selling the Sale Property "as is". Pursuant to Cincinnati Municipal Code Section 301-20, at Closing, Purchaser shall pay to the City any and all then unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed by Purchaser or its affiliates to the City.

(D) Contribution toward Maintenance of Piatt Park. Purchaser acknowledges that the Lease contains an obligation of the Lessees to contribute to the maintenance of Piatt Park. Purchaser is willing to assume this obligation as a condition of the sale of the Sale Property, and accordingly, at Closing the Purchaser shall execute and deliver a covenant for the benefit of the City for Purchaser's payment of a share of costs to operate, maintain, repair and replace Piatt Park improvements in the form of Exhibit D (Form of Restrictive Covenant).

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

To the City:  
City Manager  
City of Cincinnati  
801 Plum Street  
Cincinnati, OH 45202

To Purchaser:  
Greenwich on Garfield, LLC  
1055 St. Paul Place  
Cincinnati, OH 45202

With a copy to:

Director, Dept. of Community and  
Economic Development  
City of Cincinnati  
805 Central Avenue, Suite 700  
Cincinnati, OH 45202

Notwithstanding anything to the contrary herein, if Purchaser sends 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, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

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

(ii) Purchaser has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for therein. 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.

(iii) The execution, delivery and performance by Purchaser of this Agreement and the consummation of the transactions contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or the organizational documents of Purchaser, or any mortgage, indenture, 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.

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

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

(vi) The statements made in the documentation provided by Purchaser to the City that are descriptive of Purchaser and the Project 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, or, if any such documentation contained such a misleading or untrue omission or statement, further documentation correcting such omissions or statements was subsequently provided to the City prior to Purchaser's execution of this Agreement.

(vii) With reference to Section 301-20 (*Delinquencies in Accounts Receivable and Loans Receivable; Policy*) of the Cincinnati Municipal Code, to the best of Purchaser's knowledge neither Purchaser nor any of its affiliates are in breach of any of their respective obligations to the City under any existing agreements with the City nor does Purchaser nor any of its affiliates owe any fines, penalties, judgment awards or any other amounts to the City.

#### **5. GENERAL PROVISIONS.**

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

subject matter hereof. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other agreements are in conflict with the specific provisions of such other agreements, the provisions of such other agreements shall control.

(B) Amendments and Waivers. The provisions of this Agreement may be amended, waived or otherwise modified only by a written agreement 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. Each party 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 permitted assigns.

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

(F) Severability. If any part of this Agreement is held 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 Recording. This Agreement shall not be recorded in the Hamilton County Recorder's office.

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

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

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

(K) 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.

(L) Contingency for Legislative Authorization from City Council. Notwithstanding anything to the contrary in this Agreement, the City shall not be in breach of this Agreement and shall not be required to sell the Sale Property as described in this Agreement if for any reason City Council does not pass any and all necessary legislation in order for the matters contemplated by this Agreement to take place. If all necessary legislative authorizations are not obtained, either the City or Purchaser may terminate this Agreement by giving written notice thereof to the other party.

(M) 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.

**6. ADDITIONAL COORDINATED REPORT CONDITIONS.**

(A) Water Works. Purchaser acknowledges and agrees that if the existing water system in the area of the Sale Property does not meet Purchaser's fire and/or domestic water demands, the water main in the area of the Sale Property may need to be upgraded at Purchaser's expense. Purchaser agrees and acknowledges that this Agreement does not relieve Purchaser from its responsibility to potentially upgrade the water system to meet future fire and domestic water demands at Purchaser's expense. Further, Purchaser acknowledges and agrees that all conditions of water service to the Sale Property, including the location of attachment to the public water system, and abandonment of any existing water service branches serving the Sale Property, will be determined upon submission of final plans and application for service, and that water service to the Sale Property is subject to all rules, regulations, and current practices and policies of the Cincinnati Water Works.

(B) MSD. Prior to applying for permits for any future development or redevelopment of the Sale Property from the City's Department of Buildings and Inspections, the Metropolitan Sewer District of Greater Cincinnati ("**MSD**") may require that Developer submit a Request for Availability for Sewer Service ("**RASS**"). The RASS will outline any additional MSD project requirements, including, without limitation, need for MSD tap permits and/or an Ohio EPA Permit to Install, utilization of licensed and bonded sewer tappers with MSD, sewer inspection scheduling, project on-site separation of flow requirements, MSD detention requirements, MSD excavation/fill permit for work over or near existing sewers, identifying easements, and a recommendation for Purchaser or Purchaser's general contractor to coordinate with Stormwater Management Utility for additional stormwater and detention requirements.

(C) Cincinnati Bell. There are existing underground telephone facilities at this location. 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.

- 7. EXHIBITS.** The following exhibits are attached hereto and made a part hereof:  
Exhibit A – *Legal Description*  
Exhibit B – *Form of Termination of Lease*  
Exhibit C – *Form of Deed*  
Exhibit D – *Form of Restrictive Covenant*

*[SIGNATURES ON FOLLOWING PAGE]*

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

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

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

Date: \_\_\_\_\_, 2021

**GREENWICH ON GARFIELD, LLC,**  
an Ohio limited liability company

By: Piatt Park Associates, Inc., its Manager

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

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

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

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

As 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 Property Sale Agreement**

**LEGAL DESCRIPTION**

**Tract 1**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 18, Town 4, Fractional Range 1, being part of Lots 20, 21, 22 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Recorder's records and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place North 74° 00' East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said point of beginning on a curve to the right, having a radius of 187 feet for a distance of 33.89 feet, the chord of said curve bears South 79° 11' 30" West for a distance of 33.84 feet to a point; thence North 15° 56' West 56.94 feet to a point; thence North 74° 53' West 36.29 feet to a point in the easterly line of Elm Street; thence North 15° 56' West along the easterly line of Elm Street 30.08 feet to a point in the southerly line of Weaver Alley; thence North 74° 00' East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North 84° 00' 43" East for a distance of 17.25 feet to a point; thence South 15° 56' East 87.63 feet to a point in the northerly line of Garfield Place thence South 74° West along the northerly line of Garfield Place 25.09 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)  
Registered Land Cert: 126997

**Tract 2**

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part Lots 21 and 22 of Square 4 of Piatt and Grandin's Subdivision, as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows: Beginning at the intersection of the north line of Garfield Place (126 foot right-of-way) and the east line of Elm Street (66 foot right-of-way), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet, a distance of 3.04 feet as measured along said curve to the place of beginning; thence South 16° 04' 35" East a distance of 26.55 feet to a point; thence North 73° 55' 25" East a distance of 14.54 feet to a point, thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet, a distance of 31.18 feet as measured along said curve to the place of beginning. Containing 127.00 square feet of land, more or less.

For Informational Purposes Only:  
(PPN 77-0001-176)

**Tract 3**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio, and being part of Lots 21 and 22 of Square 4 of Piatt and Grandin Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the easterly line of Elm Street North 15° 56' West 40.70 feet from the intersection of the easterly line of Elm Street and the northerly line of Garfield Place; thence from said beginning point North 15° 56' West along the easterly line of Elm Street 19.30 feet to a southwest corner of Registered Land Certificate No. 26094; thence South 74° 53' East 36.29 feet to a corner of said Registered Land; thence South 15° 56' East along a westerly line of said Registered Land 56.94 feet to a point; thence on a curve to the right, having a radius of 187.00 feet a distance of 7.52 feet, the chord of said arc bears South 85° 32' 10" West a distance of 7.52 feet to a point; thence on a curve to the right, having a radius of 37.00 feet a distance of 49.97 feet, the chord of said arc bears North 54° 37' 20" West a distance of 46.26 feet to a point at the easterly line of Elm Street and the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 4**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio and being all of Lots 25, 26, 27 and part of Lot 28 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio, records, and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place at the southeast corner of Registered Land Certificate No. 26094, said point being 95.09 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said beginning point northwardly along the easterly line of said Registered Land Certificate No. 26094 and said line produced northwardly 90.00 feet to a point in the southerly line of Weaver Alley; thence eastwardly along said southerly line 119.66 feet to a point; thence southwardly parallel with Elm Street 90.00 feet to a point in the northerly line of Garfield Place; thence westwardly along said northerly line 119.66 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 5**

Situate and being in the City of Cincinnati, County of Hamilton, State of Ohio, on the north side of Eighth Street between Race and Elm Streets and beginning at the southeast corner of Lot No. 29, on B.M. and J.H. Piatt's Subdivisions of lots in Square No. Four (4); thence running westwardly forty-seven (47) feet on the north side of Eighth Street to a point in the south line of Lot No. 28; thence northwardly ninety (90) feet more or less to an alley; thence eastwardly along said alley forty-seven (47) feet; thence southwardly ninety (90) feet more or less to the place of beginning, and being Lot No 29 and the east part of Lot No. 28 in Square 4 of Piatt and Grandin's Subdivision as per plat recorded in Deed Book 22, Page 113, in the Recorder's Office of Hamilton County, Ohio.

Also, the following described real estate, being all that certain lot situated on the north side of Garfield Place, formerly Eighth Street, between Race and Elm Streets, in the City of Cincinnati, County of Hamilton, State of Ohio, and known and numbered as Lot No. 30 in Square 4, of Piatt and Grandin's Subdivision, as per plat recorded in Deed Book 22, Page 113, of the records of the Recorder of Hamilton County, Ohio, and being thirty-two (32) feet and four (4) inches in front on the north side of Garfield Place and ninety (90) feet in depth to Weaver Alley and having the same width in rear as in front.

For Informational Purposes Only:  
(PPN 77-0001-0112 TH 114Cons)

Also described as:

Situated in Section 18, Town 4, Fractional Range 1 Between the Miami, Cincinnati Township, The City of Cincinnati, Hamilton County, Ohio and being all of lots 20, 25 through 30, part of Lots 21 and 22 and part {00330501-10}

of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 being all of The City of Cincinnati land as recorded in as recorded in Official Record 13957, Page 1419, Official Record 6378, Page 2648, Deed Book 4314, Page 739, and prior Registered Land Certificate 126997 of the Hamilton County, Ohio Recorder's Office, containing 0.5999 acres being further described as follows:

Begin at a point found by measuring from the northeast intersection of the original north right of way of Garfield Place (126') and the original east right of way of Elm Street (66'); thence, with the original east right of way of said Elm Street, North 15° 56' 00" West, 40.70 feet to a set cross notch, said cross notch being the True Point of Beginning;

thence, from the True Point of Beginning thus found and continuing with the east right of way of said Elm Street, North 15° 56' 00" West, 49.63 feet to set cross notch on the south right of way of Weaver Alley (14');

thence, departing the east right of way of said Elm Street and with the south right of way of said Weaver Alley the following four courses: North 74° 04' 30" East, 78.09 feet to a set cross notch;

thence, with a non tangent curve to the left, having a central angle of 20° 01' 44", a radius of 49.61 feet, an arc length of 17.34 feet, and a chord bearing North 84° 05' 17" East, 17.25 feet to a set cross notch;

thence, North 16° 08' 53" West, 3.00 feet to a set cross notch;

thence, North 74° 04' 30" East, 199.38 feet to a set cross notch on the west right of way of Ira Alley (10');

thence, departing the south right of way of said Weaver Alley and with the west right of way of said Ira Alley, South 16° 08' 53" East, 89.55 feet to a set cross notch on the north right of way of said Garfield Place;

thence, departing the west right of way of said Ira Alley and with the north right of way of said Garfield Place, South 73° 55' 25" West, 224.78 feet to a set cross notch;

thence, continuing with the north right of way of said Garfield Place the following four courses: with a non tangent curve to the right, having a central angle of 10° 23' 03", a radius of 186.97 feet, an arc length of 33.89 feet, and a chord bearing South 79° 01' 25" West, 33.84 feet to a set cross notch;

thence, with a non tangent compound curve to the right, having a central angle of 02° 18' 16", a radius of 187.00 feet, an arc length of 7.52 feet, and a chord bearing South 85° 32' 04" West, 7.52 feet to a set cross notch;

thence, with a non tangent curve to the right, having a central angle of 24° 22' 42", a radius of 37.00 feet, an arc length of 15.74 feet, and a chord bearing North 81° 07' 27" West, 15.62 feet to a set cross notch;

thence, South 73° 55' 25" West, 14.54 feet to the east right of way of said Elm Street, being referenced by a set cross notch being South 16° 04' 35" East, 3.00 feet;

thence, with the east right of way of said Elm Street the following two courses: North 16° 04' 35" West, 26.55 feet to a set cross notch;

thence, with a curve to the right, having a central angle of 04° 42' 38", a radius of 37.00 feet, an arc length of 3.04 feet, and a chord bearing North 18° 17' 19" West, 3.04 feet to the True Point of Beginning containing 0.5999 acres of land more or less subject to all legal highways, easements, restrictions and agreements of record.

Basis of Bearings: Deed Book 4314, Page 739.



The above description was prepared from a consolidation plat made on August 9, 2019 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

EXHIBIT B  
to Property Sale Agreement

**FORM OF TERMINATION OF LEASE**

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

Contract No.: \_\_\_\_\_  
Property: 110 & 120 Garfield Place

**TERMINATION OF LEASE**

This Termination of Lease is made and entered into as of the Effective Date (as defined below) by and among the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), **PIATT PARK COMMUNITY URBAN REDEVELOPMENT CORPORATION**, an Ohio nonprofit corporation, \_\_\_\_\_ ("**PPCURC**"), and **PIATT PARK ASSOCIATES LIMITED PARTNERSHIP**, an Ohio limited partnership, \_\_\_\_\_ (together with PPCURC, the "**Lessees**").

A. The City and Lessees are parties to that certain *Contract for Lease of Land for Private Redevelopment* dated October 21, 1994, as memorialized by that certain *Memorandum of Contract for Lease of Land for Private Redevelopment* dated December 21, 1994, recorded on December 22, 1994 in Official Record 6645, Page 625, Hamilton County, Ohio Recorder's Office, as amended by *First Amendment to Contract for Lease of Land for Private Redevelopment* dated August 23, 1995, recorded on November 7, 1995 in Official Record 6902, Page 90, Hamilton County, Ohio Recorder's Office, and re-recorded on November 29, 1995 in Official Record 6917, Page 159, Hamilton County, Ohio Recorder's Office (as amended, the "**Lease**"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lease.

B. Pursuant to the Lease, Lessees lease from the City the real property located at 110 and 120 Garfield Place Street in Cincinnati, as more particularly described on Exhibit A (Legal Description) attached hereto (the "**Property**").

C. Under the Lease, Lessees designed and constructed at the Property improvements consisting of commercial space, residential housing units and parking as more fully described in the Lease (the "**Improvements**"). Pursuant to Section XII of the Lease, title to the Improvements vested in PPCURC and remains in PPCURC until the expiration or earlier termination of the Lease, upon which the Improvements revert to the City.

D. Greenwich on Garfield, LLC, an Ohio limited liability company ("**Purchaser**"), and the City have entered into that certain *Property Sale Agreement* dated \_\_\_\_\_, 2021, pursuant to which the City has agreed to convey the Property to Purchaser via Quitclaim Deed.

NOW, THEREFORE, the parties hereby terminate the Lease effective as of the Effective Date. All obligations of the parties that have accrued but have not been fully performed up to and including the Effective Date (including for example payment of prorated rent through the Effective Date, if any) were or will be paid, performed or appropriately allocated in connection with the Closing (as defined in the Property Sale Agreement) and shall not survive the termination of the Lease. Notwithstanding anything to the contrary in the Lease, the parties acknowledge and agree that PPCURC shall retain title to the Improvements until conveyance of the Property to Purchaser, at which time Purchaser shall acquire the Improvements, and in no event shall title to the Improvements vest in the City. 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.

{00330501-10}

**[Signature Page Follows]**

Executed by the parties on the dates indicated below, effective as the City's conveyance of the Property to Purchaser (the "Effective Date").

**PIATT PARK COMMUNITY URBAN REDEVELOPMENT CORPORATION,**  
an Ohio nonprofit corporation

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

Printed name: \_\_\_\_\_

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

As authorized by corporate resolution dated \_\_\_\_\_

STATE OF OHIO                    )  
  ) ss.  
COUNTY OF HAMILTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, \_\_\_\_\_ of Piatt Park Community Urban Redevelopment Corporation, an Ohio nonprofit corporation, on behalf of the corporation. This is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

**PIATT PARK ASSOCIATES LIMITED PARTNERSHIP,**  
an Ohio limited partnership

By:     Piatt Park Associates, Inc., its General Partner

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

Printed name: \_\_\_\_\_

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

STATE OF OHIO                    )  
  ) ss.  
COUNTY OF HAMILTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, \_\_\_\_\_ of Piatt Park Associates, Inc., an Ohio corporation, general partner of Piatt Park Associates Limited Partnership, an Ohio limited partnership, on behalf of the partnership. This is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

*[City Signature Page Follows]*

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

STATE OF OHIO                    )  
  ) ss.  
COUNTY OF HAMILTON        )

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

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved as to Form:

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

Certified Date: \_\_\_\_\_  
Fund/Code: \_\_\_\_\_  
Amount: \_\_\_\_\_  
By: \_\_\_\_\_  
Karen Alder, City Finance Director

Exhibit A  
to Termination of Lease

Legal Description

Parcel 1: PPN 077-0001-0102 (-102 through -111 cons.)  
PPN 077-0001-0112 (-112 through -114 cons.)

Garfield Development Site

Site 5

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows:

Beginning at the intersection of the north line of Garfield Place (126 foot R/W); and the west line of Ira Alley (10 foot R/W), measure in said north line South 73°55'25" West a distance of 224.78 feet to a point in the south line of Registered Land Certificate Number 26094; thence, on a curve to the right, said curve having a radius of 186.97 feet, and a chord bearing South 79°01'25" West 33.34 feet a distance of 33.89 feet as measured along said curve to a point; thence, on a curve to the right, said curve having a radius of 187.00 feet and a chord bearing South 85°32'04" West 7.52 feet a distance of 7.52 feet as measured along said curve to a point; thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 54°37'24" West 46.26 feet a distance of 49.97 feet as measured along said curve to a point in the east line of Elm Street; thence, in said east line, measure North 15°56' West a distance of 49.63 feet to a point in the south line of Weaver Alley (14 foot R/W); thence, with said south line, measure North 74°04'30" East a distance of 78.09 feet to a point; thence, leaving said south line, measure on a curve to the right, said curve having a radius of 49.61 feet and a chord bearing North 84°05'17" East 17.25 feet a distance of 17.34 feet as measured along said curve to a point; thence, North 16°08'53" West 3.00 feet to a point in the south line of Weaver Alley; thence, with said south line, measure North 74°04'30" East a distance of 199.38 feet to a point in the west line of Ira Alley; thence, with said west line, measure South 16°08'53" East a distance of 89.55 feet to the PLACE OF BEGINNING.

Containing ±26,022 square feet of land, more or less.

The Registered Land portion of the above real estate is described as follows:

Situate in Section 18, Town 4, Fractional Range 1, and being more described as follows:

Beginning at a point in the northerly line of Garfield Place North 74°00' East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said POINT OF BEGINNING on a curve to the right, having a radius of

187 feet for a distance of 33.89 feet, for a distance of 33.89 feet, the chord of said curve bears South 79°11'30" West for a distance of 33.84 feet to a point; thence North 15°56' West 56.94 feet to a point; thence North 74°53' West 36.29 feet to a point in the easterly line of Elm Street; thence North 15°56' West along the easterly line of Elm Street 30.08 feet to a point in the Southerly line of Weaver Alley; thence North 74°00' East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North 84°00'43" East North 84°00'43" East for a distance of 17.25 feet to a point; thence South 15°56' East 87.63 feet to a point in the northerly line of Garfield Place; thence South 74° West along the northerly line of Garfield Place 25.09 feet to the PLACE OF BEGINNING.

**GREENWICH AT THE PARK  
Cut Up of 77-1-157  
May, 1995**

**Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows:**

**Beginning at the intersection of the north line of Garfield Place (126 foot R/W) and the east line of Elm Street (66 foot R/W), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet a distance of 3.04 feet as measured along said curve to the Place of Beginning; thence, South 16° 04' 35" East a distance of 26.55 feet to a point; thence, North 73° 55' 25" East a distance of 14.54 feet to a point; thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet a distance of 31.18 feet as measured along said curve to the Place of Beginning.**

**Containing 127.00 square feet of land, more or less. Subject to all legal highways, easements and restrictions of record.**



EXHIBIT C  
to Property Sale Agreement

**FORM OF DEED**

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

**QUITCLAIM DEED**

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), having an address of 801 Plum Street, for valuable consideration paid, hereby grants and conveys to **GREENWICH ON GARFIELD, LLC**, an Ohio limited liability company, the address of which is \_\_\_\_\_ ("**Grantee**"), all of the City's right, title and interest in and to the real property described on Exhibit A (*Legal Description*) hereto (the "**Property**").

Property Address: 110 and 120 Garfield Place, Cincinnati, Ohio 45202

Auditor's Parcel Nos.: 077-0001-0102 through -0111 cons; -0112 through -0114 cons; and -0176

This conveyance is subject to all covenants, conditions, reservations, or easements of record.

This conveyance was authorized by Ordinance No. \_\_\_\_-2021 passed by City Council on \_\_\_\_\_, 2021.

Prior instrument references:    Official Record 13957, Page 1419  
   Official Record 6378, Page 2648  
   Deed Book 4314, Page 739  
   Prior Registered Land Certificate 126997

*[Signature Page Follows]*

Executed on \_\_\_\_\_, 2021.

CITY OF CINCINNATI

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF HAMILTON        )

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

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved as to Form:

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

This instrument prepared by: Office of the City Solicitor, City of Cincinnati, 801 Plum Street, Suite 214,  
Cincinnati, Ohio 45202

Exhibit A  
to Quitclaim Deed

Legal Description

**Tract 1**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 18, Town 4, Fractional Range 1, being part of Lots 20, 21, 22 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Recorder's records and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place North 74° 00' East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said point of beginning on a curve to the right, having a radius of 187 feet for a distance of 33.89 feet, the chord of said curve bears South 79° 11' 30" West for a distance of 33.84 feet to a point; thence North 15° 56' West 56.94 feet to a point; thence North 74° 53' West 36.29 feet to a point in the easterly line of Elm Street; thence North 15° 56' West along the easterly line of Elm Street 30.08 feet to a point in the southerly line of Weaver Alley; thence North 74° 00' East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North 84° 00' 43" East for a distance of 17.25 feet to a point; thence South 15° 56' East 87.63 feet to a point in the northerly line of Garfield Place thence South 74° West along the northerly line of Garfield Place 25.09 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)  
Registered Land Cert: 126997

**Tract 2**

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part Lots 21 and 22 of Square 4 of Piatt and Grandin's Subdivision, as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows: Beginning at the intersection of the north line of Garfield Place (126 foot right-of-way) and the east line of Elm Street (66 foot right-of-way), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet, a distance of 3.04 feet as measured along said curve to the place of beginning; thence South 16° 04' 35" East a distance of 26.55 feet to a point; thence North 73° 55' 25" East a distance of 14.54 feet to a point, thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet, a distance of 31.18 feet as measured along said curve to the place of beginning. Containing 127.00 square feet of land, more or less.

For Informational Purposes Only:  
(PPN 77-0001-176)

**Tract 3**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio, and being part of Lots 21 and 22 of Square 4 of Piatt and Grandin Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the easterly line of Elm Street North 15° 56' West 40.70 feet from the intersection of the easterly line of Elm Street and the northerly line of Garfield Place; thence from said beginning point North 15° 56' West along the easterly line of Elm Street 19.30 feet to a southwest corner of

{00330501-10}

Registered Land Certificate No. 26094; thence South 74° 53' East 36.29 feet to a corner of said Registered Land; thence South 15° 56' East along a westerly line of said Registered Land 56.94 feet to a point; thence on a curve to the right, having a radius of 187.00 feet a distance of 7.52 feet, the chord of said arc bears South 85° 32' 10" West a distance of 7.52 feet to a point; thence on a curve to the right, having a radius of 37.00 feet a distance of 49.97 feet, the chord of said arc bears North 54° 37' 20" West a distance of 46.26 feet to a point at the easterly line of Elm Street and the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 4**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio and being all of Lots 25, 26, 27 and part of Lot 28 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio, records, and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place at the southeast corner of Registered Land Certificate No. 26094, said point being 95.09 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said beginning point northwardly along the easterly line of said Registered Land Certificate No. 26094 and said line produced northwardly 90.00 feet to a point in the southerly line of Weaver Alley; thence eastwardly along said southerly line 119.66 feet to a point; thence southwardly parallel with Elm Street 90.00 feet to a point in the northerly line of Garfield Place; thence westwardly along said northerly line 119.66 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 5**

Situate and being in the City of Cincinnati, County of Hamilton, State of Ohio, on the north side of Eighth Street between Race and Elm Streets and beginning at the southeast corner of Lot No. 29, on B.M. and J.H. Piatt's Subdivisions of lots in Square No. Four (4); thence running westwardly forty-seven (47) feet on the north side of Eighth Street to a point in the south line of Lot No. 28; thence northwardly ninety (90) feet more or less to an alley; thence eastwardly along said alley forty-seven (47) feet; thence southwardly ninety (90) feet more or less to the place of beginning, and being Lot No 29 and the east part of Lot No. 28 in Square 4 of Piatt and Grandin's Subdivision as per plat recorded in Deed Book 22, Page 113, in the Recorder's Office of Hamilton County, Ohio.

Also, the following described real estate, being all that certain lot situated on the north side of Garfield Place, formerly Eighth Street, between Race and Elm Streets, in the City of Cincinnati, County of Hamilton, State of Ohio, and known and numbered as Lot No. 30 in Square 4, of Piatt and Grandin's Subdivision, as per plat recorded in Deed Book 22, Page 113, of the records of the Recorder of Hamilton County, Ohio, and being thirty-two (32) feet and four (4) inches in front on the north side of Garfield Place and ninety (90) feet in depth to Weaver Alley and having the same width in rear as in front.

For Informational Purposes Only:  
(PPN 77-0001-0112 TH 114Cons)

EXHIBIT D  
to Property Sale Agreement

**FORM OF RESTRICTIVE COVENANT**

SEE ATTACHED

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

(Auditor's Parcel Nos: 77-0001-0102 thru 111 cons.;  
77-0001-176; 77-0001-0112 thru 114 cons.)

### RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT (this "**Covenant**") is made this \_\_\_\_ day of \_\_\_\_\_, 2021 by **GREENWICH ON GARFIELD, LLC**, an Ohio limited liability company, 1055 St. Paul Place, Cincinnati, Ohio 45202 ("**Grantor**"), for the benefit of the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**").

#### Recitals:

A. By virtue of a deed recorded on \_\_\_\_\_, 2021 in OR \_\_\_\_\_, Page \_\_\_\_\_, Hamilton County, Ohio Records, Grantor owns the real property located at 110 and 120 Garfield Place, Cincinnati, Ohio 45202, as more particularly described on Exhibit A hereto (the "**Property**"), which Grantor acquired from the City pursuant to the terms of a *Property Sale Agreement* dated June \_\_\_\_, 2021 (the "**Agreement**"). Capitalized terms used, but not defined, herein have the meanings ascribed thereto in the Agreement.

B. As a condition to the sale of the Property, Grantor agreed to execute and record this Covenant to memorialize certain obligations of Grantor to contribute to maintenance expenses for certain improvements the City has made and maintained to Piatt Park (the "**Piatt Park Improvements**"), and Grantor is required under the Agreement to execute and record this Covenant.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby declare that the Property is and shall be subject to the provisions of this Covenant as set forth below.

1. **Covenant to Contribute to Maintenance of Piatt Park Improvements.** Grantor covenants and agrees to pay 23% of the total costs to operate, maintain, repair and replace the Piatt Park Improvements between the north property line and the south property line of Garfield Place from Vine Street to Elm Street in Cincinnati, Ohio (the "**Work**"), pursuant to the following terms:

- a. The Cincinnati Park Board (the "**Board**") shall perform the Work. No later than 60 days before the end of each calendar year, the Board shall provide Grantor an itemized statement showing the scope of work and budget for Work to be performed in the following year (the "**Annual Statement**"). The Annual Statement shall list all sources of funding for the Work.
- b. Grantor shall pay its 23% share of the amount budgeted for the Work in the Annual Statement, in equal quarterly payments beginning on January 1 of each year.

2. **Enforcement of the Covenants.** The City is the beneficiary of the covenants contained herein. Each and every provision of this Covenant shall apply to and be enforceable by an action at law or equity instituted by the City against all owners of the Property. Any failure of the City to enforce any provision of this Covenant shall not be deemed a waiver of the City's right to do so thereafter. This Covenant shall not be amended, released, extinguished, or otherwise modified without the prior written consent of the City, which consent may be withheld in its sole and absolute discretion. There are no third-party beneficiaries of the Covenant.

3. **Restriction Period.** This Covenant shall remain in full force and effect until December 31, 2044. Upon expiration of the Covenant, the City, at Grantor's request, shall execute and deliver to Grantor a recordable termination of the Covenant for recording in the Hamilton County, Ohio Records, provided Grantor has fulfilled all payment obligations under this Covenant.

4. **Covenants to Run with the Land.** Grantor intends, declares, and covenants on behalf of itself and its successors and assigns that this Covenant and the provisions contained herein (a) shall be covenants running with the land and are binding upon Grantor and its successors-in-title, (b) are not merely personal covenants of Grantor, and (c) shall inure to the benefit of the City. Grantor hereby agrees that any and all requirements of the laws of the State of Ohio to be satisfied in order for the provisions of this Covenant to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate or privity of contract are also deemed to be satisfied in full.

5. **Severability.** Each provision of this Covenant and the application thereof to the Property are hereby declared to be independent of and severable from the remainder of this Covenant. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Covenant.

This Restrictive Covenant is executed on the date first set forth above.

Remainder of this page intentionally left blank. Signatures to follow.

**GREENWICH ON GARFIELD, LLC,**  
an Ohio limited liability company

By: Piatt Park Associates, Inc., its Manager

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

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

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

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

STATE OF OHIO                     )  
  ) ss:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, \_\_\_\_\_ of Piatt Park Associates, Inc., an Ohio corporation, manager of Greenwich on Garfield, LLC, an Ohio limited liability company, on behalf of the limited liability 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: \_\_\_\_\_

**ACKNOWLEDGED AND ACCEPTED BY:**

CITY OF CINCINNATI

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

Date: \_\_\_\_\_, 2021

Approved as to Form:

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

This instrument prepared by:

Office of the City Solicitor  
City of Cincinnati  
801 Plum Street, Suite 214  
Cincinnati, OH 45202



Exhibit A  
to Restrictive Covenant

*Legal Description*

**Tract 1**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 18, Town 4, Fractional Range 1, being part of Lots 20, 21, 22 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Recorder's records and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place North 74° 00' East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said point of beginning on a curve to the right, having a radius of 187 feet for a distance of 33.89 feet, the chord of said curve bears South 79° 11' 30" West for a distance of 33.84 feet to a point; thence North 15° 56' West 56.94 feet to a point; thence North 74° 53' West 36.29 feet to a point in the easterly line of Elm Street; thence North 15° 56' West along the easterly line of Elm Street 30.08 feet to a point in the southerly line of Weaver Alley; thence North 74° 00' East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North 84° 00' 43" East for a distance of 17.25 feet to a point; thence South 15° 56' East 87.63 feet to a point in the northerly line of Garfield Place thence South 74° West along the northerly line of Garfield Place 25.09 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)  
Registered Land Cert: 126997

**Tract 2**

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part Lots 21 and 22 of Square 4 of Piatt and Grandin's Subdivision, as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows: Beginning at the intersection of the north line of Garfield Place (126 foot right-of-way) and the east line of Elm Street (66 foot right-of-way), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet, a distance of 3.04 feet as measured along said curve to the place of beginning; thence South 16° 04' 35" East a distance of 26.55 feet to a point; thence North 73° 55' 25" East a distance of 14.54 feet to a point, thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet, a distance of 31.18 feet as measured along said curve to the place of beginning. Containing 127.00 square feet of land, more or less.

For Informational Purposes Only:  
(PPN 77-0001-176)

**Tract 3**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio, and being part of Lots 21 and 22 of Square 4 of Piatt and Grandin Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the easterly line of Elm Street North 15° 56' West 40.70 feet from the intersection of the easterly line of Elm Street and the northerly line of Garfield Place; thence from said beginning

point North 15° 56' West along the easterly line of Elm Street 19.30 feet to a southwest corner of Registered Land Certificate No. 26094; thence South 74° 53' East 36.29 feet to a corner of said Registered Land; thence South 15° 56' East along a westerly line of said Registered Land 56.94 feet to a point; thence on a curve to the right, having a radius of 187.00 feet a distance of 7.52 feet, the chord of said arc bears South 85° 32' 10" West a distance of 7.52 feet to a point; thence on a curve to the right, having a radius of 37.00 feet a distance of 49.97 feet, the chord of said arc bears North 54° 37' 20" West a distance of 46.26 feet to a point at the easterly line of Elm Street and the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 4**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio and being all of Lots 25, 26, 27 and part of Lot 28 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio, records, and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place at the southeast corner of Registered Land Certificate No. 26094, said point being 95.09 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said beginning point northwardly along the easterly line of said Registered Land Certificate No. 26094 and said line produced northwardly 90.00 feet to a point in the southerly line of Weaver Alley; thence eastwardly along said southerly line 119.66 feet to a point; thence southwardly parallel with Elm Street 90.00 feet to a point in the northerly line of Garfield Place; thence westwardly along said northerly line 119.66 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 5**

Situate and being in the City of Cincinnati, County of Hamilton, State of Ohio, on the north side of Eighth Street between Race and Elm Streets and beginning at the southeast corner of Lot No. 29, on B.M. and J.H. Piatt's Subdivisions of lots in Square No. Four (4); thence running westwardly forty-seven (47) feet on the north side of Eighth Street to a point in the south line of Lot No. 28; thence northwardly ninety (90) feet more or less to an alley; thence eastwardly along said alley forty-seven (47) feet; thence southwardly ninety (90) feet more or less to the place of beginning, and being Lot No 29 and the east part of Lot No. 28 in Square 4 of Piatt and Grandin's Subdivision as per plat recorded in Deed Book 22, Page 113, in the Recorder's Office of Hamilton County, Ohio.

Also, the following described real estate, being all that certain lot situated on the north side of Garfield Place, formerly Eighth Street, between Race and Elm Streets, in the City of Cincinnati, County of Hamilton, State of Ohio, and known and numbered as Lot No. 30 in Square 4, of Piatt and Grandin's Subdivision, as per plat recorded in Deed Book 22, Page 113, of the records of the Recorder of Hamilton County, Ohio, and being thirty-two (32) feet and four (4) inches in front on the north side of Garfield Place and ninety (90) feet in depth to Weaver Alley and having the same width in rear as in front.

For Informational Purposes Only:  
(PPN 77-0001-0112 TH 114Cons)

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

**PROPERTY SALE AGREEMENT**

*by and between the*

**CITY OF CINCINNATI**

*and*

**GREENWICH ON GARFIELD, LLC**

Sale of Greenwich on the Park  
(110 & 120 Garfield Place, Cincinnati, Ohio 45202)

Dated: \_\_\_\_\_, 2021

## PROPERTY SALE AGREEMENT

(Sale of Greenwich on the Park – 110 & 120 Garfield Place, Cincinnati, Ohio 45202)

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, having an address of 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **GREENWICH ON GARFIELD, LLC**, an Ohio limited liability company, having an address of 1055 St. Paul Place, Cincinnati, Ohio 45202 (“**Purchaser**”).

### Recitals:

A. Purchaser desires to acquire fee title to certain real property owned by the City located at 110 and 120 Garfield Place, Cincinnati, Ohio 45202, Auditor’s Parcel Nos. 077-0001-0102 through -0114 and -0176, as more particularly described in Exhibit A (Legal Description) hereto (the “**Sale Property**”).

B. The City, Piatt Park Community Urban Redevelopment Corporation, and Piatt Park Associates Limited Partnership (collectively, “**Lessees**”) are currently parties to a *Contract for Lease of Land for Private Redevelopment* dated October 21, 1994, as amended by *First Amendment to Contract for Lease of Land for Private Redevelopment* dated August 23, 1995 (as amended, the “**Lease**”), pursuant to which Lessees, which are affiliates of Purchaser, leased and redeveloped the Sale Property.

C. The City’s Real Estate Services Division has determined, by appraisal, that the Sale Property has a fair market value of \$1,600,000.00.

D. The City is agreeable to selling the Sale Property to Purchaser for One Million Six Hundred Thousand and 00/100 Dollars (\$1,600,000.00) (the “**Purchase Price**”), on, and subject to, the terms, conditions, and limitations of this Agreement.

E. The City has determined that eliminating competitive bidding in connection with the sale of the Sale Property is appropriate because (i) Purchaser’s affiliates effectively control the Sale Property already via the Lease, (ii) consolidating ownership of the Sale Property with the management and practical control of the Sale Property will result in efficiencies and simplify title, and (iii) the City will receive up-front compensation for the sale that is more valuable to it than the long-term revenues it expects to realize under the Lease.

F. The City has determined that the Sale Property is not needed for a municipal purpose and that the sale of the Sale Property will not be detrimental to the public interest.

G. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research.

H. Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing.

I. The City, upon recommendation of the City’s Department of Community and Economic Development, believes that it is in the best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state and local laws and requirements, to enter into this Agreement.

J. 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 May 7, 2021.

K. The execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. \_\_\_\_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**1. PURCHASE PRICE OF SALE PROPERTY; NO CITY REPRESENTATIONS OR WARRANTIES.**

(A) Purchase Price of Sale Property. City hereby agrees to sell Purchaser the Sale Property, and Purchaser hereby agrees to purchase the Sale Property for the Purchase Price, on and subject to the terms and conditions of this Agreement.

(B) No Representations or Warranties with respect to Sale Property. The City makes no representations or warranties as to the quality, marketability, or status of title to the Sale Property or to the condition of the same (including with respect to any environmental, geotechnical, legal, or other matters); the City is providing certain rights with respect to such property "as is, where is" with all faults. Purchaser acknowledges that it is represented by legal counsel in negotiating this Agreement and in conducting legal and other due diligence.

**2. CLOSING.**

(A) Conditions. The closing on the City's sale of the Sale Property to Purchaser shall not occur unless and until each of the following conditions ("**Conditions**") has been satisfied or waived:

(i) Purchaser's Due Diligence Investigations: Purchaser's approval of its due diligence investigations with respect to the Sale Property, including without limitation, title, survey, and environmental assessments, all of which shall be performed at no expense to the City;

(ii) Consolidation Plat and Legal Description: The parties' approval of a single Consolidation Plat and new legal description for the Sale Property, all of which shall be prepared by Purchaser at no expense to the City;

(iii) Termination of Lease: Purchaser will cause the Lessees to execute and deliver a Termination of Lease in the form of Exhibit B hereto, which termination shall be effective as of the Closing;

(iv) Payment of Rent: Purchaser will cause the Lessees to pay to the City Rent (as defined in the Lease) pro rata through and including the date of Closing; and

(v) No Defaults: No default (or condition which would, by the provision of notice, the passage of time, or otherwise, constitute a default) exists under this Agreement or any other documents or instruments entered into by the City and Purchaser, or any affiliates of Purchaser, including without limitation, any payment obligations pursuant to any agreements among the City and affiliates of Purchaser executed in connection herewith.

(B) Closing Date; Right to Terminate if Conditions are not Satisfied. The closing on the City's sale of the Sale Property to Purchaser ("**Closing**") shall take place promptly after the parties have mutually determined in writing that all of the Conditions have been satisfied or waived, or on such earlier or later date as the parties may agree upon. The parties presently anticipate that the Closing will occur on or about \_\_\_\_\_, 2021. If either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within 30 days after such target closing date, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party at any time thereafter, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. At such time as the parties mutually determine that all Conditions have been

satisfied or waived, the parties shall, at the request of the other party, confirm in writing that the parties' respective termination rights under this paragraph have expired.

(C) Closing Costs and Closing Documents.

(i) Closing. At Closing, Purchaser shall pay the Purchase Price in full, and the City shall convey to Purchaser all of its right, title and interest in and to the Sale Property by Quitclaim Deed in the form of Exhibit C (Form of Deed) (the "**Deed**"). The City shall convey the Sale Property to Purchaser in "as is" condition. Purchaser shall rely solely upon its own inspections to determine the condition of the Sale Property. 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 for any defects, adverse environmental condition, or any other matters affecting the Sale Property. The provisions of this Agreement shall survive the City's execution and delivery of the Deed and shall not be deemed to have been merged therein.

(ii) Closing Costs and Prorations. At Closing, Purchaser shall pay the recording fees for the Deed and any and all other customary closing costs associated with the Closing. There shall be no proration of real estate taxes and assessments at Closing, and beginning with the first real estate tax bill that comes due following the Closing and thereafter, Purchaser shall pay all real estate taxes and assessments thereafter becoming due, regardless of the period of time to which such tax bills relate. At Closing, the parties shall execute a settlement statement and any and all other customary affidavits and closing documents that are necessary for the Closing, *provided that* the City shall not be required to execute an Affidavit of Title or other similar documents pertaining to title, it being acknowledged by Purchaser that the City is selling the Sale Property "as is". Pursuant to Cincinnati Municipal Code Section 301-20, at Closing, Purchaser shall pay to the City any and all then unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed by Purchaser or its affiliates to the City.

(D) Contribution toward Maintenance of Piatt Park. Purchaser acknowledges that the Lease contains an obligation of the Lessees to contribute to the maintenance of Piatt Park. Purchaser is willing to assume this obligation as a condition of the sale of the Sale Property, and accordingly, at Closing the Purchaser shall execute and deliver a covenant for the benefit of the City for Purchaser's payment of a share of costs to operate, maintain, repair and replace Piatt Park improvements in the form of Exhibit D (Form of Restrictive Covenant).

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

To the City:  
City Manager  
City of Cincinnati  
801 Plum Street  
Cincinnati, OH 45202

To Purchaser:  
Greenwich on Garfield, LLC  
1055 St. Paul Place  
Cincinnati, OH 45202

With a copy to:

Director, Dept. of Community and  
Economic Development  
City of Cincinnati  
805 Central Avenue, Suite 700  
Cincinnati, OH 45202

Notwithstanding anything to the contrary herein, if Purchaser sends 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, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

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

(ii) Purchaser has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for therein. 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.

(iii) The execution, delivery and performance by Purchaser of this Agreement and the consummation of the transactions contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or the organizational documents of Purchaser, or any mortgage, indenture, 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.

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

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

(vi) The statements made in the documentation provided by Purchaser to the City that are descriptive of Purchaser and the Project 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, or, if any such documentation contained such a misleading or untrue omission or statement, further documentation correcting such omissions or statements was subsequently provided to the City prior to Purchaser's execution of this Agreement.

(vii) With reference to Section 301-20 (*Delinquencies in Accounts Receivable and Loans Receivable; Policy*) of the Cincinnati Municipal Code, to the best of Purchaser's knowledge neither Purchaser nor any of its affiliates are in breach of any of their respective obligations to the City under any existing agreements with the City nor does Purchaser nor any of its affiliates owe any fines, penalties, judgment awards or any other amounts to the City.

#### **5. GENERAL PROVISIONS.**

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

subject matter hereof. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other agreements are in conflict with the specific provisions of such other agreements, the provisions of such other agreements shall control.

(B) Amendments and Waivers. The provisions of this Agreement may be amended, waived or otherwise modified only by a written agreement 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. Each party 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 permitted assigns.

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

(F) Severability. If any part of this Agreement is held 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 Recording. This Agreement shall not be recorded in the Hamilton County Recorder's office.

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

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

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

(K) 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.

(L) Contingency for Legislative Authorization from City Council. Notwithstanding anything to the contrary in this Agreement, the City shall not be in breach of this Agreement and shall not be required to sell the Sale Property as described in this Agreement if for any reason City Council does not pass any and all necessary legislation in order for the matters contemplated by this Agreement to take place. If all necessary legislative authorizations are not obtained, either the City or Purchaser may terminate this Agreement by giving written notice thereof to the other party.

(M) 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.



**6. ADDITIONAL COORDINATED REPORT CONDITIONS.**

(A) Water Works. Purchaser acknowledges and agrees that if the existing water system in the area of the Sale Property does not meet Purchaser's fire and/or domestic water demands, the water main in the area of the Sale Property may need to be upgraded at Purchaser's expense. Purchaser agrees and acknowledges that this Agreement does not relieve Purchaser from its responsibility to potentially upgrade the water system to meet future fire and domestic water demands at Purchaser's expense. Further, Purchaser acknowledges and agrees that all conditions of water service to the Sale Property, including the location of attachment to the public water system, and abandonment of any existing water service branches serving the Sale Property, will be determined upon submission of final plans and application for service, and that water service to the Sale Property is subject to all rules, regulations, and current practices and policies of the Cincinnati Water Works.

(B) MSD. Prior to applying for permits for any future development or redevelopment of the Sale Property from the City's Department of Buildings and Inspections, the Metropolitan Sewer District of Greater Cincinnati ("**MSD**") may require that Developer submit a Request for Availability for Sewer Service ("**RASS**"). The RASS will outline any additional MSD project requirements, including, without limitation, need for MSD tap permits and/or an Ohio EPA Permit to Install, utilization of licensed and bonded sewer tappers with MSD, sewer inspection scheduling, project on-site separation of flow requirements, MSD detention requirements, MSD excavation/fill permit for work over or near existing sewers, identifying easements, and a recommendation for Purchaser or Purchaser's general contractor to coordinate with Stormwater Management Utility for additional stormwater and detention requirements.

(C) Cincinnati Bell. There are existing underground telephone facilities at this location. 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.

**7. EXHIBITS.** The following exhibits are attached hereto and made a part hereof:

Exhibit A – *Legal Description*

Exhibit B – *Form of Termination of Lease*

Exhibit C – *Form of Deed*

Exhibit D – *Form of Restrictive Covenant*

*[SIGNATURES ON FOLLOWING PAGE]*

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

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

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

Date: \_\_\_\_\_, 2021

**GREENWICH ON GARFIELD, LLC,**  
an Ohio limited liability company

By: Piatt Park Associates, Inc., its Manager

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

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

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

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

As 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 Property Sale Agreement

**LEGAL DESCRIPTION**

**Tract 1**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 18, Town 4, Fractional Range 1, being part of Lots 20, 21, 22 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Recorder's records and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place North 74° 00' East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said point of beginning on a curve to the right, having a radius of 187 feet for a distance of 33.89 feet, the chord of said curve bears South 79° 11' 30" West for a distance of 33.84 feet to a point; thence North 15° 56' West 56.94 feet to a point; thence North 74° 53' West 36.29 feet to a point in the easterly line of Elm Street; thence North 15° 56' West along the easterly line of Elm Street 30.08 feet to a point in the southerly line of Weaver Alley; thence North 74° 00' East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North 84° 00' 43" East for a distance of 17.25 feet to a point; thence South 15° 56' East 87.63 feet to a point in the northerly line of Garfield Place thence South 74° West along the northerly line of Garfield Place 25.09 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)  
Registered Land Cert: 126997

**Tract 2**

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part Lots 21 and 22 of Square 4 of Piatt and Grandin's Subdivision, as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows: Beginning at the intersection of the north line of Garfield Place (126 foot right-of-way) and the east line of Elm Street (66 foot right-of-way), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet, a distance of 3.04 feet as measured along said curve to the place of beginning; thence South 16° 04' 35" East a distance of 26.55 feet to a point; thence North 73° 55' 25" East a distance of 14.54 feet to a point, thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet, a distance of 31.18 feet as measured along said curve to the place of beginning. Containing 127.00 square feet of land, more or less.

For Informational Purposes Only:  
(PPN 77-0001-176)

**Tract 3**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio, and being part of Lots 21 and 22 of Square 4 of Piatt and Grandin Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the easterly line of Elm Street North 15° 56' West 40.70 feet from the intersection of the easterly line of Elm Street and the northerly line of Garfield Place; thence from said beginning point North 15° 56' West along the easterly line of Elm Street 19.30 feet to a southwest corner of Registered Land Certificate No. 26094; thence South 74° 53' East 36.29 feet to a corner of said Registered Land; thence South 15° 56' East along a westerly line of said Registered Land 56.94 feet to a point; thence on a curve to the right, having a radius of 187.00 feet a distance of 7.52 feet, the chord of said arc bears South 85° 32' 10" West a distance of 7.52 feet to a point; thence on a curve to the right, having a radius of 37.00 feet a distance of 49.97 feet, the chord of said arc bears North 54° 37' 20" West a distance of 46.26 feet to a point at the easterly line of Elm Street and the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 4**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio and being all of Lots 25, 26, 27 and part of Lot 28 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio, records, and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place at the southeast corner of Registered Land Certificate No. 26094, said point being 95.09 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said beginning point northwardly along the easterly line of said Registered Land Certificate No. 26094 and said line produced northwardly 90.00 feet to a point in the southerly line of Weaver Alley; thence eastwardly along said southerly line 119.66 feet to a point; thence southwardly parallel with Elm Street 90.00 feet to a point in the northerly line of Garfield Place; thence westwardly along said northerly line 119.66 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 5**

Situate and being in the City of Cincinnati, County of Hamilton, State of Ohio, on the north side of Eighth Street between Race and Elm Streets and beginning at the southeast corner of Lot No. 29, on B.M. and J.H. Piatt's Subdivisions of lots in Square No. Four (4); thence running westwardly forty-seven (47) feet on the north side of Eighth Street to a point in the south line of Lot No. 28; thence northwardly ninety (90) feet more or less to an alley; thence eastwardly along said alley forty-seven (47) feet; thence southwardly ninety (90) feet more or less to the place of beginning, and being Lot No 29 and the east part of Lot No. 28 in Square 4 of Piatt and Grandin's Subdivision as per plat recorded in Deed Book 22, Page 113, in the Recorder's Office of Hamilton County, Ohio.

Also, the following described real estate, being all that certain lot situated on the north side of Garfield Place, formerly Eighth Street, between Race and Elm Streets, in the City of Cincinnati, County of Hamilton, State of Ohio, and known and numbered as Lot No. 30 in Square 4, of Piatt and Grandin's Subdivision, as per plat recorded in Deed Book 22, Page 113, of the records of the Recorder of Hamilton County, Ohio, and being thirty-two (32) feet and four (4) inches in front on the north side of Garfield Place and ninety (90) feet in depth to Weaver Alley and having the same width in rear as in front.

For Informational Purposes Only:  
(PPN 77-0001-0112 TH 114Cons)

Also described as:

Situated in Section 18, Town 4, Fractional Range 1 Between the Miami, Cincinnati Township, The City of Cincinnati, Hamilton County, Ohio and being all of lots 20, 25 through 30, part of Lots 21 and 22 and part {00330501-10}

of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 being all of The City of Cincinnati land as recorded in as recorded in Official Record 13957, Page 1419, Official Record 6378, Page 2648, Deed Book 4314, Page 739, and prior Registered Land Certificate 126997 of the Hamilton County, Ohio Recorder's Office, containing 0.5999 acres being further described as follows:

Begin at a point found by measuring from the northeast intersection of the original north right of way of Garfield Place (126') and the original east right of way of Elm Street (66'); thence, with the original east right of way of said Elm Street, North 15° 56' 00" West, 40.70 feet to a set cross notch, said cross notch being the True Point of Beginning;

thence, from the True Point of Beginning thus found and continuing with the east right of way of said Elm Street, North 15° 56' 00" West, 49.63 feet to set cross notch on the south right of way of Weaver Alley (14');

thence, departing the east right of way of said Elm Street and with the south right of way of said Weaver Alley the following four courses: North 74° 04' 30" East, 78.09 feet to a set cross notch;

thence, with a non tangent curve to the left, having a central angle of 20° 01' 44", a radius of 49.61 feet, an arc length of 17.34 feet, and a chord bearing North 84° 05' 17" East, 17.25 feet to a set cross notch;

thence, North 16° 08' 53" West, 3.00 feet to a set cross notch;

thence, North 74° 04' 30" East, 199.38 feet to a set cross notch on the west right of way of Ira Alley (10');

thence, departing the south right of way of said Weaver Alley and with the west right of way of said Ira Alley, South 16° 08' 53" East, 89.55 feet to a set cross notch on the north right of way of said Garfield Place;

thence, departing the west right of way of said Ira Alley and with the north right of way of said Garfield Place, South 73° 55' 25" West, 224.78 feet to a set cross notch;

thence, continuing with the north right of way of said Garfield Place the following four courses: with a non tangent curve to the right, having a central angle of 10° 23' 03", a radius of 186.97 feet, an arc length of 33.89 feet, and a chord bearing South 79° 01' 25" West, 33.84 feet to a set cross notch;

thence, with a non tangent compound curve to the right, having a central angle of 02° 18' 16", a radius of 187.00 feet, an arc length of 7.52 feet, and a chord bearing South 85° 32' 04" West, 7.52 feet to a set cross notch;

thence, with a non tangent curve to the right, having a central angle of 24° 22' 42", a radius of 37.00 feet, an arc length of 15.74 feet, and a chord bearing North 81° 07' 27" West, 15.62 feet to a set cross notch;

thence, South 73° 55' 25" West, 14.54 feet to the east right of way of said Elm Street, being referenced by a set cross notch being South 16° 04' 35" East, 3.00 feet;

thence, with the east right of way of said Elm Street the following two courses: North 16° 04' 35" West, 26.55 feet to a set cross notch;

thence, with a curve to the right, having a central angle of 04° 42' 38", a radius of 37.00 feet, an arc length of 3.04 feet, and a chord bearing North 18° 17' 19" West, 3.04 feet to the True Point of Beginning containing 0.5999 acres of land more or less subject to all legal highways, easements, restrictions and agreements of record.

Basis of Bearings: Deed Book 4314, Page 739.

The above description was prepared from a consolidation plat made on August 9, 2019 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

EXHIBIT B  
to Property Sale Agreement

**FORM OF TERMINATION OF LEASE**

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

Contract No.: \_\_\_\_\_  
Property: 110 & 120 Garfield Place

**TERMINATION OF LEASE**

This Termination of Lease is made and entered into as of the Effective Date (as defined below) by and among the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), **PIATT PARK COMMUNITY URBAN REDEVELOPMENT CORPORATION**, an Ohio nonprofit corporation, \_\_\_\_\_ ("**PPCURC**"), and **PIATT PARK ASSOCIATES LIMITED PARTNERSHIP**, an Ohio limited partnership, \_\_\_\_\_ (together with PPCURC, the "**Lessees**").

A. The City and Lessees are parties to that certain *Contract for Lease of Land for Private Redevelopment* dated October 21, 1994, as memorialized by that certain *Memorandum of Contract for Lease of Land for Private Redevelopment* dated December 21, 1994, recorded on December 22, 1994 in Official Record 6645, Page 625, Hamilton County, Ohio Recorder's Office, as amended by *First Amendment to Contract for Lease of Land for Private Redevelopment* dated August 23, 1995, recorded on November 7, 1995 in Official Record 6902, Page 90, Hamilton County, Ohio Recorder's Office, and re-recorded on November 29, 1995 in Official Record 6917, Page 159, Hamilton County, Ohio Recorder's Office (as amended, the "**Lease**"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lease.

B. Pursuant to the Lease, Lessees lease from the City the real property located at 110 and 120 Garfield Place Street in Cincinnati, as more particularly described on Exhibit A (Legal Description) attached hereto (the "**Property**").

C. Under the Lease, Lessees designed and constructed at the Property improvements consisting of commercial space, residential housing units and parking as more fully described in the Lease (the "**Improvements**"). Pursuant to Section XII of the Lease, title to the Improvements vested in PPCURC and remains in PPCURC until the expiration or earlier termination of the Lease, upon which the Improvements revert to the City.

D. Greenwich on Garfield, LLC, an Ohio limited liability company ("**Purchaser**"), and the City have entered into that certain *Property Sale Agreement* dated \_\_\_\_\_, 2021, pursuant to which the City has agreed to convey the Property to Purchaser via Quitclaim Deed.

NOW, THEREFORE, the parties hereby terminate the Lease effective as of the Effective Date. All obligations of the parties that have accrued but have not been fully performed up to and including the Effective Date (including for example payment of prorated rent through the Effective Date, if any) were or will be paid, performed or appropriately allocated in connection with the Closing (as defined in the Property Sale Agreement) and shall not survive the termination of the Lease. Notwithstanding anything to the contrary in the Lease, the parties acknowledge and agree that PPCURC shall retain title to the Improvements until conveyance of the Property to Purchaser, at which time Purchaser shall acquire the Improvements, and in no event shall title to the Improvements vest in the City. 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.

{00330501-10}

*[Signature Page Follows]*



Executed by the parties on the dates indicated below, effective as the City's conveyance of the Property to Purchaser (the "**Effective Date**").

**PIATT PARK COMMUNITY URBAN REDEVELOPMENT CORPORATION,**  
an Ohio nonprofit corporation

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

Printed name: \_\_\_\_\_

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

As authorized by corporate resolution dated \_\_\_\_\_

STATE OF OHIO                     )  
  ) ss.  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, \_\_\_\_\_ of Piatt Park Community Urban Redevelopment Corporation, an Ohio nonprofit corporation, on behalf of the corporation. This is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

**PIATT PARK ASSOCIATES LIMITED PARTNERSHIP,**  
an Ohio limited partnership

By:     Piatt Park Associates, Inc., its General Partner

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

Printed name: \_\_\_\_\_

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

STATE OF OHIO                     )  
  ) ss.  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, \_\_\_\_\_ of Piatt Park Associates, Inc., an Ohio corporation, general partner of Piatt Park Associates Limited Partnership, an Ohio limited partnership, on behalf of the partnership. This is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

*[City Signature Page Follows]*

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

STATE OF OHIO                    )  
  ) ss.  
COUNTY OF HAMILTON        )

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

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved as to Form:

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

Certified Date: \_\_\_\_\_  
Fund/Code: \_\_\_\_\_  
Amount: \_\_\_\_\_  
By: \_\_\_\_\_  
Karen Alder, City Finance Director

Exhibit A  
to Termination of Lease

Legal Description

Parcel 1: PPN 077-0001-0102 (-102 through -111 cons.)  
PPN 077-0001-0112 (-112 through -114 cons.)

Garfield Development Site

Site 5

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows:

Beginning at the intersection of the north line of Garfield Place (126 foot R/W); and the west line of Ira Alley (10 foot R/W), measure in said north line South 73°55'25" West a distance of 224.78 feet to a point in the south line of Registered Land Certificate Number 26094; thence, on a curve to the right, said curve having a radius of 186.97 feet, and a chord bearing South 79°01'25" West 33.34 feet a distance of 33.89 feet as measured along said curve to a point; thence, on a curve to the right, said curve having a radius of 187.00 feet and a chord bearing South 85°32'04" West 7.52 feet a distance of 7.52 feet as measured along said curve to a point; thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 54°37'24" West 46.26 feet a distance of 49.97 feet as measured along said curve to a point in the east line of Elm Street; thence, in said east line, measure North 15°56' West a distance of 49.63 feet to a point in the south line of Weaver Alley (14 foot R/W); thence, with said south line, measure North 74°04'30" East a distance of 78.09 feet to a point; thence, leaving said south line, measure on a curve to the right, said curve having a radius of 49.61 feet and a chord bearing North 84°05'17" East 17.25 feet a distance of 17.34 feet as measured along said curve to a point; thence, North 16°08'53" West 3.00 feet to a point in the south line of Weaver Alley; thence, with said south line, measure North 74°04'30" East a distance of 199.38 feet to a point in the west line of Ira Alley; thence, with said west line, measure South 16°08'53" East a distance of 89.55 feet to the PLACE OF BEGINNING.

Containing ±26,022 square feet of land, more or less.

The Registered Land portion of the above real estate is described as follows:

Situate in Section 18, Town 4, Fractional Range 1, and being more described as follows:

Beginning at a point in the northerly line of Garfield Place North  $74^{\circ}00'$  East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said POINT OF BEGINNING on a curve to the right, having a radius of

187 feet for a distance of 33.89 feet, for a distance of 33.89 feet, the chord of said curve bears South  $79^{\circ}11'30''$  West for a distance of 33.84 feet to a point; thence North  $15^{\circ}56'$  West 56.94 feet to a point; thence North  $74^{\circ}53'$  West 36.29 feet to a point in the easterly line of Elm Street; thence North  $15^{\circ}56'$  West along the easterly line of Elm Street 30.08 feet to a point in the Southerly line of Weaver Alley; thence North  $74^{\circ}00'$  East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North  $84^{\circ}00'43''$  East North  $84^{\circ}00'43''$  East for a distance of 17.25 feet to a point; thence South  $15^{\circ}56'$  East 87.63 feet to a point in the northerly line of Garfield Place; thence South  $74^{\circ}$  West along the northerly line of Garfield Place 25.09 feet to the PLACE OF BEGINNING.

**GREENWICH AT THE PARK**  
**Cut Up of 77-1-157**  
**May, 1995**

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows:

Beginning at the intersection of the north line of Garfield Place (126 foot R/W) and the east line of Elm Street (66 foot R/W), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet a distance of 3.04 feet as measured along said curve to the Place of Beginning; thence, South 16° 04' 35" East a distance of 26.55 feet to a point; thence, North 73° 55' 25" East a distance of 14.54 feet to a point; thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet a distance of 31.18 feet as measured along said curve to the Place of Beginning.

Containing 127.00 square feet of land, more or less. Subject to all legal highways, easements and restrictions of record.

EXHIBIT C  
to Property Sale Agreement

**FORM OF DEED**

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

**QUITCLAIM DEED**

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), having an address of 801 Plum Street, for valuable consideration paid, hereby grants and conveys to **GREENWICH ON GARFIELD, LLC**, an Ohio limited liability company, the address of which is \_\_\_\_\_ ("**Grantee**"), all of the City's right, title and interest in and to the real property described on Exhibit A (*Legal Description*) hereto (the "**Property**").

Property Address: 110 and 120 Garfield Place, Cincinnati, Ohio 45202

Auditor's Parcel Nos.: 077-0001-0102 through -0111 cons; -0112 through -0114 cons; and -0176

This conveyance is subject to all covenants, conditions, reservations, or easements of record.

This conveyance was authorized by Ordinance No. \_\_\_\_-2021 passed by City Council on \_\_\_\_\_, 2021.

Prior instrument references:   Official Record 13957, Page 1419  
  Official Record 6378, Page 2648  
  Deed Book 4314, Page 739  
  Prior Registered Land Certificate 126997

[Signature Page Follows]

Executed on \_\_\_\_\_, 2021.

CITY OF CINCINNATI

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF HAMILTON        )

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

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved as to Form:

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

This instrument prepared by: Office of the City Solicitor, City of Cincinnati, 801 Plum Street, Suite 214,  
Cincinnati, Ohio 45202

Exhibit A  
to Quitclaim Deed

Legal Description

**Tract 1**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 18, Town 4, Fractional Range 1, being part of Lots 20, 21, 22 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Recorder's records and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place North 74° 00' East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said point of beginning on a curve to the right, having a radius of 187 feet for a distance of 33.89 feet, the chord of said curve bears South 79° 11' 30" West for a distance of 33.84 feet to a point; thence North 15° 56' West 56.94 feet to a point; thence North 74° 53' West 36.29 feet to a point in the easterly line of Elm Street; thence North 15° 56' West along the easterly line of Elm Street 30.08 feet to a point in the southerly line of Weaver Alley; thence North 74° 00' East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North 84° 00' 43" East for a distance of 17.25 feet to a point; thence South 15° 56' East 87.63 feet to a point in the northerly line of Garfield Place thence South 74° West along the northerly line of Garfield Place 25.09 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)  
Registered Land Cert: 126997

**Tract 2**

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part Lots 21 and 22 of Square 4 of Piatt and Grandin's Subdivision, as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows: Beginning at the intersection of the north line of Garfield Place (126 foot right-of-way) and the east line of Elm Street (66 foot right-of-way), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet, a distance of 3.04 feet as measured along said curve to the place of beginning; thence South 16° 04' 35" East a distance of 26.55 feet to a point; thence North 73° 55' 25" East a distance of 14.54 feet to a point, thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet, a distance of 31.18 feet as measured along said curve to the place of beginning. Containing 127.00 square feet of land, more or less.

For Informational Purposes Only:  
(PPN 77-0001-176)

**Tract 3**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio, and being part of Lots 21 and 22 of Square 4 of Piatt and Grandin Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the easterly line of Elm Street North 15° 56' West 40.70 feet from the intersection of the easterly line of Elm Street and the northerly line of Garfield Place; thence from said beginning point North 15° 56' West along the easterly line of Elm Street 19.30 feet to a southwest corner of

{00330501-10}



Registered Land Certificate No. 26094; thence South 74° 53' East 36.29 feet to a corner of said Registered Land; thence South 15° 56' East along a westerly line of said Registered Land 56.94 feet to a point; thence on a curve to the right, having a radius of 187.00 feet a distance of 7.52 feet, the chord of said arc bears South 85° 32' 10" West a distance of 7.52 feet to a point; thence on a curve to the right, having a radius of 37.00 feet a distance of 49.97 feet, the chord of said arc bears North 54° 37' 20" West a distance of 46.26 feet to a point at the easterly line of Elm Street and the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 4**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio and being all of Lots 25, 26, 27 and part of Lot 28 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio, records, and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place at the southeast corner of Registered Land Certificate No. 26094, said point being 95.09 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said beginning point northwardly along the easterly line of said Registered Land Certificate No. 26094 and said line produced northwardly 90.00 feet to a point in the southerly line of Weaver Alley; thence eastwardly along said southerly line 119.66 feet to a point; thence southwardly parallel with Elm Street 90.00 feet to a point in the northerly line of Garfield Place; thence westwardly along said northerly line 119.66 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 5**

Situate and being in the City of Cincinnati, County of Hamilton, State of Ohio, on the north side of Eighth Street between Race and Elm Streets and beginning at the southeast corner of Lot No. 29, on B.M. and J.H. Piatt's Subdivisions of lots in Square No. Four (4); thence running westwardly forty-seven (47) feet on the north side of Eighth Street to a point in the south line of Lot No. 28; thence northwardly ninety (90) feet more or less to an alley; thence eastwardly along said alley forty-seven (47) feet; thence southwardly ninety (90) feet more or less to the place of beginning, and being Lot No 29 and the east part of Lot No. 28 in Square 4 of Piatt and Grandin's Subdivision as per plat recorded in Deed Book 22, Page 113, in the Recorder's Office of Hamilton County, Ohio.

Also, the following described real estate, being all that certain lot situated on the north side of Garfield Place, formerly Eighth Street, between Race and Elm Streets, in the City of Cincinnati, County of Hamilton, State of Ohio, and known and numbered as Lot No. 30 in Square 4, of Piatt and Grandin's Subdivision, as per plat recorded in Deed Book 22, Page 113, of the records of the Recorder of Hamilton County, Ohio, and being thirty-two (32) feet and four (4) inches in front on the north side of Garfield Place and ninety (90) feet in depth to Weaver Alley and having the same width in rear as in front.

For Informational Purposes Only:  
(PPN 77-0001-0112 TH 114Cons)

EXHIBIT D  
to Property Sale Agreement

**FORM OF RESTRICTIVE COVENANT**

SEE ATTACHED

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

(Auditor's Parcel Nos:77-0001-0102 thru 111 cons.;  
77-0001-176; 77-0001-0112 thru 114 cons.)

## RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT (this "**Covenant**") is made this \_\_\_\_ day of \_\_\_\_\_, 2021 by **GREENWICH ON GARFIELD, LLC**, an Ohio limited liability company, 1055 St. Paul Place, Cincinnati, Ohio 45202 ("**Grantor**"), for the benefit of the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**").

### Recitals:

A. By virtue of a deed recorded on \_\_\_\_\_, 2021 in OR \_\_\_\_\_, Page \_\_\_\_\_, Hamilton County, Ohio Records, Grantor owns the real property located at 110 and 120 Garfield Place, Cincinnati, Ohio 45202, as more particularly described on Exhibit A hereto (the "**Property**"), which Grantor acquired from the City pursuant to the terms of a *Property Sale Agreement* dated June \_\_\_\_, 2021 (the "**Agreement**"). Capitalized terms used, but not defined, herein have the meanings ascribed thereto in the Agreement.

B. As a condition to the sale of the Property, Grantor agreed to execute and record this Covenant to memorialize certain obligations of Grantor to contribute to maintenance expenses for certain improvements the City has made and maintained to Piatt Park (the "**Piatt Park Improvements**"), and Grantor is required under the Agreement to execute and record this Covenant.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby declare that the Property is and shall be subject to the provisions of this Covenant as set forth below.

**1. Covenant to Contribute to Maintenance of Piatt Park Improvements.** Grantor covenants and agrees to pay 23% of the total costs to operate, maintain, repair and replace the Piatt Park Improvements between the north property line and the south property line of Garfield Place from Vine Street to Elm Street in Cincinnati, Ohio (the "**Work**"), pursuant to the following terms:

- a. The Cincinnati Park Board (the "**Board**") shall perform the Work. No later than 60 days before the end of each calendar year, the Board shall provide Grantor an itemized statement showing the scope of work and budget for Work to be performed in the following year (the "**Annual Statement**"). The Annual Statement shall list all sources of funding for the Work.
- b. Grantor shall pay its 23% share of the amount budgeted for the Work in the Annual Statement, in equal quarterly payments beginning on January 1 of each year.

**2. Enforcement of the Covenants.** The City is the beneficiary of the covenants contained herein. Each and every provision of this Covenant shall apply to and be enforceable by an action at law or equity instituted by the City against all owners of the Property. Any failure of the City to enforce any provision of this Covenant shall not be deemed a waiver of the City's right to do so thereafter. This Covenant shall not be amended, released, extinguished, or otherwise modified without the prior written consent of the City, which consent may be withheld in its sole and absolute discretion. There are no third-party beneficiaries of the Covenant.

**3. Restriction Period.** This Covenant shall remain in full force and effect until December 31, 2044. Upon expiration of the Covenant, the City, at Grantor's request, shall execute and deliver to Grantor a recordable termination of the Covenant for recording in the Hamilton County, Ohio Records, provided Grantor has fulfilled all payment obligations under this Covenant.

**4. Covenants to Run with the Land.** Grantor intends, declares, and covenants on behalf of itself and its successors and assigns that this Covenant and the provisions contained herein (a) shall be covenants running with the land and are binding upon Grantor and its successors-in-title, (b) are not merely personal covenants of Grantor, and (c) shall inure to the benefit of the City. Grantor hereby agrees that any and all requirements of the laws of the State of Ohio to be satisfied in order for the provisions of this Covenant to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate or privity of contract are also deemed to be satisfied in full.

**5. Severability.** Each provision of this Covenant and the application thereof to the Property are hereby declared to be independent of and severable from the remainder of this Covenant. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Covenant.

This Restrictive Covenant is executed on the date first set forth above.

Remainder of this page intentionally left blank. Signatures to follow.

**GREENWICH ON GARFIELD, LLC,**  
an Ohio limited liability company

By: Piatt Park Associates, Inc., its Manager

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

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

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

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

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, \_\_\_\_\_ of Piatt Park Associates, Inc., an Ohio corporation, manager of Greenwich on Garfield, LLC, an Ohio limited liability company, on behalf of the limited liability 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: \_\_\_\_\_

ACKNOWLEDGED AND ACCEPTED BY:

CITY OF CINCINNATI

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

Date: \_\_\_\_\_, 2021

Approved as to Form:

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

This instrument prepared by:

Office of the City Solicitor  
City of Cincinnati  
801 Plum Street, Suite 214  
Cincinnati, OH 45202

Exhibit A  
to Restrictive Covenant

*Legal Description*

**Tract 1**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 18, Town 4, Fractional Range 1, being part of Lots 20, 21, 22 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Recorder's records and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place North 74° 00' East 70 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said point of beginning on a curve to the right, having a radius of 187 feet for a distance of 33.89 feet, the chord of said curve bears South 79° 11' 30" West for a distance of 33.84 feet to a point; thence North 15° 56' West 56.94 feet to a point; thence North 74° 53' West 36.29 feet to a point in the easterly line of Elm Street; thence North 15° 56' West along the easterly line of Elm Street 30.08 feet to a point in the southerly line of Weaver Alley; thence North 74° 00' East along said southerly line 78.09 feet to a point; thence on a curve to the left, having a radius of 49.61 feet for a distance of 17.31 feet, the chord of said curve bears North 84° 00' 43" East for a distance of 17.25 feet to a point; thence South 15° 56' East 87.63 feet to a point in the northerly line of Garfield Place thence South 74° West along the northerly line of Garfield Place 25.09 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)  
Registered Land Cert: 126997

**Tract 2**

Situate in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being a part Lots 21 and 22 of Square 4 of Piatt and Grandin's Subdivision, as recorded in Deed Book 22, Page 113 of the Hamilton County Recorder's Office, and being more particularly described as follows: Beginning at the intersection of the north line of Garfield Place (126 foot right-of-way) and the east line of Elm Street (66 foot right-of-way), measure in said east line North 15° 56' West a distance of 40.70 feet to a point; thence on a curve to the left, said curve having a radius of 37.00 feet and a chord bearing South 18° 17' 19" East 3.04 feet, a distance of 3.04 feet as measured along said curve to the place of beginning; thence South 16° 04' 35" East a distance of 26.55 feet to a point; thence North 73° 55' 25" East a distance of 14.54 feet to a point, thence, on a curve to the right, said curve having a radius of 37.00 feet and a chord bearing North 44° 47' 22" West 30.27 feet, a distance of 31.18 feet as measured along said curve to the place of beginning. Containing 127.00 square feet of land, more or less.

For Informational Purposes Only:  
(PPN 77-0001-176)

**Tract 3**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio, and being part of Lots 21 and 22 of Square 4 of Piatt and Grandin Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the easterly line of Elm Street North 15° 56' West 40.70 feet from the intersection of the easterly line of Elm Street and the northerly line of Garfield Place; thence from said beginning

point North 15° 56' West along the easterly line of Elm Street 19.30 feet to a southwest corner of Registered Land Certificate No. 26094; thence South 74° 53' East 36.29 feet to a corner of said Registered Land; thence South 15° 56' East along a westerly line of said Registered Land 56.94 feet to a point; thence on a curve to the right, having a radius of 187.00 feet a distance of 7.52 feet, the chord of said arc bears South 85° 32' 10" West a distance of 7.52 feet to a point; thence on a curve to the right, having a radius of 37.00 feet a distance of 49.97 feet, the chord of said arc bears North 54° 37' 20" West a distance of 46.26 feet to a point at the easterly line of Elm Street and the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 4**

All that lot of land situated in the City of Cincinnati, Hamilton County, Ohio and being all of Lots 25, 26, 27 and part of Lot 28 and part of a vacated alley of Square 4 of Piatt and Grandin's Subdivision as recorded in Deed Book 22, Page 113 of the Hamilton County, Ohio, records, and being more particularly described as follows:

Beginning at a point in the northerly line of Garfield Place at the southeast corner of Registered Land Certificate No. 26094, said point being 95.09 feet from the intersection of the northerly line of Garfield Place and the easterly line of Elm Street; thence from said beginning point northwardly along the easterly line of said Registered Land Certificate No. 26094 and said line produced northwardly 90.00 feet to a point in the southerly line of Weaver Alley; thence eastwardly along said southerly line 119.66 feet to a point; thence southwardly parallel with Elm Street 90.00 feet to a point in the northerly line of Garfield Place; thence westwardly along said northerly line 119.66 feet to the place of beginning.

For Informational Purposes Only:  
(Pt of PPN 77-0001-0102 TH 111Cons)

#### **Tract 5**

Situate and being in the City of Cincinnati, County of Hamilton, State of Ohio, on the north side of Eighth Street between Race and Elm Streets and beginning at the southeast corner of Lot No. 29, on B.M. and J.H. Piatt's Subdivisions of lots in Square No. Four (4); thence running westwardly forty-seven (47) feet on the north side of Eighth Street to a point in the south line of Lot No. 28; thence northwardly ninety (90) feet more or less to an alley; thence eastwardly along said alley forty-seven (47) feet; thence southwardly ninety (90) feet more or less to the place of beginning, and being Lot No 29 and the east part of Lot No. 28 in Square 4 of Piatt and Grandin's Subdivision as per plat recorded in Deed Book 22, Page 113, in the Recorder's Office of Hamilton County, Ohio.

Also, the following described real estate, being all that certain lot situated on the north side of Garfield Place, formerly Eighth Street, between Race and Elm Streets, in the City of Cincinnati, County of Hamilton, State of Ohio, and known and numbered as Lot No. 30 in Square 4, of Piatt and Grandin's Subdivision, as per plat recorded in Deed Book 22, Page 113, of the records of the Recorder of Hamilton County, Ohio, and being thirty-two (32) feet and four (4) inches in front on the north side of Garfield Place and ninety (90) feet in depth to Weaver Alley and having the same width in rear as in front.

For Informational Purposes Only:  
(PPN 77-0001-0112 TH 114Cons)

**June 21, 2021**

**To:** Members of the Budget and Finance Committee 202102326

**From:** Paula Boggs Muething, City Manager

**Subject:** **Ordinance – Ohio Association of Community Health Centers Hypertension & Diabetes Grant**

---

Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of \$30,000 from the Ohio Association of Community Health Centers for the purpose of supporting improvement in the health of at-risk populations in the City of Cincinnati through prevention and management of diabetes and hypertension; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

This Ordinance would authorize the City Manager to apply for, accept and appropriate a grant in the amount of \$30,000 from the Ohio Association of Community Health Centers for the purpose of supporting improvement in the health of at-risk populations in the City of Cincinnati through prevention and management of diabetes and hypertension.

No additional FTE are associated with this grant, and matching funds are not required.

This Ordinance would also authorize the Finance Director to deposit the grant funds into Public Health Research Fund 350.

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

The Administration recommends passage of this Ordinance.

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

Attachment





**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of \$30,000 from the Ohio Association of Community Health Centers for the purpose of supporting improvement in the health of at-risk populations in the City of Cincinnati through prevention and management of diabetes and hypertension; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

WHEREAS, there is a grant available from the Ohio Association of Community Health Centers that if awarded to the City of Cincinnati Health Department (“CHD”) will help improve the health of at-risk populations in the City through prevention and management of diabetes and hypertension; and

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

WHEREAS, CHD applied for this grant on April 14, 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 \$30,000 from the Ohio Association of Community Health Centers for the purpose of supporting improvement in the health of at-risk populations in the City of Cincinnati through prevention and management of diabetes and hypertension.

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 take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**June 21, 2021**

**To:** Members of the Budget and Finance Committee 202102327

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – City Council Adjustments: FY 2022 General Fund Operating Budget (African American Chamber of Commerce)**

---

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer of \$100,000 within the General Fund to the Department of Community and Economic Development's General Fund operating budget account no. 050x161x7400 for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget in order to provide additional one-time leveraged support funding for the African American Chamber of Commerce according to the attached Schedule of Transfer.

Pursuant to Motion #202102281, this Emergency Ordinance provides funding for the following item for inclusion in the FY 2022 General Fund Operating Budget: leveraged support for the African American Chamber of Commerce, \$100,000.

The reason for the emergency is to ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021, for the current expenses and other expenses of the City of Cincinnati, including leveraged support for the African American Chamber of Commerce.

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

Attachment

EMERGENCY

City of Cincinnati

CMZ

BWL

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

- 2021

**AUTHORIZING** the transfer of \$100,000 within the General Fund to the Department of Community and Economic Development's General Fund operating budget account no. 050x161x7400 for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget in order to provide additional one-time leveraged support funding for the African American Chamber of Commerce according to the attached Schedule of Transfer.

WHEREAS, leveraged support funding in the amount of \$325,000 is being provided to the African American Chamber of Commerce as part of the FY 2022 General Fund Operating Budget; and

WHEREAS, City Council wishes to provide additional leveraged support funding in the amount of \$100,000 to the African American Chamber of Commerce; and

WHEREAS, the leveraged support funding will be transferred within the General Fund to the Department of Community and Economic Development operating budget account no. 050x161x7400; now, therefore,

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

Section 1. That the sum of \$100,000 is hereby transferred within the General Fund, according to the attached Schedule of Transfer, to provide additional one-time leveraged support funding for the African American Chamber of Commerce.

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

Section 3. That the effective date of this ordinance shall be July 1, 2021.

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

to ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021, for the current expenses and other expenses of the City of Cincinnati, including leveraged support for the African American Chamber of Commerce.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

## SCHEDULE OF TRANSFER

### FY 2022 OPERATING BUDGET - CITY COUNCIL ADJUSTMENT ORDINANCE (AFRICAN AMERICAN CHAMBER OF COMMERCE)

Fund 050 General Fund

<i>REDUCTIONS</i>				Appropriation		<i>INCREASES</i>				Appropriation	
	Fund	Agency	Unit	\$ Amount			Fund	Agency	Unit	\$ Amount	
<b>TRANSFERS WITHIN APPROPRIATIONS</b>						<b>TRANSFERS WITHIN APPROPRIATIONS</b>					
<b>SOURCE ACCOUNTS</b>						<b>USE ACCOUNTS</b>					
NON-DEPARTMENTAL ACCOUNTS						COMMUNITY AND ECONOMIC DEVELOPMENT					
ENTERPRISE SOFTWARE AND LICENSES	050	952	7400	100,000		ECONOMIC DEVELOPMENT AND MAJOR/SPECIAL PROJECTS	050	161	7400	100,000	
<b>Subtotal Transfers Within Appropriations</b>				<b>100,000</b>		<b>Subtotal Transfers Within Appropriations</b>				<b>100,000</b>	
<b>TOTAL FUND 050 REDUCTIONS</b>				<b>100,000</b>		<b>TOTAL FUND 050 INCREASES</b>				<b>100,000</b>	

June 21, 2021

To: Members of the Budget and Finance Committee 202102328

From: Paula Boggs Muething, City Manager

Subject: **PROPERTY SALE AND DEVELOPMENT FOR POSTE PHASE II**

---

Attached is an Emergency Ordinance captioned as follows:

**AUTHORIZING** the City Manager to execute a *Property Sale and Development Agreement* with 756 E McMillan, LLC, for the sale of City-owned property located at 750, 752, and 758 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati, for a residential development project consisting of approximately 62 residential units, at an estimated project cost of \$10,508,310.

### **BACKGROUND/CURRENT CONDITIONS**

Poste is a multi-million dollar mixed-use development in Walnut Hills being constructed by affiliates of Milhaus Development, LLC. The full Poste development is being constructed in two separate phases. Poste Phase I was completed and opened in 2020, consisting of approximately 124 apartment units and ground floor commercial space.

The current legislation is for the Poste Phase II development, which is being constructed by 756 E McMillan, LLC (“Developer”) and has been in the planning stages for several years, having received City approval of a tax abatement in December 2019, and a zone change approval in early 2021. Poste Phase II will be built upon a mix of Developer-controlled properties and several City-owned properties at 750, 752, and 758 E. McMillan St, which were blighted properties acquired by the City in 2010 for redevelopment purposes.

### **DEVELOPER INFORMATION**

The Developer is an affiliate of Milhaus Development, LLC, which is based in Indianapolis and specializes in urban infill, mixed-use, and multifamily residential buildings. Milhaus’s local projects include Poste Phase I in Walnut Hills, the Gantry Apartments in Northside, and the Artistry development under construction near Yeatmen’s Cove in the Central Business District.

## **PROJECT DESCRIPTION**

The Developer proposes to construct two new multi-story apartment buildings with a total of 62 units and 60-70 parking spaces. These buildings will include frontage on the corner of E. McMillan St and Stanton Ave, as well as on Chatham St.

The apartments will consist of approximately 50% 1-bedroom units, 40% 2-bedroom units, and 10% studios. Initial rent projections show that all of the 1-bedroom and studio units would be affordable for households under 80% of area median income (AMI) while all of the 2-bedroom units would be affordable to households under 100% of AMI.

The total project cost will be approximately \$10.5 million, with a hard construction cost of approximately \$8 million. During construction, there will be approximately 55 workers employed on the job site representing \$2,200,000 in approximate payroll. The project will also result in the creation of approximately 3 permanent jobs representing \$150,000 in annual payroll.

The project is consistent with the Plan Cincinnati goal of “provid[ing] quality healthy housing for all income levels,” particularly the action step of “direct[ing] funding to develop more moderate and high-income rental and homeownership housing stock” (*Plan Cincinnati*, p. 165).

Cincinnati Planning Commission approved the sale of the Property at its meeting on June 4, 2021.

City Planning and the Developer conducted a public engagement meeting with Walnut Hills stakeholders following the City Manager’s Community Engagement Policy on June 1, 2021. A written summary of the engagement session can be found on City Planning’s website. The Developer has also conducted extensive engagement with the Walnut Hills Area Council, which has provided a letter of support.

## **PROPOSED INCENTIVE**

The administration and the Developer have negotiated a Property Sale and Development Agreement (“PSDA”) which would allow the Poste Phase II project to move forward. DCED is recommending the following two financial incentives as part of the PSDA terms, in addition to the previously approved commercial tax exemption:

**Sale of Property Below Fair Market Value** – The City would sell the .2-acre parcels of City property for \$1.00, which is a reduction from the fair market value of \$77,000 as determined by City appraisal. In recommending a sale to the Developer, the City would be waiving competition because, due to the City’s relatively small property holdings at the development site and due to the developer’s control of several



other adjacent properties, it would not be feasible for anyone but the Developer to successfully develop the City owned property.

**Waiver of Phase I Incentive Recoupment Payment** – The City would agree to waive a possible future payment obligation to the City, the amount of which would be based upon the proceeds from a sale of Poste Phase I. The amount of the waived payment is unknown because it would depend on the Phase I sale price, but could range from \$0 to approximately \$1.16 MM.

**Commercial CRA Tax Exemption** – City Council previously approved a 12-year, net 60% CRA tax abatement for the project, which also included a 15% Neighborhood VTICA.

The reason for the subsidy is to close a financing gap. DCED's underwriting shows that the Project is not economically feasible without these incentives, due in part to the need to perform environmental and geotechnical remediation to make the properties buildable, including the City-owned parcels, and also due to industry-wide increases in the cost of construction due to material costs and labor shortages.

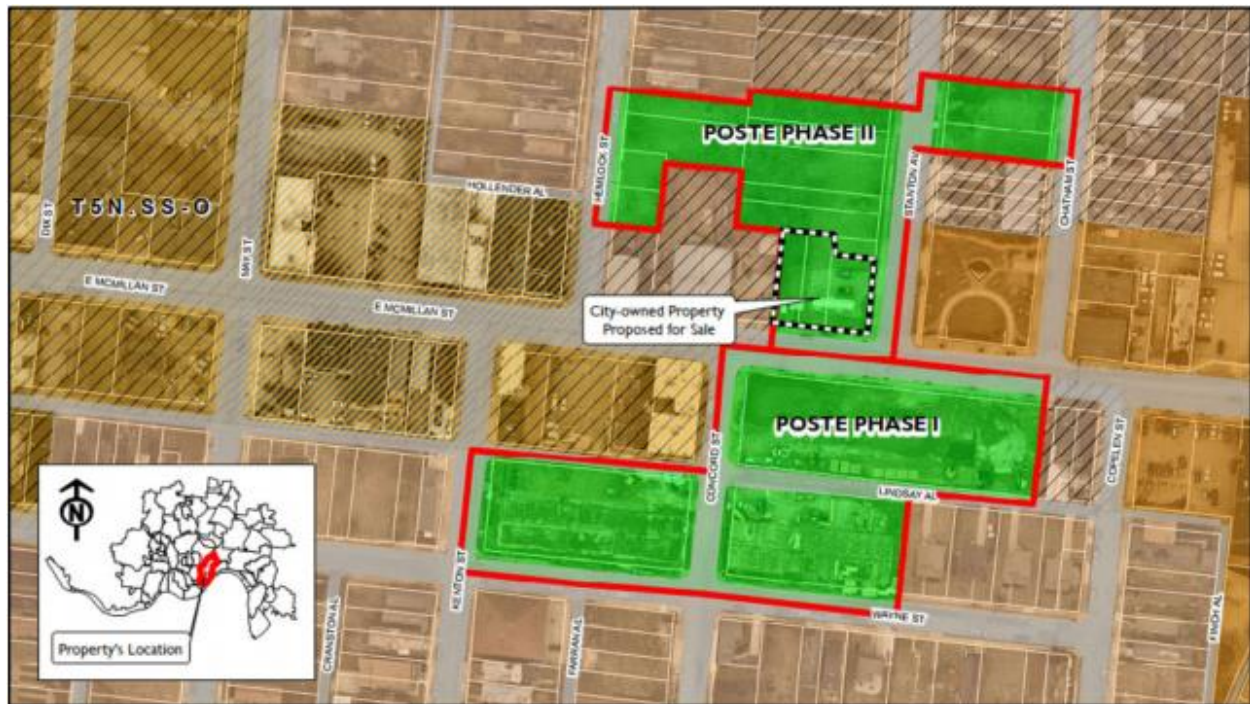
### **RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed in order for the developer to meet pre-development requirements, including deadlines for exercising purchase options for privately owned properties.

Attachment: A. Property Location and Site Plan

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

## Attachment A: Property Location and Site Plan



*Property Location*



*Rendering: Poste Phase I (left) and Poste Phase II (right)*



EMERGENCY  
**City of Cincinnati**

JML

BWB

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

- 2021

**AUTHORIZING** the City Manager to execute a *Property Sale and Development Agreement* with 756 E McMillan, LLC, for the sale of City-owned property located at 750, 752, and 758 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati, for a residential development project consisting of approximately 62 residential units, at an estimated project cost of \$10,508,310.

WHEREAS, the City of Cincinnati owns real property located at 750, 752, and 758 E. McMillan Street in Cincinnati, as described and depicted in the *Property Sale and Development Agreement* attached to this ordinance as Attachment A (the "City Sale Property"), which is under the management and control of the City's Department of Community and Economic Development; and

WHEREAS, 756 E McMillan, LLC ("Developer") desires to purchase the City Sale Property from the City, for a residential development project consisting of approximately 62 residential units, at an estimated project cost of \$10,508,310 (the "Project"); and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing; and

WHEREAS, the City has determined that: (i) the City Sale Property is not needed for municipal purposes; and (ii) eliminating competitive bidding in connection with the City's sale of the City Sale Property is in the best interest of the public because Developer has purchase options on the adjacent properties and is therefore the only party capable of completing the Project; and

WHEREAS, the City's Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the City Sale Property is \$77,000; however, to make the Project economically feasible the City desires to sell the City Sale Property to Developer for less than fair market value; namely, for \$1.00, because the Project will create additional housing and stimulate other economic development in the area, for the benefit of the City; and

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the City Sale Property at its meeting on June 4, 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 *Property Sale and Development Agreement*, in substantially the form attached to this ordinance as Attachment A (the “Agreement”), pursuant to which the City of Cincinnati will sell to 756 E McMillan, LLC (“Developer”) the property located at 750, 752, and 758 E. McMillan Street in Cincinnati (the “City Sale Property”), for a residential development project consisting of 62 residential units, at an estimated project cost of \$10,508,310 (the “Project”).

Section 2. That the City Sale Property is not needed for municipal purposes.

Section 3. That the fair market value of the City Sale Property, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$77,000; however, the City is justified in selling the City Sale Property to Developer for less than fair market value; namely, for \$1.00, because the Project will create additional housing and stimulate other economic development in the area, for the benefit of the City.

Section 4. That eliminating competitive bidding in connection with the City’s sale of the City Sale Property is in the best interest of the City because Developer has purchase options on the adjacent properties and is therefore the only party capable of completing the Project.

Section 5. That proceeds from the sale of the City Sale Property 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 thereof into Miscellaneous Permanent Improvement Fund 757.

Section 6. 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 the Agreement, including, without limitation, executing any and all ancillary agreements, amendments, deeds, plats and other documents.

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 expedite the City's execution of the Agreement so that Developer can meet its deadlines to exercise purchase options for the adjacent third-party owned properties.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Contract No. \_\_\_\_\_

**PROPERTY SALE AND DEVELOPMENT AGREEMENT**

*between the*

**CITY OF CINCINNATI**

*and*

**756 E MCMILLAN, LLC**  
an Indiana limited liability company

Project: Redevelopment of site at 750, 752, and 758 E. McMillan Street

Dated: \_\_\_\_\_, 2021

## PROPERTY SALE AND DEVELOPMENT AGREEMENT

THIS PROPERTY SALE AND DEVELOPMENT AGREEMENT ("**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, having an address of 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), and **756 E MCMILLAN, LLC**, an Indiana limited liability company, having an address of 460 Virginia Avenue, Indianapolis, Indiana 46203 ("**Developer**"). **739 E MCMILLAN ST, LLC**, an Indiana limited liability company and affiliate of Developer ("**Phase I Developer**"), is a party to this Agreement for the exclusive purpose of acknowledging and agreeing to Section 3.

### Recitals:

A. The City is the owner of the real property located at 750, 752, and 758 E. McMillan Street in the Walnut Hills neighborhood as shown on Exhibit A (Site Map) hereto, designated as Hamilton County Auditor's parcel nos. 070-0002-0068-00, 070-0002-0069-00, and 070-0002-0070-00, respectively (the "**City Sale Property**"), which is under the management and control of the City's Department of Community and Economic Development ("**DCED**").

B. The City desires to put the City Sale Property to its highest and best use.

C. Developer has informed the City that it desires to purchase the City Sale Property. Developer owns or is in the process of acquiring certain other property adjacent to the City Sale Property, namely 2507-2519 Stanton Avenue, 2508-2520 Hemlock Street, and 2521-2525 Chatham Street in the Walnut Hills neighborhood and as depicted on Exhibit A (the "**Other Property**"; and, together with the City Sale Property, collectively the "**Property**" or the "**Project Site**").

D. Developer proposes to develop the Project Site into two buildings consisting of approximately 62 residential units at a total project cost (including property acquisition, construction, financing and other hard and soft costs) of approximately \$10,508,310 (as described more particularly in Exhibit B (Scope of Work, Budget and Source of Funds) hereto, the "**Project**" and the "**Improvements**", as applicable), which Developer intends to finance using approximately \$7,355,817 in commercial debt and approximately \$3,152,493 in Developer equity, as shown in Exhibit B (with no further assistance to be provided by the City, other than a real property tax exemption for the Improvements pursuant to a *Community Reinvestment Area Tax Exemption Agreement*).

E. Developer anticipates commencing construction within ninety (90) days of the Closing (defined below) (the "**Target Construction Commencement Date**") and completing construction within twenty-four (24) months of commencing construction.

F. Developer anticipates that the Improvements will create approximately 55 temporary construction jobs and 3 permanent jobs.

G. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research.

H. Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City by providing or assisting in providing housing.

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

J. The City's Real Estate Services Division has determined that the fair market value of the City Sale Property, as determined by appraisal, is \$77,000.00; however, the City is agreeable to selling the City Sale Property to Developer for less than fair market value; namely, for \$1.00 (the "**Purchase Price**"), to make the Project economically feasible.

K. The City, Phase I Developer, and Firehouse Row Holdings, LLC are parties to a certain *Funding, Sale, and Development Agreement* dated June 26, 2018 (the "**Original Agreement**"), pertaining to the sale and development of certain property nearby in proximity to the Property (as more particularly described in the Original Agreement, the "**Phase I Property**"), pursuant to which Phase I Developer is obligated to pay the City an Incentive Recoupment Payment (as defined therein, the "**Incentive Recoupment Payment**") upon a Qualifying Sale (as defined therein, the "**Qualifying Sale**").

L. Developer has requested the City to waive Phase I Developer's obligation to pay the Incentive Recoupment Payment. The City is agreeable to doing so subject to the terms and conditions herein.

M. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the City Sale Property to Developer at its meeting on June 4, 2021.

N. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. \_\_\_\_-2021, passed by City Council on \_\_\_\_\_, 2021.

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

**1. Due Diligence Period (365 days following the Effective Date).**

(A) Due Diligence Materials. Within three hundred sixty-five (365) days of the Effective Date (the "**Due Diligence Period**"), Developer shall conduct due diligence investigations for the Project, and in connection therewith shall obtain, and as they are received shall deliver complete copies thereof to DCED, the following items, all at no cost to the City (the "**Due Diligence Materials**");

- (i) Title: an ALTA commitment for an owner's policy of title insurance covering the Property;
- (ii) ALTA Survey: an ALTA survey of the Property showing all easements and other plottable matters of record;
- (iii) Intentionally deleted;
- (iv) Environmental: phase 1 (and if obtained, a phase 2) environmental site assessment for the Property;
- (v) Conceptual Drawings: conceptual drawings, followed by preliminary plans and specifications for the Improvements;
- (vi) Building Permit & Zoning Approvals: evidence that Developer has obtained a building permit issued by the City's Department of Buildings and Inspections ("**B&I**") for the construction of the Improvements, including any and all zoning approvals that may be required;
- (vii) Construction Schedule: the proposed construction schedule for the Project;

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- (viii) Financing: evidence that all financing necessary for the Project has been or will be obtained, including without limitation evidence of commercial bank financing;
- (ix) As-Built Appraisal: an "as built" appraisal of the Improvements (if required by Developer's lender);
- (x) Acquisition of Other Property: evidence that Developer completed the acquisition and holds fee title to the Other Property; and
- (x) Other Information: such other information and documents pertaining to Developer or the Project as the City may reasonably require.

(B) Developer's Termination of Agreement during Due Diligence Period. If, at any time during the Due Diligence Period Developer determines that the Project is not feasible, Developer shall have the right, in its sole discretion, to terminate this Agreement by delivering a written termination notice to the City at any time during the Due Diligence Period. Within 10 days after the effective date of the termination of this Agreement prior to the Closing pursuant to any of the termination provisions set forth in this Agreement, Developer shall provide the City with a complete set of the Due Diligence Materials obtained by Developer through such date.

(C) City's Termination of Agreement if Closing does not occur by within 365 days of the Effective Date. If for any reason the Closing (as defined below) has not occurred within three hundred sixty-five (365) days of the Effective Date, the City shall have the right to terminate this Agreement by delivering a written termination notice to Developer at any time thereafter (but prior to the Closing if the Closing later occurs). The City acknowledges that Developer intends to spend considerable time and money in conducting its due diligence investigations and agrees that, before exercising its right to terminate this Agreement under this paragraph, the City will work in good faith with Developer in an effort to resolve the City's objections and/or reason for the delay in the Closing (provided that the City shall not be expected to postpone the Closing beyond the date that is three hundred sixty-five (365) days after the Effective Date).

## 2. Closing.

(A) Closing Date. Unless this Agreement is terminated in accordance with the termination provisions hereof, the closing on the City's conveyance of the City Sale Property to Developer (the "**Closing**") shall occur within three hundred sixty-five (365) days of the Effective Date, unless the parties mutually agree upon an earlier or later date. The occurrence of Closing is subject to the parties' satisfaction with the various due diligence matters described in Section 1 above.

(B) Closing Costs and Closing Documents. At the Closing, (i) Developer shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the City Sale Property to Developer (or authorized assignee) by Quitclaim Deed in the form of Exhibit C (Quitclaim Deed) hereto (the "**City's Deed**"). Developer shall pay all conveyance fees, transfer taxes, recording fees, title exam fees, title insurance premiums, settlement fees, and any and all other customary closing costs associated with the Closing such that the City shall not be required to come up with any funds for the Closing; provided, however, the City shall be responsible for discharging any monetary liens on the City Sale Property, other than real estate taxes and assessments. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Developer shall pay all real estate taxes and assessments allocable to the City Sale Property thereafter becoming due (and regardless of the prior period to which they relate; such agreement on the part of Developer constituting partial consideration for the City's agreement to sell the City Sale Property to Developer for less than fair market value). At Closing, the parties shall execute a closing statement and any and all other customary closing documents or affidavits that are necessary for the Closing (except that the City shall not be required to execute a title affidavit or the like). Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Developer shall pay to the City any and all unpaid related and unrelated fines, penalties,

judgments, water or other utility charges, and any and all other outstanding amounts owed to the City by Developer or any of its affiliated entities.

(C) Completion Guaranty. No later than the Closing, and as a condition of the Closing, Developer shall provide the City with a completion guaranty from a parent or affiliated entity whose financial condition is acceptable to the City, substantially in the form of Exhibit D (Completion Guaranty) hereto (the “**Completion Guaranty**”).

(D) Re-conveyance of City Sale Property to City for Failure to Timely Commence Construction. Developer acknowledges that Developer’s agreement to timely commence and complete construction, which will provide economic benefits to the City, is of utmost importance to the City. Accordingly, no later than ninety (90) days following the Target Construction Commencement Date, Developer shall have (i) submitted an executed copy of its construction contract with its general contractor, (ii) applied for and received the required building permits from B&I for construction of the Project, (iii) caused its general contractor to have record a notice of commencement for the Project on the Property, and (iv) commenced on-site construction of the Project (collectively, “**Construction Commencement**”). As memorialized in the City’s Deed, if Construction Commencement has not occurred within ninety (90) days after the Target Construction Commencement Date (the “**Re-conveyance Date**”), then, notwithstanding anything to the contrary in this Agreement, the City shall have the option to repurchase the City Sale Property for the Purchase Price, by limited warranty deed, free and clear of all liens and encumbrances except those, if any, that were in existence immediately prior to the date and time of the Closing, and in the same condition as presently exists, reasonable wear and tear and damage by the elements excepted (and under no circumstances shall the City be required to pay for the value of any improvements made by Developer to the City Sale Property) (the “**Re-conveyance**”). Real estate taxes and assessments shall be prorated at the closing of the Re-conveyance in accordance with local custom. Developer shall pay any and all closing costs associated with the Re-conveyance such that the City shall not be required to come up with any funds for the Re-conveyance. The City may exercise its option to cause the Re-conveyance by given written notice of such exercise to Developer at any time after the Re-conveyance Date, but prior to the date of Construction Commencement.

3. Waiver of Incentive Recoupment Payment. The City hereby agrees to waive Phase I Developer’s obligation to pay the Incentive Recoupment Payment contemplated in the Original Agreement upon written request of Phase I Developer and in accordance with the terms of this Section 3. Phase I Developer intends to sell the Phase I Property (or all of the membership interests in the Phase I Developer) to a third-party purchaser (the “**Purchaser**”) following the Effective Date, which sale constitutes a Qualifying Sale pursuant to the Original Agreement (the “**Phase I Sale**”). Phase I Developer shall deliver (or cause the delivery of) a written notice to the City identifying the Purchaser promptly after the execution of definitive documentation for the sale of the Phase I Property (the “**Qualifying Sale PSA**”). In accordance with the Original Agreement and the *Restrictive Covenant* executed by Phase I Developer for the benefit of the City, dated June 26, 2018, recorded on June 27, 2018, in OR 13698, Page 2084, Hamilton County, Ohio Recorder’s Office (the “**Restrictive Covenant**”), the City’s consent (the “**Phase I Sale City Consent**”) to the Phase I Sale and the assignment of the Original Agreement to Purchaser under the Qualifying Sale PSA is required, subject to the limitations specified in Section 13(A) of the Original Agreement. The delivery of the Phase I Sale City Consent shall be a mutual condition to the Closing under this Agreement. Notwithstanding anything to the contrary in the Original Agreement, upon the earlier of (i) Construction Commencement for the Project or (ii) payment of the Incentive Recoupment Payment related to the Phase I Sale, and upon written request by the Developer or the Phase I Developer, the City will provide an executed, recordable release of the Restrictive Covenant. Nothing in this provision shall be construed to amend or modify any of the City’s other rights or remedies in the Original Agreement.

#### 4. Construction.

(A) Maintenance of Property Between Closing and Prior to Construction. Between the Closing and Construction Commencement, Developer, at no expense to the City, shall maintain the Property in safe and presentable condition, including keeping the site reasonably free of debris and other unsightly materials.

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(B) Commencement and Completion; Transfer of City Sale Property Prohibited. Following the Closing, Developer shall commence and thereafter complete the redevelopment of the Property in substantial accordance with the City-approved construction schedule and City-approved plans and specifications. Except as may be otherwise specifically permitted under the terms of this Agreement (including transfers expressly permitted pursuant to paragraph 11(A)), Developer shall not transfer title to the City Sale Property to a third party prior to substantial completion of construction, and any attempt to do so shall constitute a default under this Agreement. (Developer's transfer of title to the City Sale Property to an affiliate of Developer upon satisfaction of the conditions set forth under paragraph 11(A) of this Agreement shall be permitted). During construction, Developer shall take all reasonable steps to avoid materially disrupting the occupants of adjacent properties.

(C) Applicable Laws. Developer shall obtain all necessary permits, licenses and other governmental approvals and shall comply with all applicable federal, state and local laws, codes, ordinances and other governmental requirements applicable to the Project, including without limitation those set forth on Exhibit E (Additional Requirements) hereto, to the extent applicable. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever permits and other approvals from the Department of City Planning, B&I, the Department of Transportation and Engineering ("DOT"), Metropolitan Sewer District ("MSD"), Greater Cincinnati Water Works ("GCWW"), Storm Water Management Unit (SMU), other City departments, City Planning Commission, or Cincinnati City Council that may be required in connection with the Project.

(D) Barricade Fees Payable to DOTE. Without limitation of the foregoing, Developer acknowledges that, if applicable, (i) it will be required to obtain a barricade permit and pay barricade fees to DOTE for the closure of any sidewalks and curb lanes of the adjacent streets if and when demolition or construction necessitates closing the adjoining streets or portions thereof, and (ii) with many entities competing for space on City streets, it is important that construction activities be limited to as little space and the shortest duration as possible and that all work be scheduled and performed to cause the least interruption to vehicular travel, bicyclists, pedestrians and businesses; therefore, DOTE shall have the right to evaluate Developer's need for a barricade throughout construction and, if at any time after consultation with Developer DOTE determines that a barricade is not needed, DOTE shall have the right to withdraw the permit.

(E) Inspection of Work. During construction, the City, its employees and agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations hereunder.

(F) Mechanics Liens. Developer shall not permit any mechanics' or other similar liens to remain on the Property during construction, provided however, that Developer may contest the validity of any claim or demand in good faith and in accordance with such rights to contest as may be permitted by Developer's construction lender and with diligence and continuity to the City's reasonable satisfaction.

(G) Project Information. During construction, Developer shall provide the City with such additional pertinent information pertaining to the Project as the City may reasonably request.

(H) Environmental Indemnity. As a material inducement to the City to enter into this Agreement, Developer does hereby agree that, with respect to any environmental condition on or otherwise affecting the City Sale Property that exists at or prior to the time of the City's execution of this Agreement (herein, a "**Pre-existing Environmental Condition**"), and regardless of whether or not such Pre-existing Environmental Condition is described in any environmental assessment or any other environmental report that may have been previously furnished by Developer to the City, Developer shall (i) at no expense to the City, promptly take all steps necessary to remediate such Pre-existing Environmental Condition, within a reasonable time after discovery, to the satisfaction of the City's Office of Environment and Sustainability, and (ii) defend, indemnify, and hold the City harmless from and against any and all actions, suits, claims, losses, costs (including without limitation reasonable attorneys' fees), demands, judgments, liability, and damages suffered or incurred by or asserted against the City as a

result of or arising from any such Pre-existing Environmental Condition. Developer's remediation and indemnity obligations under this paragraph shall survive the completion of the Project.

(I) Recognition of City Support. Developer shall acknowledge the support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, project and identification signage, and any publicity such as that appearing on the Internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a participant, Developer shall use either the phrase "Project made possible by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. Developer's obligations under this section shall commence on the Effective Date and shall terminate on the date on which the construction has been completed.

## **5. Insurance; Indemnity.**

(A) Insurance during Construction. From Construction Commencement through completion of the Project, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, naming the City as an additional insured with respect to the Project, (ii) builder's risk insurance in the amount of one hundred percent (100%) of the value of the improvements constructed as part of the Project, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Developer's lender(s) for the Project, and (v) such other insurance as may be reasonably required by the City. Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City.

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

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

**6. Casualty; Eminent Domain.** If the Property is damaged or destroyed by fire or other casualty during construction, or if any portion of the Property is taken by exercise of eminent domain (federal, state, or local), Developer shall cause the damage to be repaired, as expeditiously as possible, and to the extent practicable, to substantially the same condition that existed immediately prior to such occurrence. To the extent the City's participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the insurance proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all reconstruction in accordance with the applicable requirements set forth herein. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the damage is being repaired or restored.

## **7. Default; Remedies.**

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

(i) The failure of Developer to perform any obligation under this Agreement, and failure to correct such failure within thirty (30) days after their receipt of written notice thereof from the City (the “**Cure Period**”); provided, however, that if the nature of the default is such that it cannot reasonably be cured during the Cure Period, Developer shall not be in default under this Agreement so long as Developer commences to cure the default within such Cure Period and thereafter diligently completes such cure within sixty (60) days after receipt of the City’s initial notice of default; or

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

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

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

### **To the City:**

City of Cincinnati  
Dept. of Community & Economic Development  
805 Central Avenue, Suite 700  
Cincinnati, OH 45202

### **To Developer:**

756 E McMillan, LLC  
460 Virginia Avenue  
Indianapolis, Indiana 46203  
Attention: Tadd M. Miller

With a copy to:  
Dinsmore & Shohl LLP  
One Indiana Square, Suite 1800  
Indianapolis, Indiana 46204  
Attention: Samantha R. Hargitt

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

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

(i) Developer is duly organized and validly existing under the laws of the State of Indiana, is or will, prior to Closing, be authorized to do business in the State of Ohio and has properly filed all certificates and reports required to be filed by it under the laws of the State of

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Indiana and the State of Ohio, and is not in violation of any laws of the State of Indiana or the State of Ohio relevant to the transactions contemplated by this Agreement.

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

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

(iv) There are no actions, suits, proceedings or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer, at law or in equity or before or by any governmental authority, which would materially adversely affect Developer's ability to perform the Developer's obligations set forth under this Agreement.

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

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

(vii) Neither Developer (nor its affiliates, if applicable) owes any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

#### **10. Reporting Requirements.**

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

(B) City's Right to Inspect and Audit. From and after the Effective Date and for a period of three years after the Project has been completed, Developer shall permit the City and its designees and auditors to have reasonable access to and to inspect and audit Developer's Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

#### **11. General Provisions.**

(A) Assignment. Developer shall not assign its rights or interests under this Agreement or any ancillary agreements with the City without the prior written consent of the City, *provided* that the City shall not unreasonably withhold, condition or delay its consent to assignments to its parent, subsidiaries or affiliates (in each case with prior written notice to the City); and *provided*, further, that the City may require the execution of an amendment hereto or other clerical documentation to effect such assignment or substitution of Developer. The foregoing notwithstanding: (i) Developer's collateral assignment of its rights and interests under this Agreement to its lender for the Project (and subsequent assignments by such lender) shall be permitted; (ii) Developer may assign its rights and interests under this Agreement to a wholly-owned affiliate of Developer or to a wholly-owned affiliate of Developer's parent entity provided that (a) no such assignment shall relieve Developer from any obligations to the City under this Agreement, and, notwithstanding anything in the assignment document to the contrary, as between the City and Developer, Developer shall remain primarily liable to the City for the performance of all obligations of Developer under this Agreement, (b) Developer shall notify the City in writing of any such proposed assignment prior to the effective date of the assignment, and shall provide the City with a copy of the executed assignment document within 2 business days following the effective date of the assignment, and (c) Developer shall provide such additional information about the assignee as the City may request, including without limitation information establishing that the assignee is in good standing with the City and has the ability to assume and fully perform Developer's obligations under this Agreement; and (iii) Developer may assign its rights and interests under this Agreement in connection with a sale and transfer of all of its interest in and to the Project and the City Sale Property, including all contract rights and entitlements to and for the City Sale Property to a third party purchaser (a "**Successor Developer**"), and such Successor Developer shall assume all rights and obligations of the Developer hereunder; provided that the prior written consent of the City shall be required unless (y) the Successor Developer is the Purchaser (or an affiliate controlled by or under common control with the Purchaser) of the Phase I Property pursuant to the Qualifying Sale PSA, and (z) the City has delivered the Phase I Sale City Consent. Upon the assignment to and assumption by a Successor Developer pursuant to (iii), the original Developer shall be released from all further obligations under this Agreement beginning as of the date of such assignment and assumption.

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

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

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

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

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

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

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

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

(J) No Third Party Beneficiaries. No third-party beneficiary rights are created by this Agreement.

(K) No Brokers. The parties represent that they have not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee or other compensation as a result of the parties' execution of this Agreement or the sale of the City Sale Property.

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

(M) Contingency for Legislative Authorization from City Council. Notwithstanding anything to the contrary in this Agreement, the City shall not be in breach of this Agreement if for any reason City Council does not pass any and all additional ordinances as may be necessary for the City to carry out the terms of this Agreement.

(N) Survival. The provisions of this Agreement shall survive the City's execution and delivery of the City's Deed and shall not be deemed to have merged therein.

**12. Exhibits.** The following exhibits are attached to this Agreement and made a part hereof:

Exhibit A - *Site Map*

Exhibit B - *Scope of Work; Preliminary Budget; Source of Funds*

Exhibit C - *Quitclaim Deed*

Exhibit D - *Completion Guaranty*

Exhibit E - *Additional Requirements*

**13. Coordinated Report Conditions (CR #79-2019).** Developer shall abide by the following additional conditions:

(a) DOTe: DOTe shall review and approve future development plans pertaining to the City Sale Property.

(b) MSD: Prior to applying for permits for the Project from B&I, the Metropolitan Sewer District of Greater Cincinnati ("**MSD**") may require that Developer submit a Request for Availability for Sewer Service ("**RASS**"). The RASS will outline any additional MSD project requirements, including, without limitation, need for MSD tap permits and/or an Ohio EPA Permit to Install, utilization of licensed and bonded sewer tappers with MSD, sewer inspection scheduling, project on-site separation of flow requirements, MSD detention requirements, MSD excavation/fill permit for work over or near existing sewers, identifying easements, and a recommendation for Developer or Developer's general contractor to coordinate with Stormwater Management Utility for additional stormwater and detention requirements.

(c) GCWW: There are three inactive 5/8" lead water service branches (H-60456, H-30207 and H-18577) attached to portions of the Property. Because the existing water service branches are lead, these branches cannot be repurchased or reactivated. Developer must purchase new water service branches for these portions of the Property. Developer shall comply with all requirements of GCWW pertaining to water service for the Property, including without limitation the disconnection and abandonment of any water branches no longer needed, and



upgrading the water service to meet future fire and/or domestic water demands, at no cost to the City or GCWW, as more particularly described in CR #79-2019.

(d) Cincinnati Bell. There are existing underground telephone facilities at the City Sale Property. 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.

*SIGNATURE PAGE FOLLOWS*

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

**CITY OF CINCINNATI**

**756 E MCMILLAN, LLC**

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

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

Printed name: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

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

Date: \_\_\_\_\_, 2021

Approved as to Form:

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

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

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

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

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

For the exclusive purpose of acknowledging and agreeing to Section 3 hereof with respect to the terms and conditions pertaining to the City's waiver of the Incentive Recoupment Payment:

**739 E MCMILLAN ST, LLC**

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

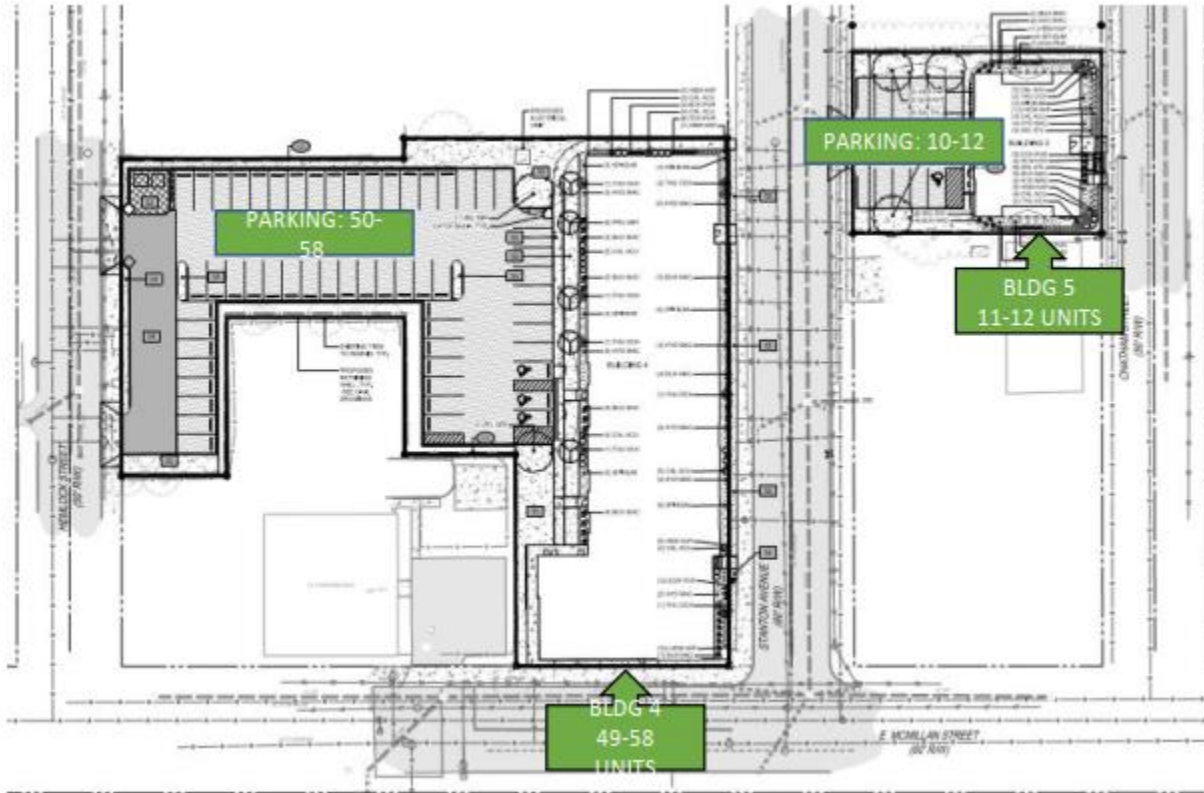
Printed name: \_\_\_\_\_

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

Date: \_\_\_\_\_, 2021

**EXHIBIT A**  
to Property Sale and Development Agreement

**SITE MAP**



## **EXHIBIT B**

to Property Sale and Development Agreement

### **SCOPE OF WORK; PRELIMINARY BUDGET; SOURCE OF FUNDS**

#### **I. Statement of Work**

This project will result in the construction two buildings consisting of approximately 62 residential market rate, rental units as well as approximately 60 surface parking spaces. The cost of construction is estimated to be \$8 million and the total project cost is estimated be \$10.5 million.

#### **II. Sources and Uses**

##### **Sources**

Debt Financing	\$7,355,817
Equity	\$3,152,493
<b>Total Sources</b>	<b>\$10,508,310</b>

##### **Uses**

Land Purchase	\$262,000
Construction	\$8,000,000
Construction Management	\$40,000
Furniture, Fixtures & Equipment	\$65,000
Due Diligence	\$49,025
Applications & Permits	\$105,000
Legal	\$102,500
Engineering	\$56,200
Architectural	\$269,325
Accounting	\$9,822
Finance	\$438,748
Tax, Insurance & Utilities	\$108,526
Marketing	\$24,240
Other Development Costs	\$90,005
General Overhead	\$420,000
Contingency	\$467,920
<b>Total Uses</b>	<b>\$10,508,310</b>

## **EXHIBIT C**

to Property Sale and Development Agreement

QUITCLAIM DEED

*SEE ATTACHED*

-----  
[SPACE ABOVE FOR RECORDER'S OFFICE]

### QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), for valuable consideration paid, hereby grants and conveys to **756 E MCMILLAN, LLC**, an Indiana limited liability company, the address of which is [\_\_\_\_] ("**Developer**"), all of the City's right, title and interest in and to the real property described on Exhibit A (Legal Description) hereto (the "**Property**").

Property Address: 750, 752, and 758 E. McMillan Street, Cincinnati, OH 45202  
Auditor's parcels: 070-0002-0068-00, 070-0002-0069-00, and 070-0002-0070-00

Re-conveyance of Property to City for Failure to Timely Commence Construction. The City and Developer are parties to a *Property Sale and Development Agreement* dated \_\_\_\_\_, 2021 (the "**Development Agreement**"). As provided in the Development Agreement, if Developer fails to obtain a building permit and commence on-site construction at the Property on or before the date that is 90 days after the Target Construction Commencement Date (as defined in the Development Agreement), upon written request of the City, Developer shall re-convey the Property to the City free and clear of all liens and encumbrances, except those, if any, that were in existence immediately prior to the date and time of the Closing (as defined in the Development Agreement), as more particularly described in the Development Agreement. At such time as the City no longer has the right to reacquire the Property under the Agreement, the City, at Developer's written request, shall execute and deliver to Developer a release of such rights for recording in the Hamilton County, Ohio Records.

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

Prior instrument reference: Official Record \_\_\_\_, Page \_\_\_\_, Hamilton County, Ohio Records.

Executed on \_\_\_\_\_, 2021.

CITY OF CINCINNATI

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Paula Boggs Muething, City Manager 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 hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved as to Form:

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

This instrument prepared by:

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

Exhibit:  
Exhibit A – *Legal Description*

Exhibit A

Legal Description

[TO BE ATTACHED TO EXECUTION VERSION]



## **EXHIBIT D**

to Property Sale and Development Agreement

### **COMPLETION GUARANTY**

*SEE FOLLOWING PAGE*

## COMPLETION GUARANTY

This Completion Guaranty ("**Guaranty**") is made as of the Effective Date (as defined on the signature page hereof) by [\_\_\_\_], the address of which is [\_\_\_\_] ("**Guarantor**"), in favor of the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**").

### Recitals:

A. The City and **756 E MCMILLAN, LLC**, an Indiana limited liability company ("**Developer**", being an affiliate of Guarantor), are parties to a *Property Sale and Development Agreement* dated \_\_\_\_\_, 2021 (the "**Agreement**"). Capitalized terms used, but not defined, herein shall have the meanings ascribed thereto in the Agreement.

B. Pursuant to the Agreement, (i) the City is selling to Developer the City-owned property located at 750, 752, and 758 E. McMillan Street in Cincinnati, and (ii) Developer is obligated to complete a mixed-use development of the property, as more particularly described in the Agreement (defined therein as the "**Project**").

C. It is a condition of the Agreement that Guarantor provide this Guaranty to the City with respect to the Project.

NOW, THEREFORE, for and in consideration of the City's execution of the Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby promises and agrees as follows:

### 1. Guaranty.

(A) Guarantor hereby absolutely, unconditionally and irrevocably guarantees to the City the full and prompt performance by Developer of Developer's obligations under the Agreement to complete the Project in accordance with, and subject to, the terms and conditions of the Agreement, including payment to the City of any and all losses, damages and expenses (including without limitation attorneys' fees) suffered or incurred by the City and arising out of the failure by Developer under the Agreement to do so, regardless of whether such losses, damages or expenses are expressly provided for under the Agreement or are then otherwise allowable by law (collectively, the "**Guaranteed Obligations**").

(B) If Developer fails to fulfill Developer's obligations under the Agreement to complete the Project, resulting in a notice of default from the City to Developer under the Agreement, and the City intends to enforce this Guaranty as a result of such default, the City shall notify Guarantor thereof in writing, whereupon Guarantor, within ten (10) days after its receipt of such notice, shall take all steps necessary to cure the default (including, for example, providing additional funding for the Project if necessary); failing which the City shall have the right to demand that Guarantor repay to the City all previously disbursed Funds under the Agreement, payable within ten (10) days after the City's written demand. All rights and remedies of the City under this Guaranty are cumulative, and nothing in this Guaranty shall be construed as limiting the City's rights and remedies available under the Agreement or at law or in equity. Notwithstanding the foregoing, no amendment to the Agreement materially expanding the scope of the Project shall be binding on the Guarantor unless it is approved in writing by Guarantor.

(C) The City may from time to time, in the exercise of its sole and absolute discretion and without providing notice to, or obtaining the consent of, Guarantor, and without in any way releasing,

altering, or impairing any of Guarantor's obligations and liabilities to the City under this Guaranty: (i) waive compliance with, or any default occurring under, or grant any other indulgence with respect to, the Agreement; (ii) modify or supplement any of the provisions of the Agreement upon written agreement with Developer; (iii) grant any extension or renewal of or with respect to the Agreement upon written agreement with Developer and/or effect any release, compromise or settlement in connection therewith; and (iv) deal in all respects with Developer as if this Guaranty were not in effect.

2. Liability of Guarantor.

(A) Guarantor's liability under this Guaranty (i) shall be primary, direct and immediate and is a guaranty of performance and completion and not of collection; (ii) shall not be conditioned or contingent upon the pursuit by Developer of any remedy that it may have against its contractors, subcontractors or any other person with respect to the Project or at law or in equity; and (iii) shall be unconditional, irrespective of the genuineness, validity, regularity or enforceability of the Agreement, as the case may be, or of the adequacy of any consideration or security given therefor or in connection therewith, or of any other circumstance that might otherwise constitute a legal or equitable discharge of a surety or a guarantor under applicable law. Guarantor hereby waives any and all defenses at law or in equity that may be available to Guarantor by virtue of any such circumstance.

(B) Without limiting the generality of the foregoing provisions of this Section 2, the City shall not be required (i) to make any demand of Developer or any other person; or (ii) otherwise to pursue or exhaust its remedies against Developer or any other person or entity or against the Project, before, simultaneously with, or after enforcing any of its rights and remedies under this Guaranty against Guarantor. The City may bring one or more successive and/or concurrent actions against Guarantor, either as part of any action brought against Developer or in one or more separate actions, as often as the City deems advisable in the exercise of its sole and absolute discretion.

(C) Guarantor's liability under this Guaranty shall continue after any assignment or transfer by the City or Developer of any of their respective rights or interests under the Agreement or with respect to the Project until the satisfaction of all provisions contained in this Guaranty (but the foregoing shall not be deemed to be or constitute the consent by the City to any such assignment by Developer, which shall continue to be governed by the terms of the Agreement). Guarantor's liability under this Guaranty shall not be affected by any bankruptcy, reorganization or insolvency of Developer or any successor or assignee thereof or by any disaffirmance or abandonment by a trustee of Developer.

(D) Waivers. Guarantor hereby expressly waives: (i) presentment and demand for payment of any sum payable under the provisions of the Agreement, and protest of any nonpayment thereof; (ii) notice of acceptance of this Guaranty and of such presentment, demand and protest; (iii) notice of any default under this Guaranty or under the provisions of the Agreement, except as stated herein; (iv) demand for observance or performance, and enforcement, of any of the terms or conditions of this Guaranty, and/or of the Agreement, except as stated herein; (v) any and all other notices and demands that may otherwise be required by law to be given or made (except to the extent expressly provided for in this Guaranty); and (vi) any and all rights that Guarantor may have to a trial by jury in any action brought on or with respect to this Guaranty, all rights and remedies accorded by applicable law to Guarantor, including, without limitation, any extension of time conferred by any law now or hereafter in effect, and all rights of redemption, homestead, dower and other rights or exemptions of every kind, whether common law or statutory. In addition, Guarantor hereby expressly agrees that, if this Guaranty is enforced by suit or otherwise, or if the City exercises any of its rights or remedies under the provisions of the Agreement upon any default by Developer in performing any of Developer's obligations thereunder, Guarantor shall reimburse the City, upon demand, for any and all expenses, including without limitation attorneys' fees, that the City incurs in connection therewith, payable within ten (10) days after the City's written demand.

3. Subrogation. No payment by Guarantor under this Guaranty shall give Guarantor any right of subrogation to any rights or remedies of the City against Developer under the Agreement. Until Developer has paid and performed all of its obligations under the Agreement, Guarantor hereby waives

all rights of contribution, indemnity or subrogation with respect to Developer that might otherwise arise from Guarantor's performance under this Guaranty.

4. Effect of this Guaranty. Guarantor hereby warrants to the City that: (A) Guarantor (i) has a financial interest in the Project; (ii) is duly organized, validly existing and in good standing under the laws of the [State of \_\_\_\_] and is authorized to do business in the State of Ohio; (iii) has full power, authority and legal right to execute, acknowledge and deliver this Guaranty; and (iv) there are no actions, suits or proceedings pending or to the knowledge of Guarantor, threatened against Guarantor, at law or in equity, or before any governmental department, commission, board, bureau, agency or instrumentality which involve the possibility of any judgment or order that may result in any material adverse effect upon Guarantor; and (B) this Guaranty constitutes Guarantor's binding and enforceable legal obligation.

5. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person; (ii) upon receipt or refusal if delivered by overnight delivery with any reputable overnight courier service; or (iii) upon receipt or refusal if sent by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to Guarantor and the City, as the case may be, at the addresses set forth in the introductory paragraph of this Guaranty or such other address as may be designated from time to time by notice given to the other party in the manner prescribed herein. Guarantor shall simultaneously send, by U.S. certified mail, a copy of each notice given by Guarantor to the City hereunder to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, Ohio 45202.

6. General Provisions.

(A) Amendment. This Guaranty may be amended or supplemented by, and only by, an instrument executed by the City and Guarantor.

(B) Waiver. Neither party hereto shall be deemed to have waived the exercise of any right which it holds under this Guaranty unless that waiver is made expressly and in writing (and no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

(C) Applicable Law. This instrument shall be given effect and construed by application of the laws of the City of Cincinnati and the State of Ohio, and any action or proceeding arising under this Guaranty shall be brought only in the Hamilton County Court of Common Pleas. Guarantor hereto agrees that the City shall have the right to join Developer in any action or proceeding commenced by the City under this Guaranty.

(D) Time of Essence. Time shall be of the essence of this Guaranty.

(E) Headings. The headings of the paragraphs and subparagraphs of this Guaranty are provided herein for and only for convenience of reference and shall not be considered in construing their contents.

(F) Construction. As used in this Guaranty, (i) the term "person" means a natural person, a trustee, a corporation, a partnership, a limited liability company, and any other form of legal entity; and (ii) all references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, (c) to any paragraph or subparagraph shall, unless herein expressly indicated to the contrary, be deemed to have been made to such paragraph or subparagraph of this Guaranty, and (d) to Guarantor, the City, and Developer shall be deemed to refer to each person hereinabove so named and their respective heirs, executors, personal representatives, successors and assigns.

(G) Severability. No determination by any court or governmental body that any provision of this Guaranty or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (i) any other such provision, or (ii) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with applicable law.

(H) Entire Agreement. This Guaranty represents the complete understanding between or among the parties hereto as to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, statements or agreements, either written or oral, between or among the parties hereto as to the same.

(I) Term. This Guaranty shall be effective upon the execution thereof and shall remain in effect until such time as Developer completes the Project, as evidenced by a certificate of occupancy issued therefor by the City's Department of Buildings and Inspections. Upon issuance of such certificate of occupancy, this Guaranty shall terminate and be of no further force and effect.

*[Signature Page Follows]*

Executed as of \_\_\_\_\_, 2021 (the “**Effective Date**”).

GUARANTOR:

[\_\_\_\_\_]

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

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

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

Approved as to Form:

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

This instrument prepared by:

City of Cincinnati  
Office of the City Solicitor  
801 Plum Street, Room 214  
Cincinnati, Ohio 45202

## EXHIBIT E

to Property Sale and Development Agreement

### ADDITIONAL REQUIREMENTS

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

This Exhibit serves two functions:

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

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

(A) Construction Workforce.

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

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

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if

Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "**Construction Workforce Goals**").

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

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

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

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

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

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

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

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Conferring with Trade Unions.

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

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



(ii) Contracts and Subcontracts; Competitive Bidding.

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

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

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

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

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

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

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

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

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

preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

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

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

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

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

(F) Small Business Enterprise Program.<sup>1</sup>

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

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

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<sup>1</sup> Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement, this section will be revised.

- (1) Including qualified SBEs on solicitation lists.
- (2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.
- (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

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

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

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

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

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

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

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

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

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

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

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

(M) Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "**Wage Enforcement Chapter**"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons

entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

(N) Americans With Disabilities Act; Accessibility.

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

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “**Contractual Minimum Accessibility Requirements**” means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of “qualifying incentives” for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines “qualifying incentives” as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, “qualifying incentives” does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

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

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

\* \* \*

*Addendum I*  
*to*  
*Additional Requirements Exhibit*  
City's Prevailing Wage Determination

*[TO BE ATTACHED TO EXECUTION VERSION]*



202102329  
**Date:** June 16, 2021

**To:** Councilmember David Mann  
**From:** Andrew W. Garth, City Solicitor *AWG*  
**Subject:** **Emergency Ordinance – City Council FY 2022 Restricted Funds Budget  
Changes: Millcreek Valley Conservancy District (MVCD)**

---

Transmitted herewith is an emergency ordinance captioned as follows:

**AUTHORIZING** the transfer and appropriation of the sum of \$40,000 from the unappropriated surplus of the Stormwater Management Fund to the Stormwater Management Utility's Stormwater Management Fund non-personnel operating budget account no. 107x311x7400 for the purpose of implementing Council's recommended changes to the FY 2022 Restricted Funds Operating Budget in order to provide one-time funding for the Millcreek Valley Conservancy District to implement flood control projects in the Millcreek Valley corridor.

AWG/CMZ/(lnk)  
Attachment  
342185

EMERGENCY

City of Cincinnati

AEP

AWB

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

- 2021

**AUTHORIZING** the transfer and appropriation of the sum of \$40,000 from the unappropriated surplus of the Stormwater Management Fund to the Stormwater Management Utility's Stormwater Management Fund non-personnel operating budget account no. 107x311x7400 for the purpose of implementing Council's recommended changes to the FY 2022 Restricted Funds Operating Budget in order to provide one-time funding for the Millcreek Valley Conservancy District to implement flood control projects in the Millcreek Valley corridor.

WHEREAS, the Millcreek Valley Conservancy District has received annual assistance from the City through the Metropolitan Sewer District and Greater Cincinnati Water Works; and

WHEREAS, additional support is needed to provide for a part-time staffer to begin implementation of State of Ohio funded capital improvement projects related to flood control; and

WHEREAS, City Council wishes to provide funding in the amount of \$40,000 to the Millcreek Valley Conservancy District to provide this additional support; now, therefore,

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

Section 1. That the sum of \$40,000 is hereby transferred and appropriated from the unappropriated surplus of the Stormwater Management Fund to the Stormwater Management Utility's Stormwater Management Fund non-personnel operating budget account no. 107x311x7400 for the purpose of implementing Council's recommended changes to the FY 2022 Restricted Funds Operating Budget in order to provide one-time funding for the Millcreek Valley Conservancy District to implement flood control projects in the Millcreek Valley corridor.

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

Section 3. That the effective date of this ordinance shall be July 1, 2021.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021, for the current expenses and other expenses of the City of Cincinnati including leveraged support for the Millcreek Valley Conservancy District.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**June 21, 2021**

**To:** Members of the Budget and Finance Committee 202102330

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – City Council Omnibus Adjustments: FY 2022 General Capital Budget**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer and return to source Funds 757 and 758 of the sum of \$1,000,000 from various capital improvement program project accounts for the purpose of decreasing certain existing capital improvement program project accounts and providing resources for the FY 2022 Capital Budget, according to Schedule A of the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Special Housing Trust Fund 761 to an existing capital improvement program project account for the purpose of providing resources for that capital improvement program project account, according to Schedule B of the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$1,000,000 from the unappropriated surplus of Funds 757 and 758 to new capital improvement program project accounts for the purpose of providing resources for certain capital improvement program project accounts, according to Schedule C of the attached Schedule of Transfer; and **DECLARING** the Warsaw Avenue Creative Campus project to be for a public purpose, all for the purpose of carrying out the FY 2022 Capital Improvement Program.

Pursuant to Motion #202102283, this Emergency Ordinance provides funding for the following items for inclusion in the FY 2022 General Capital Budget: Pedestrian Safety Improvements, \$500,000; and Warsaw Avenue Creative Campus, \$500,000.

The reason for the emergency is the immediate need to ensure that necessary funding is in place prior to carrying out City's Fiscal Year 2022 Budget, which begins July 1, 2021.

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

Attachments



EMERGENCY

City of Cincinnati

AEP

BWB

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

- 2021

**AUTHORIZING** the transfer and return to source Funds 757 and 758 of the sum of \$1,000,000 from various capital improvement program project accounts for the purpose of decreasing certain existing capital improvement program project accounts and providing resources for the FY 2022 Capital Budget, according to Schedule A of the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Special Housing Trust Fund 761 to an existing capital improvement program project account for the purpose of providing resources for that capital improvement program project account, according to Schedule B of the attached Schedule of Transfer; **AUTHORIZING** the transfer and appropriation of the sum of \$1,000,000 from the unappropriated surplus of Funds 757 and 758 to new capital improvement program project accounts for the purpose of providing resources for certain capital improvement program project accounts, according to Schedule C of the attached Schedule of Transfer; and **DECLARING** the Warsaw Avenue Creative Campus project to be for a public purpose, all for the purpose of carrying out the FY 2022 Capital Improvement Program.

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

Section 1. That the transfer and return to source Funds 757 and 758 of the sum of \$1,000,000 from various capital improvement program project accounts is hereby authorized for the purpose of decreasing certain existing capital improvement program project accounts and providing resources for the FY 2022 Capital Budget, according to Schedule A of the attached Schedule of Transfer.

Section 2. That the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Special Housing Trust Fund 761 to an existing capital improvement program project account is hereby authorized for the purpose of providing resources for that capital improvement program project account, according to Schedule B of the attached Schedule of Transfer.

Section 3. That the transfer and appropriation of the sum of \$1,000,000 from the unappropriated surplus of Funds 757 and 758 to new capital improvement program project

accounts is hereby authorized for the purpose of providing resources for certain capital improvement program project accounts, according to Schedule C of the attached Schedule of Transfer.

Section 4. That Council hereby declares that the Warsaw Avenue Creative Campus capital improvement program project serves a public purpose because the project will foster local improvements and investment, increase neighborhood vitality, and has an estimated life or period of usefulness of five years or more.

Section 5. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the terms of Sections 1 through 4 hereof.

Section 6. That Sections 1 through 5 hereof shall become effective as of July 1, 2021.

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 the immediate need to ensure that necessary funding is in place prior to carrying out the City's Fiscal Year 2022 Budget, which begins July 1, 2021.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

That the amounts set forth hereinafter are hereby returned to source in the amount of \$1,000,000.00 to the individual funds listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
City Manager 101	03168	Neighborhood Incentive Dist. Loan Fund '06	758	Income Tax Permanent Improvement Fund	1,700,000.00	800,000.00	900,000.00
Community & Economic Development Housing Development 162	181602	Core 4 Strategic Housing Notice of Funding Availability	757	Miscellaneous Permanent Improvement Fund	500,000.00	400,000.00	100,000.00

That the amounts set forth hereinafter totaling \$100,000.00 are hereby transferred and appropriated to the individual project accounts for the improvements listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
Community & Economic Development Housing Development 162	761	Special Housing Trust Permanent Improvement Fund	181602	Core 4 Strategic Housing Notice of Funding Availability	400,000.00	500,000.00	100,000.00



That the amounts set forth hereinafter are hereby transferred and appropriated, reprogramming in the amount of \$1,000,000.00 for the improvements listed hereinafter:

DEPT. DIVISION	PROJECT OR FUND TO BE TRANSFERRED FROM		PROJECT OR FUND TO BE TRANSFERRED TO		TOTAL BUDGETED COST ALL FUNDS		AMOUNT TO BE APPROPRIATED OR TRANSFERRED
	NUMBER:	DESCRIPTION	NUMBER:	DESCRIPTION	PRIOR	REVISED	
Community & Economic Development Economic Development 164	758	Income Tax Permanent Improvement Fund	221623	Warsaw Avenue Creative Campus	0.00	500,000.00	500,000.00
Transp. & Eng Planning 232	757	Miscellaneous Permanent Improvement Fund	222383	Pedestrian Safety Improvements	754,000.00	854,000.00	100,000.00
	758	Income Tax Permanent Improvement Fund	222383	Pedestrian Safety Improvements	854,000.00	1,254,000.00	400,000.00

**June 21, 2021**

**To:** Members of the Budget and Finance Committee 202102331

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – OEPA 2021 Recycle Ohio Grant**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$50,000 from the Ohio Environmental Protection Agency 2021 Recycle Ohio Grant program to Office of Environment and Sustainability (OES) non-personnel operating budget account no. 050x104x7200 for the purpose of supporting the recycling cart relabeling project; **AUTHORIZING** the City Manager to accept and appropriate local matching resources in the amount of up to \$12,500 from Rumpke Recycling to OES non-personnel operating budget account no. 050x104x7200; **AUTHORIZING** the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8523; and **AUTHORIZING** the Finance Director to deposit the matching resources into General Fund revenue account no. 050x8571.

Approval of this Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$50,000 from the Ohio Environmental Protection Agency (OEPA) 2021 Recycle Ohio Grant Program to the Office of Environment and Sustainability (OES) non-personnel operating budget account no. 050x104x7200 for the purpose of supporting the recycling cart relabeling project. This Emergency Ordinance also authorizes the City Manager to accept and appropriate local matching resources in the amount of up to \$12,500 from Rumpke Recycling to OES non-personnel operating budget account no. 050x104x7200. Approval of this Emergency Ordinance further authorizes the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8523 and matching resources into General Fund revenue account no. 050x8571.

With OEPA and Rumpke Recycling resources, OES will begin a pilot project to replace labels on 6,400 recycling carts in a selected area of the city that is to be determined. Since the 2010 recycling cart deployment, most labels have deteriorated and are no longer useful communication tools. It is estimated that the total number of 100,000 carts need label replacement. This pilot will allow for testing on the best methodology to relabel cart lids. OES intends to test three modes of relabeling:

1. Relabeling at the curb while the carts are out to be emptied,
2. Relabeling in the recycling cart warehouse, and
3. Relabeling lids in the recycling cart warehouse and replacing lids on recycling pickup days.

This OEPA grant does not require any new FTEs. This grant requires a local match of \$12,500, which will be provided by Rumpke Recycling.

OES has already applied for the OEPA 2021 Recycle Ohio Grant but will not accept any funds without approval of the City Council.

The recycling cart relabeling pilot project is in accordance with the “Sustain” goal to “Become a healthier Cincinnati,” and strategy to “Create a healthy environment and reduce energy consumption,” as described on pages 181-186 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept grant and local matching resources in a timely manner so the pilot program can be initiated.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



## **EMERGENCY**

**AKS**

**- 2021**

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$50,000 from the Ohio Environmental Protection Agency 2021 Recycle Ohio Grant program to Office of Environment and Sustainability (OES) non-personnel operating budget account no. 050x104x7200 for the purpose of supporting the recycling cart relabeling project; **AUTHORIZING** the City Manager to accept and appropriate local matching resources in the amount of up to \$12,500 from Rumpke Recycling to OES non-personnel operating budget account no. 050x104x7200; **AUTHORIZING** the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8523; and **AUTHORIZING** the Finance Director to deposit the matching resources into General Fund revenue account no. 050x8571.

WHEREAS, there is a grant available in an amount of up to \$50,000 from the Ohio Environmental Protection Agency (“OEPA”) 2021 Recycle Ohio Grant program for the purpose of providing resources to support the City’s recycling cart relabeling project; and

WHEREAS, since the 2010 recycling cart deployment, most labels have deteriorated and are no longer useful communication tools, and it is estimated that 100,000 carts need label replacement; and

WHEREAS, with OEPA and Rumpke Recycling resources, the Office of Environment and Sustainability (“OES”) will begin a pilot project to replace labels on 6,400 recycling carts in a selected area of the city that is to be determined; and

WHEREAS, this pilot project will allow for testing on the best methodology to relabel cart lids, and OES intends to test three modes of relabeling: relabeling at the curb while the carts are out to be emptied, relabeling in the recycling cart warehouse, and relabeling lids in the recycling cart warehouse and replacing lids on recycling pickup days.

WHEREAS, this grant requires a local match of \$12,500, which will be provided by Rumpke Recycling; and

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

WHEREAS, OES has already applied for the grant, 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,” and strategy to “Create a healthy environment and reduce energy consumption,” as described on pages 181-186 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in an amount of up to \$50,000 from the Ohio Environmental Protection Agency 2021 Recycle Ohio Grant program to Office of Environment and Sustainability (“OES”) non-personnel operating budget account no. 050x104x7200 for the purpose of supporting the recycling cart relabeling project.

Section 2. That the City Manager is hereby authorized to accept and appropriate local matching resources in the amount of up to \$12,500 from Rumpke Recycling to OES non-personnel operating budget account no. 050x104x7200.

Section 3. That the Director of Finance is hereby authorized to deposit the grant resources into General Fund revenue account no. 050x8523.

Section 4. That the Director of Finance is hereby authorized to deposit the matching resources into General Fund revenue account no. 050x8571.

Section 5. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of the grant and of Sections 1 through 4 herein.

Section 6. 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 and local matching resources in a timely manner so the pilot program can be initiated.

Passed: \_\_\_\_\_, 2021

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John Cranley, Mayor

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

June 21, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

**202102332**

Subject: **LEGISLATIVE RESOLUTION DECLARING THE NECESSITY OF  
THE PACE ASSESSMENT PROJECT FOR 221 E. 4<sup>th</sup> STREET**

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Attached is a Legislative Resolution captioned as follows:

DECLARING by legislative resolution the necessity of the assessment project 221 E. 4<sup>th</sup> Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

### **BACKGROUND/CURRENT CONDITIONS**

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt-in to a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. Acabay Atrium Two, L.P., has requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their elevators in the building.

### **DEVELOPER INFORMATION**

The development entity is Acabay Atrium Two, L.P., and are affiliates of parent company, Motter Properties, which includes seasoned executives with over 40 years as an integrated, full service real estate group. The parent company specializes in industrial and commercial real estate, and construction management experience. Originally concentrating on building its investments in industrial real estate in Montreal, the group expanded into commercial real estate in Colchester, Vermont in 1955 and now have completed various projects in Ohio, Michigan, Quebec and Vermont.

### **PROJECT DESCRIPTION**

The project will include modernizing elevators that are nearing the end of their useful life at the currently occupied Atrium II office building site in the Central Business District. The total cost of the PACE eligible improvements is \$3,408,511.

### **PROPOSED INCENTIVE**

DCED is recommending that the City amend the Energy Special Improvements District (ESID) boundaries to add this property to the ESID, and levy special assessments on the property. This will allow the developer to access financing for energy efficiency upgrades to the elevators in the building.

### **RECOMMENDATION**

The Administration recommends approval of this legislative resolution.

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



EMERGENCY

AWB

**Legislative Resolution**

**RESOLUTION NO. \_\_\_\_\_ - 2021**

**DECLARING** by legislative resolution the necessity of the special assessment project at 221 E. Fourth Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision that has approved a petition for special assessments for public improvements in a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, pursuant to Resolution No. 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the "ESID") was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, Acabay Atrium Two L.P. (together with all future owners of the Project Site, as defined below, the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of June 14, 2021 (the "Petition"), including a *Supplement to Plan for 221 E. Fourth Street Project* (the "Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the "Authorized Improvements") to be located at 221 E. Fourth Street in Cincinnati (the "Assessed Property"); and

WHEREAS, the Petition and the Supplemental Plan are on file with the Clerk of Council, and copies thereof are attached to this Resolution as Attachment A; and

WHEREAS, in the Petition, the Owner requests that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the "Special Assessments") in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, and the Owner, in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the "Standing Assignment Agreement"); and



WHEREAS, in order to provide for the assignment and transfer of the Special Assessments, the ESID has requested that the City execute and deliver an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council; and

WHEREAS, (i) the Special Assessments are conducive to the public health, convenience and welfare of this City and the inhabitants of the City; (ii) the Assessed Property is specially benefited by the Special Assessments; and (iii) the Special Assessments have been petitioned for by the owner of 100% of the Assessed Property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated June 14, 2021 (the “Petition”), which Petition, together with a *Supplement to Plan for 221 E. Fourth Street Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

Section 2. That this Council hereby approves and authorizes the City Manager to execute an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary to effectuate the purpose of the Petition and Ohio Revised Code Chapter 1710, provided that any such modifications shall not, in the judgment of the City Manager, be adverse to the City.

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 221 E. Fourth Street, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition (collectively, the “Assessment Project”), which

Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

Section 4. That the plans and specifications and total cost of the Assessment Project now on file in the office of the Clerk of Council are approved, subject to changes as provided for in the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "ESID"), and as permitted by Ohio Revised Code Chapter 727. The Assessment Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Assessment Project.

Section 5. That this Council finds and determines that: (i) the Assessment Project is conducive to the public health, convenience, and welfare of this City and the inhabitants thereof, and that it is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project as defined in Ohio Revised Code Section 1710.01(I); (ii) the Assessed Property is specially benefited by the Assessment Project; and (iii) the Assessment Project has been petitioned for by the owner of 100% of the Assessed Property. It is hereby determined that the Assessment Project's elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Assessment Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner, and that the Assessment Project's elements shall be treated as a single improvement pursuant to Ohio Revised Code Section 727.09.

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the Assessment Project is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the Assessment Project. The board of directors of the ESID must

obtain from any sale, transfer, lease, or conveyance of the Assessment Project any consideration greater than or equal to \$1.00.

Section 7. That the costs of the Assessment Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Assessed Property, and the assessment for such purpose (the "Special Assessments") shall be assessed and paid as specified in the Petition. The portion of the costs of the Assessment Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 8. That the City's Finance Director and/or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Assessment Project in accordance with the method of assessment set forth in the Petition and this Resolution.

Section 9. That the Special Assessments shall be levied and paid in fifty (50) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

Section 10. That the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under Ohio Revised Code Section 727.13.

Section 11. That pursuant to and subject to the provisions of a valid Petition signed by the Owner, as the owner of one hundred percent (100%) of the Assessed Property, which Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

Section 12. That this Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of

property owners under the law, including, but not limited to, those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Assessed Property.

Section 13. That the City's Finance Director and/or her designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Assessment Project.

Section 14. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. That this 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 to ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**ATTACHMENT A**

**PETITION FOR SPECIAL ASSESSMENTS FOR  
SPECIAL ENERGY IMPROVEMENT PROJECTS**

**A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF  
SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY  
IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER  
AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS  
TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL  
ASSESSMENTS**

To: The City Manager and City Council of the City of Cincinnati, Ohio

Acabay Atrium Two L.P., a Delaware limited partnership (the "Petitioner"), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). The Petitioner will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "Corporation"), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the "District"), created within the boundaries of the City of Cincinnati, Ohio (the "City") has approved a plan (the "Program Plan") for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the "Supplemental Plans") (the Program Plan and every Supplemental Plan together constituting the "Plan") to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of

those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code



Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 50 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by their respective undersigned duly authorized signatories.

**PETITIONER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Petitioner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

STATE OF Vermont )

SS:

COUNTY OF Chittenden )

On the 14 day of June, 2021, Frank Motter, as the Manager of Acabay Atrium Two L.P., personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Acabay Atrium Two L.P. and that the same was the free act and deed of such officer and of such limited partnership. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



Notary Public

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

The real property subject to this Petition is located at the commonly used mailing address 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00, and the following legal description:

#### **PARCEL 1 (Fee):**

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

And known as including part of Inlots 61 and 63, as recorded in Deed Book E-2, Pages 62 through 66, of the Hamilton County, Ohio Records;

Lots 223, 224, 225, 226, and 227 of Hugh Moore's Subdivision of Inlot 62;

Lots 1, 2, 3 and 4 of D. K. Estes Estate, as recorded in Plat Book 18, Page 602 of the Common Pleas Court Records;

And part of vacated Hammond Street;

And more particularly described pursuant to a boundary survey recorded in Plat Book 243, Page 37 of the Hamilton County, Ohio Records as follows:

Beginning at the Intersection of the Southerly line of Fourth Street (66 feet wide) with the Westerly line of Sycamore Street (66 feet wide);

Thence South 15 deg. 26' East, along the Westerly line of Sycamore Street a distance of 260.34 feet;

Thence Southwestwardly on a curved line deflecting to the right with a radius of 32 feet, a distance of 28.93 feet (Chord of said curve bears South 49 deg. 05' 15" West, a distance of 27.95 feet);

Thence South 74 deg. 59' West, a distance of 104.36 feet;

Thence Southwestwardly on a curved line deflecting to the left with a radius of 46 feet, a distance of 24.49 feet (chord of said curve bears South 59 deg. 44' West, a distance of 24.20 feet);

Thence North 88 deg. 36' 51" West, a distance of 9.50 feet;

Thence Northwestwardly on a curved line deflecting to the left with a radius of 56 feet, a distance of 18.86 feet (Chord of said curve bears North 47 deg. 11' 28" West, a distance of 18.77 feet);

Thence Northwestwardly on a curved line deflecting to the left with a radius of 112 feet, a distance of 60.72 feet (Chord of said curve bears North 72 deg. 21' 56" West, a distance of 59.98 feet);

Thence North 15 deg. 32' West, a distance of 50.37 feet;

**DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER**

**Tax Map - Dec 03 2018 DB**

**CAGIS - \_\_\_\_\_**

ST 83-3-36

Thence North 74 deg. 40' East, a distance of 33.68 feet;

Thence North 15 deg. 31' 45" West, a distance of 177.39 feet to the Southerly line of Fourth Street;

Thence along the Southerly line of Fourth Street, North 75 deg. 31' East, a distance of 6.00 feet and North 74 deg. 57' East, a distance of 182.92 feet to the place of beginning.

**PARCEL 2 (easement):**

TOGETHER WITH the easement estates and rights under a certain Deed of Easement recorded in Deed Book 4241, Page 1391, of the Hamilton County, Ohio Records.

**PARCEL 3 (easement):**

TOGETHER WITH the easement estates and rights under a certain Easement and Maintenance Agreement recorded in Deed Book 4327, Page 1915 of the Hamilton County Records.

**PARCEL 4 (easement):**

TOGETHER WITH the easement estates and rights under a certain Fourth Street Walkway Agreement and Right of Entry recorded in OR Book 6917, Page 424 of the Hamilton County Records.

**PARCEL 5 (easement):**

TOGETHER WITH the easement estates and rights under a certain Grant of Easement recorded in OR Book 8398, Page 1533, of the Hamilton County Records.

## **EXHIBIT B**

### **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

#### **SUPPLEMENT TO PLAN FOR 221 E. FOURTH STREET PROJECT**

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the “Plan”), the City of Cincinnati, Ohio Energy Special Improvement District (the “District”) has undertaken the administration of a property assessed clean energy (“PACE”) program (the “Program”). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the “Property Owner”) has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00 (the “Property”). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

The Authorized Improvements applicable to the Property will include energy-efficient elevator modernization improvements, electrical upgrades, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

**The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.**

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

**PROPERTY OWNER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Property Owner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00.

## SUPPLEMENTAL PLAN—ATTACHMENT A

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.



Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
7/31/2033	137,817.62
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
1/31/2037	137,817.62
7/31/2037	137,817.62
1/31/2038	137,817.62
7/31/2038	137,817.62
1/31/2039	137,817.62
7/31/2039	137,817.62
1/31/2040	137,817.62
7/31/2040	137,817.62
1/31/2041	137,817.62
7/31/2041	137,817.62
1/31/2042	137,817.62
7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62

## SUPPLEMENTAL PLAN—ATTACHMENT B

### Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Date: 3/22/2021

Energy Project Name: Acabay Atrium Two L.P.  
Parcel ID: 083-0003-0036-00  
County/State: Hamilton County, OH

	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)	
1	Elevator Modernization	30	Fujitec	\$3,213,555	\$4,617 (Electric)	\$2,219 (electric)	
	Elevator Modernization – Change Order	N/A	Fujitec	\$37,278.74	N/A	N/A	
	Electrical upgrades, required for Elevator Modernization	N/A	Hunt Builders Corporation	\$157,678	N/A	N/A	
4							
5							
6							
TOTALS:				30 yrs	\$3,408,511.74	\$4,617	\$2,219

**EXHIBIT C**

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT  
PROGRAM PLAN**

[See Attached]

## **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.

### **I. Purpose of the Program**

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the “Authorized Improvements”). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the “Program Obligations”) may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

**Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.**

## **II. The District’s Governance, Program Administrator, and Conduit Financing Entity**

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors (“Board”) of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the “Corporation”) to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District’s “Program Administrator” and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District’s “Conduit Financing Entity” and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

### **III. Program Eligibility, Approvals, Financing, and Procurement**

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

#### **IV. Services Plan**

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.



- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

#### V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

**Application Fee.** The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

## **VI. Energy Efficiency and Renewable Energy Regulations and Requirements**

**Energy Efficiency Reporting Requirements.** Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

**Energy Efficiency Credits.** The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

**Renewable Energy Credits.** The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

**Monetizing Other Energy Efficiency or Renewable Energy Attributes.** The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

## **VII. Statutory Requirements**

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

#### **VIII. Changes in State and Federal Law**

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

#### **IX. Releases and Indemnification**

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

**By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.**

#### **X. Changes in the Program Terms; Severability**

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

#### **XI. Disclosure of Property Owner Information**

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

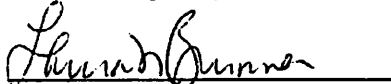
**Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.**

**BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW  
HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO  
PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN  
THIS PLAN.**

Date: July 23, 2014

**Property Owner:  
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

**Authorized Signatory**



Laura Brunner, as  
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development  
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

**Parcel One**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

**Parcel Two**

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

**PETITION FOR SPECIAL ASSESSMENTS FOR  
SPECIAL ENERGY IMPROVEMENT PROJECTS**

**A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF  
SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY  
IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER  
AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS  
TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL  
ASSESSMENTS**

To: The City Manager and City Council of the City of Cincinnati, Ohio

Acabay Atrium Two L.P., a Delaware limited partnership (the “Petitioner”), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the “Property”). The Petitioner will implement special energy improvement projects on the Property (the “Authorized Improvements,” as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the “Corporation”), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the “District”), created within the boundaries of the City of Cincinnati, Ohio (the “City”) has approved a plan (the “Program Plan”) for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the “Supplemental Plans”) (the Program Plan and every Supplemental Plan together constituting the “Plan”) to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of



those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 50 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by their respective undersigned duly authorized signatories.

**PETITIONER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

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

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Petitioner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

STATE OF Vermont )

SS:

COUNTY OF Chittenden )

On the 14 day of June, 2021, Frank Motter, as the Manager of Acabay Atrium Two L.P., personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Acabay Atrium Two L.P. and that the same was the free act and deed of such officer and of such limited partnership. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



\_\_\_\_\_  
Notary Public

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

The real property subject to this Petition is located at the commonly used mailing address 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00, and the following legal description:

#### **PARCEL 1 (Fee):**

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

And known as including part of Inlots 61 and 63, as recorded in Deed Book E-2, Pages 62 through 66, of the Hamilton County, Ohio Records;

Lots 223, 224, 225, 226, and 227 of Hugh Moore's Subdivision of Inlot 62;

Lots 1, 2, 3 and 4 of D. K. Estes Estate, as recorded in Plat Book 18, Page 602 of the Common Pleas Court Records;

And part of vacated Hammond Street;

And more particularly described pursuant to a boundary survey recorded in Plat Book 243, Page 37 of the Hamilton County, Ohio Records as follows:

Beginning at the Intersection of the Southerly line of Fourth Street (66 feet wide) with the Westerly line of Sycamore Street (66 feet wide);

Thence South 15 deg. 26' East, along the Westerly line of Sycamore Street a distance of 260.34 feet;

Thence Southwestwardly on a curved line deflecting to the right with a radius of 32 feet, a distance of 28.93 feet (Chord of said curve bears South 49 deg. 05' 15" West, a distance of 27.95 feet);

Thence South 74 deg. 59' West, a distance of 104.36 feet;

Thence Southwestwardly on a curved line deflecting to the left with a radius of 46 feet, a distance of 24.49 feet (chord of said curve bears South 59 deg. 44' West, a distance of 24.20 feet);

Thence North 88 deg. 36' 51" West, a distance of 9.50 feet;

Thence Northwestwardly on a curved line deflecting to the left with a radius of 56 feet, a distance of 18.86 feet (Chord of said curve bears North 47 deg. 11' 28" West, a distance of 18.77 feet);

Thence Northwestwardly on a curved line deflecting to the left with a radius of 112 feet, a distance of 60.72 feet (Chord of said curve bears North 72 deg. 21' 56" West, a distance of 59.98 feet);

Thence North 15 deg. 32' West, a distance of 50.37 feet;

DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER

Tax Map - Dec 03 2018 DB

CAGIS - \_\_\_\_\_

ST 83-3-36

Thence North 74 deg. 40' East, a distance of 33.68 feet;

Thence North 15 deg. 31' 45" West, a distance of 177.39 feet to the Southerly line of Fourth Street;

Thence along the Southerly line of Fourth Street, North 75 deg. 31' East, a distance of 6.00 feet and North 74 deg. 57' East, a distance of 182.92 feet to the place of beginning.

**PARCEL 2 (easement):**

TOGETHER WITH the easement estates and rights under a certain Deed of Easement recorded in Deed Book 4241, Page 1391, of the Hamilton County, Ohio Records.

**PARCEL 3 (easement):**

TOGETHER WITH the easement estates and rights under a certain Easement and Maintenance Agreement recorded in Deed Book 4327, Page 1915 of the Hamilton County Records.

**PARCEL 4 (easement):**

TOGETHER WITH the easement estates and rights under a certain Fourth Street Walkway Agreement and Right of Entry recorded in OR Book 6917, Page 424 of the Hamilton County Records.

**PARCEL 5 (easement):**

TOGETHER WITH the easement estates and rights under a certain Grant of Easement recorded in OR Book 8398, Page 1533, of the Hamilton County Records.

## **EXHIBIT B**

### **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

#### **SUPPLEMENT TO PLAN FOR 221 E. FOURTH STREET PROJECT**

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the “Plan”), the City of Cincinnati, Ohio Energy Special Improvement District (the “District”) has undertaken the administration of a property assessed clean energy (“PACE”) program (the “Program”). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the “Property Owner”) has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00 (the “Property”). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

The Authorized Improvements applicable to the Property will include energy-efficient elevator modernization improvements, electrical upgrades, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

**The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.**



BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

**PROPERTY OWNER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name:

FRANK J MOTTER

Title:

MANAGER

Address for notices to Property Owner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00.

## SUPPLEMENTAL PLAN—ATTACHMENT A

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
7/31/2033	137,817.62
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
1/31/2037	137,817.62
7/31/2037	137,817.62
1/31/2038	137,817.62
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1/31/2041	137,817.62
7/31/2041	137,817.62
1/31/2042	137,817.62
7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62

## SUPPLEMENTAL PLAN—ATTACHMENT B

### Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Date: 3/22/2021

Energy Project Name: Acabay Atrium Two L.P. Parcel ID: 083-0003-0036-00 County/State: Hamilton County, OH						
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)
1	Elevator Modernization	30	Fujitec	\$3,213,555	\$4,617 (Electric)	\$2,219 (electric)
	Elevator Modernization – Change Order	N/A	Fujitec	\$37,278.74	N/A	N/A
	Electrical upgrades, required for Elevator Modernization	N/A	Hunt Builders Corporation	\$157,678	N/A	N/A
4						
5						
6						
<b>TOTALS:</b>		30 yrs		\$3,408,511.74	\$4,617	\$2,219

**EXHIBIT C**

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT  
PROGRAM PLAN**

[See Attached]

## **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. **By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.**

### **I. Purpose of the Program**

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the “Authorized Improvements”). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the “Program Obligations”) may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

**Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.**

## **II. The District’s Governance, Program Administrator, and Conduit Financing Entity**

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors (“Board”) of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the “Corporation”) to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District’s “Program Administrator” and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District’s “Conduit Financing Entity” and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

### **III. Program Eligibility, Approvals, Financing, and Procurement**

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,



specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

**Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.**

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

#### **IV. Services Plan**

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

#### V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

## **VI. Energy Efficiency and Renewable Energy Regulations and Requirements**

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

Energy Efficiency Credits. The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

## **VII. Statutory Requirements**

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

#### **VIII. Changes in State and Federal Law**

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

#### **IX. Releases and Indemnification**

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

**By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.**

#### **X. Changes in the Program Terms; Severability**

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

#### **XI. Disclosure of Property Owner Information**

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

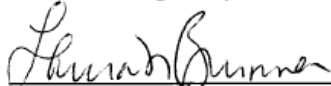
**Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.**

**BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW  
HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO  
PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN  
THIS PLAN.**

Date: July 23, 2014

**Property Owner:  
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

**Authorized Signatory**

  
\_\_\_\_\_

Laura Brunner, as  
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development  
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

**Parcel One**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

**Parcel Two**

[Property Owner Consent to Plan]



The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

City of Cincinnati  
PACE Project Information



1. Legal Name of Property Owner

Acabany Atorium Two LP

2. Parent Entity/Company

3. Legal Address of Property Owner

100-105 West View Rd

4. Applicant Contact Person & Title

Richard Brunelle CFO

5. Phone

450-679-7786

6. Email

r.brunelle@fmetter.com

7. Is the applicant applying for any other City of Cincinnati incentives for this project?

8. Address(es) of Project Property

221 E Fourth St

9. Hamilton County Auditor Parcel ID #(s)

083-0003-0036-00

10. City of Cincinnati Neighborhood

CRD

11. Construction Type

New Construction ☐ Renovation ☒

12. Total sqft/units to be constructed or renovated

Commercial (sqft) 653,000<sup>+</sup> Office (sqft) 653,000<sup>+</sup> Industrial (sqft) 0  
Residential (sqft) 0 Residential (units) 0

13. Estimated hard cost of construction or renovation

14. Estimated total project cost (including soft costs & acquisition)

\$3,408,511

15. Projected

construction start date

3/15/20

16. Projected

construction end date

substantially complete

17. Please indicate if the project will attain any of the certifications listed below:

LEED ☐ Living Building Challenge (LBC) ☐ Other ☒ None

18. Actual/Anticipated date presented to Community Council

5/6/20

19. Community Council support for the project

Yes ☐ No ☒

20. Please provide a brief description of project and which specific improvements qualify for PACE financing:

Modernizing Elevators that are nearing the end of useful life

2021 02 333

Date: June 17, 2021

**To:** Councilmember David Mann  
**From:** Andrew W. Garth, City Solicitor *AWG*  
**Subject:** **Emergency Ordinance – CMC 401 Division H Water Rates 2022-2026 (B  
VERSION – One Year)**

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Transmitted herewith is an emergency ordinance captioned as follows:

**REPEALING AND REORDAINING** the provisions of Chapter 401, “Water Works,” Section 401-76, “Service Charges,” Section 401-77, “Water Commodity Charges,” Section 401-78, “Charges for Fire Protection Services,” Section 401-81, “Charges to Political Subdivisions,” and Section 401-89, “Direct Fire Protection Charges,” of the Cincinnati Municipal Code for the purpose of revising the rate for water and related services furnished by the Greater Cincinnati Water Works, consistent with a water rate increase of 3.75% in 2022.

AWG/AEY/(Ink)  
Attachment  
340477

**City of Cincinnati**  
**An Ordinance No. \_\_\_\_\_**

AEY/B

*AWB*

- 2021

**REPEALING AND REORDAINING** the provisions of Chapter 401, “Water Works,” Section 401-76, “Service Charges,” Section 401-77, “Water Commodity Charges,” Section 401-78, “Charges for Fire Protection Services,” Section 401-81, “Charges to Political Subdivisions,” and Section 401-89, “Direct Fire Protection Charges,” of the Cincinnati Municipal Code for the purpose of revising the rate for water and related services furnished by the Greater Cincinnati Water Works, consistent with a water rate increase of 3.75% in 2022.

WHEREAS, the City Administration has recommended to Council the adoption of a 3.75% increase in water rates for 2022 and a 5.55% increase in each of 2023, 2024, 2025, and 2026 for the Greater Cincinnati Water Works (“GCWW”); and

WHEREAS, Council finds that implementation of a rate increase of 3.75% for 2022 is necessary and appropriate, pending further analysis and discussion as to GCWW’s future needs and the appropriate rate increases to fund those needs; and

WHEREAS, the one year 3.75% rate increase will help offset some increased costs of labor, materials, and supplies, but will not produce sufficient revenue to fully fund such programmatic goals as increasing the number of lead service lines replaced annually and implementing private lead service line replacement at no cost to the property owners; enhancements to customer service and leak detection through smart metering infrastructure; creating programs to address water affordability; and expanding GCWW’s capital improvement program, and may further impact GCWW’s AAA bond rating and access to lower interest rate infrastructure loans; now, therefore,

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

Section 1. That existing Section 401-76, “Service Charges,” is hereby repealed and reordained as follows:

**Sec. 401-76. - Service Charges.**

Each water supply service shall be subject to a monthly service charge. The service charge shall be based on the size of the water meter.

This section shall apply to each water meter used, but shall not apply to water supply services subject to Section 401-81 or Section 401-82.

For the availability of water service, the service charge applicable to accounts inside the City of Cincinnati shall be as follows:

Meter Size (inches)	2021	2022
5/8	6.54	6.79
3/4	7.82	8.11
1	9.64	10.00
1½	24.33	25.24
2	31.03	32.19
3	68.03	70.58
4	130.32	135.21
6	261.24	271.04
8	381.46	395.76
10	533.73	553.74
12	638.22	662.15

The service charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

The service charges for accounts outside of the City of Cincinnati shall be established pursuant to Section 401-75.

Section 2. That existing Section 401-77, "Water Commodity Charges," is hereby repealed and reordained as follows:

**Sec. 401-77. - Water Commodity Charges.**

For water used, the water commodity charges per 100 cubic feet (CCF) used applicable to accounts inside the City of Cincinnati shall be as follows:

	2021	2022
First 20 CCF/month	3.00	3.11
Next 580 CCF/month	2.52	2.61
Over 600 CCF/month	2.25	2.33

The water commodity charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

The water commodity charges for accounts outside of the City of Cincinnati shall be established pursuant to Section 401-75.

Effective January 1, 2012, for water used through a temporary meter as set forth in Section 401-61 of the Municipal Code, the water commodity charge rate per 100 cubic

feet (CCF) used shall be 150% of the water commodity charge listed in the table above for the first 20 CCF per month.

Section 3. That Section 401-78, "Charges for Fire Protection Services," is hereby repealed and reordained as follows:

**Sec. 401-78. - Charges for Fire Protection Services.**

Each fire service branch serving private premises shall be subject to a fire protection service charge based on the size of the service branch at the water main per Section 401-117. This section shall not apply to fire protection services subject to Sections 401-82 and 401-83.

The fire protection service charge per month shall be as follows:

Branch Size (inches)	2021	2022
2" & Under	18.58	19.28
3"	23.84	24.73
4"	28.20	29.26
6"	65.08	67.52
8"	91.90	95.35
10"	110.89	115.05

The fire protection service charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

The fire protection service charges for accounts outside of the City of Cincinnati shall be established pursuant to Section 401-75.

Section 4. That Section 401-81, "Charges to Political Subdivisions," is hereby repealed and reordained as follows:

**Sec. 401-81. - Charges to Political Subdivisions.**

The water commodity charge rates per hundred cubic feet for water used by political subdivisions, other than those whose contracts with the City of Cincinnati specify rates, shall be as follows:

	2021	2022
Winter	3.15	3.27
Summer	3.75	3.89

The charges to political subdivisions in the above table shall be effective from January 1 through December 31 of each of the above listed years.

There shall be no service charges for water used under this section.

Section 5. That Section 401-89, "Direct Fire Protection Charges," is hereby repealed and reordained as follows:

**Sec. 401-89. – Fire Hydrant Repair and Replacement Charges.**

Each water supply service within the City of Cincinnati shall be subject to a fire hydrant repair and replacement charge, which shall be based on the size of the water meter.

The monthly fire hydrant repair and replacement charges shall be as follows:

Meter Size (inches)	2021	2022
$\frac{5}{8}$	0.65	0.67
$\frac{3}{4}$	0.98	1.02
1	1.43	1.48
1½	2.74	2.84
2	4.04	4.19
3	9.79	10.16
4	16.31	16.92
6	32.63	33.85
8	48.93	50.76
10	65.24	67.69
12	75.03	77.84

The fire hydrant repair and replacement charges in the above table shall be effective from January 1 through December 31 of each of the above listed years.

Section 6. That the proper City officials are authorized to carry out the terms of Sections 1 through 5 herein.

Section 7. 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



**June 21, 2021**

**To:** Members of the Budget and Finance Committee 202102334

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – Amend Ordinance No. 0340-2018**

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Attached is an Emergency Ordinance captioned:

**AMENDING** Ordinance No. 0340-2018 to increase the amount of funding the City Manager is authorized to accept from the Federal Highway Administration (CFDA 20.205) through the Ohio Department of Transportation from \$1,852,293 to \$2,144,149.41, and to appropriate the additional amount of \$291,856.41 to existing capital improvement program project account no. 980x233x172348, “Street Rehabilitation Grants/Loans,” for the purpose of providing resources for the rehabilitation of Riverside Drive and Vine Street.

Approval of this Emergency Ordinance amends Ordinance No. 0340-2018 to increase the amount of funding the City Manager is authorized to accept from the Federal Highway Administration (FHA) (CFDA 20.205) through the Ohio Department of Transportation (ODOT) from \$1,852,293.00 to \$2,144,149.41 and appropriates the additional amount of \$291,856.41 to existing capital improvement program project account no. 980x233x172348, “Street Rehabilitation Grants/Loans,” for the purpose of providing resources for the rehabilitation of Riverside Drive and Vine Street.

On October 31, 2018, the City Council approved Ordinance No. 0340-2018 authorizing the City Manager to accept and appropriate resources in the amount of up to approximately \$1,852,293.00 from the Federal Highway Administration through the Ohio Department of Transportation to existing capital improvement program project account no. 980x233x172348, “Street Rehabilitation Grants/Loans,” for the purpose of providing resources for the rehabilitation of Riverside Drive and Vine Street.

An additional \$291,856.41 is available from the Federal Highway Administration through the Ohio Department of Transportation for the rehabilitation of Riverside Drive and Vine Street. Thus, Ordinance No. 0340-2018 must be amended to increase the grant amount in order for the City to accept and appropriate additional funding.

The reason for the emergency is the immediate need to accept and appropriate additional resources needed for the rehabilitation of Riverside Drive and Vine Street.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



## **EMERGENCY**

**KKF**

**- 2021**

**AMENDING** Ordinance No. 0340-2018 to increase the amount of funding the City Manager is authorized to accept from the Federal Highway Administration (CFDA 20.205) through the Ohio Department of Transportation from \$1,852,293 to \$2,144,149.41 and to appropriate the additional amount of \$291,856.41 to existing capital improvement program project account no. 980x233x172348, "Street Rehabilitation Grants/Loans," for the purpose of providing resources for the rehabilitation of Riverside Drive and Vine Street.

WHEREAS, on October 31, 2018, Council approved Ordinance No. 0340-2018 authorizing the City Manager to accept and appropriate resources in the amount of approximately \$1,852,293 from the Federal Highway Administration through the Ohio Department of Transportation to existing capital improvement program project account no. 980x233x172348, "Street Rehabilitation Grants/Loans," for the purpose of providing resources for the rehabilitation of Riverside Drive and Vine Street; and

WHEREAS, an additional \$291,856.41 is available from the Federal Highway Administration through the Ohio Department of Transportation for the rehabilitation of Riverside Drive and Vine Street; and

WHEREAS, Ordinance No. 0340-2018 must be amended to increase the grant amount in order for the City to accept and appropriate additional funding for the rehabilitation of Riverside Drive and Vine Street; now, therefore,

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

Section 1. That Section 1 of Ordinance No. 0340-2018, approved by Council on October 31, 2018, is hereby amended as follows:

Section 1. That the City Manager is hereby authorized to accept and appropriate resources in the amount of up to ~~\$1,852,293~~ \$2,144,149.41 from the Federal Highway Administration funding (CFDA 20.205) administered by the Ohio Department of Transportation ("ODOT") to existing capital improvement program project account no. 980x233x172348, "Street Rehabilitation Grants/Loans," for the purpose of providing resources for the rehabilitation of Riverside Drive and Vine Street.

Section 2. That all terms of Ordinance No. 0340-2018 not amended in this ordinance remain in full force and effect.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept and appropriate additional resources needed for the rehabilitation of Riverside Drive and Vine Street.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**June 21, 2021**

**To:** Members of the Budget and Finance Committee 202102335

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – Vice-Mayor Smitherman Office Budget Transfers**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer and return to source of the sum of \$2,423 from Councilmember Smitherman's General Fund personnel services operating budget account no. 050x024x7100 to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and return to source of the sum of \$3,392 from Councilmember Smitherman's General Fund contractual services operating budget account no. 050x024x7200 to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of the sum of \$3,896 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 for the purpose of providing resources in the amounts of \$1,977 for The Karen Wellington Memorial Foundation for Living with Breast Cancer and \$1,919 for Ennis Tait Ministries, Inc., for the Saving Our Youth Kings and Queens program; **AUTHORIZING** the transfer and appropriation of the sum of \$1,919 from the unappropriated surplus of the General Fund to the Department of Public Services' General Fund contractual services operating budget account no. 050x253x7200 for the purpose of providing resources in the amount of \$1,919 for Keep Cincinnati Beautiful, Inc.; **AUTHORIZING** the City Manager to enter into any necessary agreements for the distribution of these resources; and **DECLARING** the distribution of these resources to these local non-profit organizations to be for a public purpose.

Approval of this Emergency Ordinance authorizes the transfer and return to source of the sum of \$2,423 from Councilmember Smitherman's General Fund personnel services operating budget account no. 050x024x7100 to the unappropriated surplus of General Fund 050 and the transfer and return to source of the sum of \$3,392 from contractual services operating budget account no. 050x024x7200 to the unappropriated surplus of the General Fund 050.

This Emergency Ordinance further authorizes the transfer and appropriation of the sum of \$3,896 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges

operating budget account no. 050x161x7400 for the purpose of providing resources in the amounts of \$1,977 for The Karen Wellington Memorial Foundation for Living with Breast Cancer and \$1,919 for Ennis Tait Ministries, Inc., for the Saving Our Youth Kings and Queens program. The amount of \$1,919 will also be transferred from the unappropriated surplus of the General Fund to the Department of Public Services' General Fund contractual services operating budget account no. 050x253x7200 for the purpose of providing resources for Keep Cincinnati Beautiful, Inc.

This Emergency Ordinance authorizes the City Manager to enter into any necessary agreements for the distribution of these resources and declares the distribution of these resources to these local non-profit organizations to be for a public purpose.

The reason for the emergency is the immediate need to ensure that necessary funds are available for distribution to local non-profit organizations prior to the end of Fiscal Year 2021.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

City of Cincinnati

MSS

*AWB*

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

- 2021

**AUTHORIZING** the transfer and return to source of the sum of \$2,423 from Councilmember Smitherman's General Fund personnel services operating budget account no. 050x024x7100 to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and return to source of the sum of \$3,392 from Councilmember Smitherman's General Fund contractual services operating budget account no. 050x024x7200 to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of the sum of \$3,896 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 for the purpose of providing resources in the amounts of \$1,977 for The Karen Wellington Memorial Foundation for Living with Breast Cancer and \$1,919 for Ennis Tait Ministries, Inc., for the Saving Our Youth Kings and Queens program; **AUTHORIZING** the transfer and appropriation of the sum of \$1,919 from the unappropriated surplus of the General Fund to the Department of Public Services' General Fund contractual services operating budget account no. 050x253x7200 for the purpose of providing resources in the amount of \$1,919 for Keep Cincinnati Beautiful, Inc.; **AUTHORIZING** the City Manager to enter into any necessary agreements for the distribution of these resources; and **DECLARING** the distribution of these resources to these local non-profit organizations to be for a public purpose.

WHEREAS, Council desires to provide resources in the amounts of \$1,977 for The Karen Wellington Memorial Foundation for Living with Breast Cancer, \$1,919 for Keep Cincinnati Beautiful, Inc., and \$1,919 for Ennis Tait Ministries, Inc. for the Saving Our Youth Kings and Queens program to fund important programs benefitting the community; now, therefore,

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

Section 1. That the transfer and return to source of the sum of \$2,423 from Councilmember Smitherman's General Fund personnel services operating budget account no. 050x024x7100 to the unappropriated surplus of General Fund 050 is hereby authorized.

Section 2. That the transfer and return to source of the sum of \$3,392 from Councilmember Smitherman's General Fund contractual services operating budget account no. 050x024x7200 to the unappropriated surplus of General Fund 050 is hereby authorized.

Section 3. That the transfer and appropriation of the sum of \$3,896 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 is hereby authorized for the purpose of providing resources in the amounts of \$1,977 for The Karen Wellington Memorial Foundation for Living with Breast Cancer and \$1,919 for Ennis Tait Ministries, Inc. for the Saving Our Youth Kings and Queens program.

Section 4. That the transfer and appropriation of the sum of \$1,919 from the unappropriated surplus of the General Fund to the Department of Public Services' General Fund contractual services operating budget account no. 050x253x7200 is hereby authorized for the purpose of providing resources in the amount of \$1,919 for Keep Cincinnati Beautiful, Inc.

Section 5. That the City Manager is hereby authorized to enter into any necessary agreements for the distribution of these resources.

Section 6. That the distribution of resources to these local non-profit organizations for use in programs that benefit the community is hereby declared to serve a public purpose.

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 the immediate need to ensure that necessary funds are available for distribution to local non-profit organizations prior to the end of Fiscal Year 2021.

Passed: \_\_\_\_\_, 2021

---

John Cranley, Mayor

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

**June 21, 2021**

**To:** Members of the Budget and Finance Committee 202102337

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – FY 2021 City Council Budget Office Adjustments**

---

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer of the sum of \$15,320 within the General Fund from and to various operating budget accounts for the purpose of realigning the office budgets of various City Councilmembers in accordance with the attached Schedule of Transfer.

Approval of this Emergency Ordinance authorizes the transfer of the sum of \$15,320 within the General Fund from and various operating budget accounts for the purpose of realigning the office budget of various City Councilmembers in accordance with the attached Schedule of Transfer.

The reason for the emergency is the immediate need to ensure necessary funds for the operation of various City Councilmember offices.

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 transfer of the sum of \$15,320 within the General Fund from and to various operating budget accounts for the purpose of realigning the office budgets of various City Councilmembers in accordance with the attached Schedule of Transfer.

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

Section 1. That the sum of \$15,320 existing within the General Fund is hereby transferred within the General Fund according to the attached Schedule of Transfer for the purpose of realigning the office budgets of various City Councilmembers.

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

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 ensure necessary funds for the operation of various City Councilmember offices.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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



# SCHEDULE OF TRANSFER

## FY 2021 GENERAL FUND ADJUSTMENTS

Fund 050 General Fund

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>TRANSFERS WITHIN APPROPRIATIONS</b>					<b>TRANSFERS WITHIN APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
CITY COUNCIL					CITY COUNCIL				
COUNCILMEMBER LANDSMAN	050	011	7200	4,257	COUNCILMEMBER LANDSMAN	050	011	7100	4,257
COUNCILMEMBER KEATING	050	012	7200	3,972	COUNCILMEMBER KEATING	050	012	7100	3,972
COUNCILMEMBER SEELBACH	050	016	7200	122	COUNCILMEMBER SEELBACH	050	016	7100	122
COUNCILMEMBER GOODIN	050	026	7200	2,637	COUNCILMEMBER GOODIN	050	026	7100	2,637
COUNCILMEMBER SUNDERMANN	050	028	7200	4,332	COUNCILMEMBER SUNDERMANN	050	028	7100	4,332
<b>TOTAL FUND REDUCTIONS</b>				<b>15,320</b>	<b>TOTAL FUND INCREASES</b>				<b>15,320</b>

June 21, 2021

To: Members of the Budget and Finance Committee 202102339

From: Paula Boggs Muething, City Manager

Subject: **LEVYING SPECIAL ASSESSMENTS FOR THE PACE  
ASSESSMENT PROJECT FOR 221 E. 4<sup>th</sup> STREET**

---

Attached is an Emergency Ordinance captioned as follows:

LEVYING special assessments for the purpose of the assessment project at 221 E. 4<sup>th</sup> Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

#### **BACKGROUND/CURRENT CONDITIONS**

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt-in to a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. Acabay Atrium Two, L.P. has requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their elevators in the building.

#### **DEVELOPER INFORMATION**

The development entity is Acabay Atrium Two, L.P., and are affiliates of parent company, Motter Properties, which includes seasoned executives with over 40 years as an integrated, full service real estate group. The parent company specializes in industrial and commercial real estate, and construction management experience. Originally concentrating on building its investments in industrial real estate in Montreal, the group expanded into commercial real estate in Colchester, Vermont in 1955 and now have completed various projects in Ohio, Michigan, Quebec and Vermont.

## **PROJECT DESCRIPTION**

The project will include modernizing elevators that are nearing the end of their useful life at the currently occupied Atrium II office building site in the Central Business District. The total cost of the PACE eligible improvements is \$3,408,511.

## **PROPOSED INCENTIVE**

DCED is recommending that the City amend the Energy Special Improvements District (ESID) boundaries to add this property to the ESID, and levy special assessments on the property. This will allow the developer to access financing for energy efficiency upgrades to the elevators in the building.

## **RECOMMENDATION**

The Administration recommends approval of this legislative resolution.

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

EMERGENCY

City of Cincinnati

AWB

An Ordinance No. \_\_\_\_\_ - 2021

**LEVYING** special assessments for the purpose of the special assessment project at 221 E. Fourth Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, this Council duly adopted a legislative resolution declaring the necessity of an assessment project at 221 E. Fourth Street in the City of Cincinnati (the "Resolution of Necessity"), which Resolution of Necessity also accepted and approved the Petition (as defined therein) requesting the improvements described in Section 3 of the Resolution of Necessity and an assessment for the cost thereof, all as set forth in the Petition; and

WHEREAS, this Council duly passed an ordinance determining to proceed with the Assessment Project (as defined in the Resolution of Necessity) and adopted the estimated Special Assessments filed with the Clerk of Council and the City's Director of Finance pursuant to the Resolution of Necessity; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this ordinance as Attachment B.

Section 2. That the Special Assessments for the costs and expenses of the Assessment Project, which are set forth in the Petition (a copy of which is attached to the Resolution of Necessity) and are on file with the Clerk of Council and the City's Finance Director, are adopted and confirmed and are assessed against the Assessed Property in the manner and in the number of installments provided in the Resolution of Necessity and the Petition. The Special Assessments are assessed against the Assessed Property commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2045 for collection in 2046. The list of

Special Assessments to be levied and assessed against the Assessed Property and the schedule of the Special Assessments are attached to this ordinance as Attachment A.

Section 3. That this Council hereby finds and determines that the Special Assessments are in proportion to the special benefits received by the Assessed Property as set forth in the Petition and are not in excess of any applicable statutory limitation. The Special Assessments against the Assessed Property shall be payable as set forth in the Resolution of Necessity and the Petition. All Special Assessments shall be certified by the City's Finance Director to the Hamilton County Auditor pursuant to the Petition and Ohio Revised Code Section 727.33, to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition. This Council hereby appropriates the Special Assessments collected to be used by the City to meet its obligations with respect to the Assessment Project in accordance with the Standing Assignment Agreement and the Addendum.

Section 4. That the Owner of the Assessed Property has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments thereof are to be certified by the City's Finance Director to the Hamilton County Auditor as provided by law to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

Section 5. That the City's Finance Director is authorized to keep the Special Assessments on file in the office of the Finance Director.

Section 6. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is hereby directed to deliver a certified copy of this ordinance to the Hamilton County Auditor within twenty (20) days after its passage.

Section 7. That it is hereby found and determined 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 of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. 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 ensure that the board of directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**ATTACHMENT A**

**LIST OF SPECIAL ASSESSMENTS AND  
SCHEDULE OF SPECIAL ASSESSMENTS**

221 E. FOURTH STREET  
LIST OF SPECIAL ASSESSMENTS

Name	Assessed Properties Description	Portion of Benefit and Special Assessment	Amount of Special Assessments
Acabay Atrium Two L.P.	Hamilton County Parcel Number: 083-0003-0036-00	100%	\$6,890,881.00

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62
7/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.



Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
1/31/2037	137,817.62
7/31/2037	137,817.62
1/31/2038	137,817.62
7/31/2038	137,817.62
1/31/2039	137,817.62
7/31/2039	137,817.62
1/31/2040	137,817.62
7/31/2040	137,817.62
1/31/2041	137,817.62
7/31/2041	137,817.62
1/31/2042	137,817.62
7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62

**ATTACHMENT B**

## EMERGENCY

### Legislative Resolution

RESOLUTION NO. \_\_\_\_\_ - 2021

**DECLARING** by legislative resolution the necessity of the special assessment project at 221 E. Fourth Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision that has approved a petition for special assessments for public improvements in a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, pursuant to Resolution No. 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the "ESID") was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, Acabay Atrium Two L.P. (together with all future owners of the Project Site, as defined below, the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of June 14, 2021 (the "Petition"), including a *Supplement to Plan for 221 E. Fourth Street Project* (the "Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the "Authorized Improvements") to be located at 221 E. Fourth Street in Cincinnati (the "Assessed Property"); and

WHEREAS, the Petition and the Supplemental Plan are on file with the Clerk of Council, and copies thereof are attached to this Resolution as Attachment A; and

WHEREAS, in the Petition, the Owner requests that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the "Special Assessments") in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, and the Owner, in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the "Standing Assignment Agreement"); and

WHEREAS, in order to provide for the assignment and transfer of the Special Assessments, the ESID has requested that the City execute and deliver an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council; and

WHEREAS, (i) the Special Assessments are conducive to the public health, convenience and welfare of this City and the inhabitants of the City; (ii) the Assessed Property is specially benefited by the Special Assessments; and (iii) the Special Assessments have been petitioned for by the owner of 100% of the Assessed Property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated June 14, 2021 (the "Petition"), which Petition, together with a *Supplement to Plan for 221 E. Fourth Street Project* (the "Supplemental Plan"), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

Section 2. That this Council hereby approves and authorizes the City Manager to execute an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary to effectuate the purpose of the Petition and Ohio Revised Code Chapter 1710, provided that any such modifications shall not, in the judgment of the City Manager, be adverse to the City.

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 221 E. Fourth Street, Cincinnati, Ohio (the "Assessed Property"), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the "Authorized Improvements") on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition (collectively, the "Assessment Project"), which

Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

Section 4. That the plans and specifications and total cost of the Assessment Project now on file in the office of the Clerk of Council are approved, subject to changes as provided for in the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "ESID"), and as permitted by Ohio Revised Code Chapter 727. The Assessment Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Assessment Project.

Section 5. That this Council finds and determines that: (i) the Assessment Project is conducive to the public health, convenience, and welfare of this City and the inhabitants thereof, and that it is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project as defined in Ohio Revised Code Section 1710.01(I); (ii) the Assessed Property is specially benefited by the Assessment Project; and (iii) the Assessment Project has been petitioned for by the owner of 100% of the Assessed Property. It is hereby determined that the Assessment Project's elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Assessment Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner, and that the Assessment Project's elements shall be treated as a single improvement pursuant to Ohio Revised Code Section 727.09.

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the Assessment Project is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the Assessment Project. The board of directors of the ESID must

obtain from any sale, transfer, lease, or conveyance of the Assessment Project any consideration greater than or equal to \$1.00.

Section 7. That the costs of the Assessment Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Assessed Property, and the assessment for such purpose (the "Special Assessments") shall be assessed and paid as specified in the Petition. The portion of the costs of the Assessment Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 8. That the City's Finance Director and/or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Assessment Project in accordance with the method of assessment set forth in the Petition and this Resolution.

Section 9. That the Special Assessments shall be levied and paid in fifty (50) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

Section 10. That the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under Ohio Revised Code Section 727.13.

Section 11. That pursuant to and subject to the provisions of a valid Petition signed by the Owner, as the owner of one hundred percent (100%) of the Assessed Property, which Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

Section 12. That this Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of

property owners under the law, including, but not limited to, those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Assessed Property.

Section 13. That the City's Finance Director and/or her designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Assessment Project.

Section 14. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. That this 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 to ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**ATTACHMENT A**



**PETITION FOR SPECIAL ASSESSMENTS FOR  
SPECIAL ENERGY IMPROVEMENT PROJECTS**

**A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF  
SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY  
IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER  
AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS  
TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL  
ASSESSMENTS**

To: The City Manager and City Council of the City of Cincinnati, Ohio

Acabay Atrium Two L.P., a Delaware limited partnership (the "Petitioner"), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). The Petitioner will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "Corporation"), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the "District"), created within the boundaries of the City of Cincinnati, Ohio (the "City") has approved a plan (the "Program Plan") for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the "Supplemental Plans") (the Program Plan and every Supplemental Plan together constituting the "Plan") to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of

those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 50 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by their respective undersigned duly authorized signatories.

**PETITIONER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Petitioner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

STATE OF Vermont )

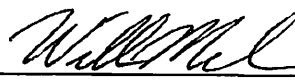
SS:

COUNTY OF Chittenden )

On the 14 day of June, 2021, Frank Motter, as the Manager of Acabay Atrium Two L.P., personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Acabay Atrium Two L.P. and that the same was the free act and deed of such officer and of such limited partnership. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



Notary Public

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

The real property subject to this Petition is located at the commonly used mailing address 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00, and the following legal description:

#### **PARCEL 1 (Fee):**

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

And known as including part of Inlots 61 and 63, as recorded in Deed Book E-2, Pages 62 through 66, of the Hamilton County, Ohio Records;

Lots 223, 224, 225, 226, and 227 of Hugh Moore's Subdivision of Inlot 62;

Lots 1, 2, 3 and 4 of D. K. Estes Estate, as recorded in Plat Book 18, Page 602 of the Common Pleas Court Records;

And part of vacated Hammond Street;

And more particularly described pursuant to a boundary survey recorded in Plat Book 243, Page 37 of the Hamilton County, Ohio Records as follows:

Beginning at the Intersection of the Southerly line of Fourth Street (66 feet wide) with the Westerly line of Sycamore Street (66 feet wide);

Thence South 15 deg. 26' East, along the Westerly line of Sycamore Street a distance of 260.34 feet;

Thence Southwestwardly on a curved line deflecting to the right with a radius of 32 feet, a distance of 28.93 feet (Chord of said curve bears South 49 deg. 05' 15" West, a distance of 27.95 feet);

Thence South 74 deg. 59' West, a distance of 104.36 feet;

Thence Southwestwardly on a curved line deflecting to the left with a radius of 46 feet, a distance of 24.49 feet (chord of said curve bears South 59 deg. 44' West, a distance of 24.20 feet);

Thence North 88 deg. 36' 51" West, a distance of 9.50 feet;

Thence Northwestwardly on a curved line deflecting to the left with a radius of 56 feet, a distance of 18.86 feet (Chord of said curve bears North 47 deg. 11' 28" West, a distance of 18.77 feet);

Thence Northwestwardly on a curved line deflecting to the left with a radius of 112 feet, a distance of 60.72 feet (Chord of said curve bears North 72 deg. 21' 56" West, a distance of 59.98 feet);

Thence North 15 deg. 32' West, a distance of 50.37 feet;

DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER

Tax Map - Dec 03 2018 DB

CAGIS - \_\_\_\_\_

ST 83-3-36

Thence North 74 deg. 40' East, a distance of 33.68 feet;

Thence North 15 deg. 31' 45" West, a distance of 177.39 feet to the Southerly line of Fourth Street;

Thence along the Southerly line of Fourth Street, North 75 deg. 31' East, a distance of 6.00 feet and North 74 deg. 57' East, a distance of 182.92 feet to the place of beginning.

**PARCEL 2 (easement):**

TOGETHER WITH the easement estates and rights under a certain Deed of Easement recorded in Deed Book 4241, Page 1391, of the Hamilton County, Ohio Records.

**PARCEL 3 (easement):**

TOGETHER WITH the easement estates and rights under a certain Easement and Maintenance Agreement recorded in Deed Book 4327, Page 1915 of the Hamilton County Records.

**PARCEL 4 (easement):**

TOGETHER WITH the easement estates and rights under a certain Fourth Street Walkway Agreement and Right of Entry recorded in OR Book 6917, Page 424 of the Hamilton County Records.

**PARCEL 5 (easement):**

TOGETHER WITH the easement estates and rights under a certain Grant of Easement recorded in OR Book 8398, Page 1533, of the Hamilton County Records.



## **EXHIBIT B**

### **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

#### **SUPPLEMENT TO PLAN FOR 221 E. FOURTH STREET PROJECT**

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the “Plan”), the City of Cincinnati, Ohio Energy Special Improvement District (the “District”) has undertaken the administration of a property assessed clean energy (“PACE”) program (the “Program”). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the “Property Owner”) has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00 (the “Property”). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

The Authorized Improvements applicable to the Property will include energy-efficient elevator modernization improvements, electrical upgrades, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

**The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.**

**BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.**

**PROPERTY OWNER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Property Owner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00.

## SUPPLEMENTAL PLAN—ATTACHMENT A

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
7/31/2033	137,817.62
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
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7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62

## SUPPLEMENTAL PLAN—ATTACHMENT B

### Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Date: 3/22/2021

Energy Project Name: Acabay Atrium Two L.P.							
Parcel ID: 083-0003-0036-00							
County/State: Hamilton County, OH							
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)	
1	Elevator Modernization	30	Fujitec	\$3,213,555	\$4,617 (Electric)	\$2,219 (electric)	
	Elevator Modernization – Change Order	N/A	Fujitec	\$37,278.74	N/A	N/A	
	Electrical upgrades, required for Elevator Modernization	N/A	Hunt Builders Corporation	\$157,678	N/A	N/A	
4							
5							
6							
TOTALS:				30 yrs	\$3,408,511.74	\$4,617	\$2,219

**EXHIBIT C**

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT  
PROGRAM PLAN**

[See Attached]

## **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.

### **I. Purpose of the Program**

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the "Authorized Improvements"). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the "Program Obligations") may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

**Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.**

## **II. The District's Governance, Program Administrator, and Conduit Financing Entity**

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors ("Board") of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the "Corporation") to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District's "Program Administrator" and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District's "Conduit Financing Entity" and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,



setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

### **III. Program Eligibility, Approvals, Financing, and Procurement**

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

#### IV. Services Plan

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

#### V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

**Application Fee.** The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

## **VI. Energy Efficiency and Renewable Energy Regulations and Requirements**

**Energy Efficiency Reporting Requirements.** Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

**Energy Efficiency Credits.** The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

**Renewable Energy Credits.** The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

**Monetizing Other Energy Efficiency or Renewable Energy Attributes.** The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

## **VII. Statutory Requirements**

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

#### **VIII. Changes in State and Federal Law**

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

#### **IX. Releases and Indemnification**

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

**By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.**

#### **X. Changes in the Program Terms; Severability**

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

#### **XI. Disclosure of Property Owner Information**

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

**Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.**

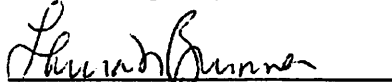


BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW  
HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO  
PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN  
THIS PLAN.

Date: July 23, 2014

**Property Owner:**  
**PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

**Authorized Signatory**



Laura Brunner, as  
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development  
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

**Parcel One**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

**Parcel Two**

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

## **PETITION FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS**

### **A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS**

To: The City Manager and City Council of the City of Cincinnati, Ohio

Acabay Atrium Two L.P., a Delaware limited partnership (the “Petitioner”), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the “Property”). The Petitioner will implement special energy improvement projects on the Property (the “Authorized Improvements,” as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the “Corporation”), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the “District”), created within the boundaries of the City of Cincinnati, Ohio (the “City”) has approved a plan (the “Program Plan”) for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the “Supplemental Plans”) (the Program Plan and every Supplemental Plan together constituting the “Plan”) to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of

those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 50 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by their respective undersigned duly authorized signatories.

**PETITIONER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

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

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Petitioner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

STATE OF Vermont )

SS:

COUNTY OF Chittenden )

On the 14 day of June, 2021, Frank Motter, as the Manager of Acabay Atrium Two L.P., personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Acabay Atrium Two L.P. and that the same was the free act and deed of such officer and of such limited partnership. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



\_\_\_\_\_  
Notary Public



## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

The real property subject to this Petition is located at the commonly used mailing address 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00, and the following legal description:

#### **PARCEL 1 (Fee):**

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

And known as including part of Inlots 61 and 63, as recorded in Deed Book E-2, Pages 62 through 66, of the Hamilton County, Ohio Records;

Lots 223, 224, 225, 226, and 227 of Hugh Moore's Subdivision of Inlot 62;

Lots 1, 2, 3 and 4 of D. K. Estes Estate, as recorded in Plat Book 18, Page 602 of the Common Pleas Court Records;

And part of vacated Hammond Street;

And more particularly described pursuant to a boundary survey recorded in Plat Book 243, Page 37 of the Hamilton County, Ohio Records as follows:

Beginning at the Intersection of the Southerly line of Fourth Street (66 feet wide) with the Westerly line of Sycamore Street (66 feet wide);

Thence South 15 deg. 26' East, along the Westerly line of Sycamore Street a distance of 260.34 feet;

Thence Southwestwardly on a curved line deflecting to the right with a radius of 32 feet, a distance of 28.93 feet (Chord of said curve bears South 49 deg. 05' 15" West, a distance of 27.95 feet);

Thence South 74 deg. 59' West, a distance of 104.36 feet;

Thence Southwestwardly on a curved line deflecting to the left with a radius of 46 feet, a distance of 24.49 feet (chord of said curve bears South 59 deg. 44' West, a distance of 24.20 feet);

Thence North 88 deg. 36' 51" West, a distance of 9.50 feet;

Thence Northwestwardly on a curved line deflecting to the left with a radius of 56 feet, a distance of 18.86 feet (Chord of said curve bears North 47 deg. 11' 28" West, a distance of 18.77 feet);

Thence Northwestwardly on a curved line deflecting to the left with a radius of 112 feet, a distance of 60.72 feet (Chord of said curve bears North 72 deg. 21' 56" West, a distance of 59.98 feet);

Thence North 15 deg. 32' West, a distance of 50.37 feet;

DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER

Tax Map - Dec 03 2018 DB

CAGIS - \_\_\_\_\_

ST 83-3-36

Thence North 74 deg. 40' East, a distance of 33.68 feet;

Thence North 15 deg. 31' 45" West, a distance of 177.39 feet to the Southerly line of Fourth Street;

Thence along the Southerly line of Fourth Street, North 75 deg. 31' East, a distance of 6.00 feet and North 74 deg. 57' East, a distance of 182.92 feet to the place of beginning.

**PARCEL 2 (easement):**

TOGETHER WITH the easement estates and rights under a certain Deed of Easement recorded in Deed Book 4241, Page 1391, of the Hamilton County, Ohio Records.

**PARCEL 3 (easement):**

TOGETHER WITH the easement estates and rights under a certain Easement and Maintenance Agreement recorded in Deed Book 4327, Page 1915 of the Hamilton County Records.

**PARCEL 4 (easement):**

TOGETHER WITH the easement estates and rights under a certain Fourth Street Walkway Agreement and Right of Entry recorded in OR Book 6917, Page 424 of the Hamilton County Records.

**PARCEL 5 (easement):**

TOGETHER WITH the easement estates and rights under a certain Grant of Easement recorded in OR Book 8398, Page 1533, of the Hamilton County Records.

## **EXHIBIT B**

### **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

#### **SUPPLEMENT TO PLAN FOR 221 E. FOURTH STREET PROJECT**

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the “Plan”), the City of Cincinnati, Ohio Energy Special Improvement District (the “District”) has undertaken the administration of a property assessed clean energy (“PACE”) program (the “Program”). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the “Property Owner”) has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00 (the “Property”). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

The Authorized Improvements applicable to the Property will include energy-efficient elevator modernization improvements, electrical upgrades, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

**The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.**

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

**PROPERTY OWNER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name:

FRANK J MOTTER

Title:

MANAGER

Address for notices to Property Owner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00.

## SUPPLEMENTAL PLAN—ATTACHMENT A

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
7/31/2033	137,817.62
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
1/31/2037	137,817.62
7/31/2037	137,817.62
1/31/2038	137,817.62
7/31/2038	137,817.62
1/31/2039	137,817.62
7/31/2039	137,817.62
1/31/2040	137,817.62
7/31/2040	137,817.62
1/31/2041	137,817.62
7/31/2041	137,817.62
1/31/2042	137,817.62
7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62

## SUPPLEMENTAL PLAN—ATTACHMENT B

### Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Date: 3/22/2021

Energy Project Name: Acabay Atrium Two L.P. Parcel ID: 083-0003-0036-00 County/State: Hamilton County, OH						
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)
1	Elevator Modernization	30	Fujitec	\$3,213,555	\$4,617 (Electric)	\$2,219 (electric)
	Elevator Modernization – Change Order	N/A	Fujitec	\$37,278.74	N/A	N/A
	Electrical upgrades, required for Elevator Modernization	N/A	Hunt Builders Corporation	\$157,678	N/A	N/A
4						
5						
6						
<b>TOTALS:</b>		30 yrs		\$3,408,511.74	\$4,617	\$2,219

**EXHIBIT C**

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT  
PROGRAM PLAN**

[See Attached]



## **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. **By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.**

### **I. Purpose of the Program**

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the “Authorized Improvements”). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the “Program Obligations”) may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

**Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.**

## **II. The District’s Governance, Program Administrator, and Conduit Financing Entity**

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors (“Board”) of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the “Corporation”) to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District’s “Program Administrator” and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District’s “Conduit Financing Entity” and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

### **III. Program Eligibility, Approvals, Financing, and Procurement**

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

**Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.**

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

#### **IV. Services Plan**

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

#### V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

## **VI. Energy Efficiency and Renewable Energy Regulations and Requirements**

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

Energy Efficiency Credits. The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

## **VII. Statutory Requirements**

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.



- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

#### **VIII. Changes in State and Federal Law**

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

#### **IX. Releases and Indemnification**

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

**By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.**

#### **X. Changes in the Program Terms; Severability**

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

#### **XI. Disclosure of Property Owner Information**

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

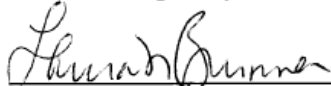
**Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.**

**BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW  
HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO  
PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN  
THIS PLAN.**

Date: July 23, 2014

**Property Owner:  
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

**Authorized Signatory**

  
\_\_\_\_\_  
Laura Brunner, as

President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development  
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

**Parcel One**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

**Parcel Two**

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

City of Cincinnati  
PACE Project Information



1. Legal Name of Property Owner

Acaban Atrium Two LP

2. Parent Entity/Company

3. Legal Address of Property Owner

100-105 West View Rd

4. Applicant Contact Person & Title

Richard Brunelle CFO

5. Phone

450-679-7786

6. Email

r.brunelle@fmatter.com

7. Is the applicant applying for any other City of Cincinnati incentives for this project?

8. Address(es) of Project Property

221 E Fourth St

9. Hamilton County Auditor Parcel ID #(s)

083-0003-0036-00

10. City of Cincinnati Neighborhood

CB3D

11. Construction Type

New Construction ☐ Renovation ☒

12. Total sqft/units to be constructed or renovated

Commercial (sqft) 653,000<sup>+</sup> Office (sqft) 653,000<sup>+</sup> Industrial (sqft) 0  
Residential (sqft) 0 Residential (units) 0

13. Estimated hard cost of construction or renovation

14. Estimated total project cost (including soft costs & acquisition)

\$3,408,571

15. Projected construction start date

3/15/20

16. Projected construction end date

substantially complete

17. Please indicate if the project will attain any of the certifications listed below:

LEED ☐ Living Building Challenge (LBC) ☐ Other ☒ None

18. Actual/Anticipated date presented to Community Council

5/6/20

19. Community Council support for the project

Yes ☐ No ☒

20. Please provide a brief description of project and which specific improvements qualify for PACE financing:

Modernizing Elevators that are nearing the end of useful life

**ATTACHMENT A**

**LIST OF SPECIAL ASSESSMENTS AND  
SCHEDULE OF SPECIAL ASSESSMENTS**

221 E. FOURTH STREET  
LIST OF SPECIAL ASSESSMENTS

Name	Assessed Properties Description	Portion of Benefit and Special Assessment	Amount of Special Assessments
Acabay Atrium Two L.P.	Hamilton County Parcel Number: 083-0003-0036-00	100%	\$6,890,881.00

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62
7/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
1/31/2037	137,817.62
7/31/2037	137,817.62
1/31/2038	137,817.62
7/31/2038	137,817.62
1/31/2039	137,817.62
7/31/2039	137,817.62
1/31/2040	137,817.62
7/31/2040	137,817.62
1/31/2041	137,817.62
7/31/2041	137,817.62
1/31/2042	137,817.62
7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62



**ATTACHMENT B**

## EMERGENCY

# Legislative Resolution

RESOLUTION NO. \_\_\_\_\_ - 2021

**DECLARING** by legislative resolution the necessity of the special assessment project at 221 E. Fourth Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision that has approved a petition for special assessments for public improvements in a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, pursuant to Resolution No. 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the "ESID") was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, Acabay Atrium Two L.P. (together with all future owners of the Project Site, as defined below, the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of June 14, 2021 (the "Petition"), including a *Supplement to Plan for 221 E. Fourth Street Project* (the "Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the "Authorized Improvements") to be located at 221 E. Fourth Street in Cincinnati (the "Assessed Property"); and

WHEREAS, the Petition and the Supplemental Plan are on file with the Clerk of Council, and copies thereof are attached to this Resolution as Attachment A; and

WHEREAS, in the Petition, the Owner requests that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the "Special Assessments") in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, and the Owner, in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the "Standing Assignment Agreement"); and

WHEREAS, in order to provide for the assignment and transfer of the Special Assessments, the ESID has requested that the City execute and deliver an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council; and

WHEREAS, (i) the Special Assessments are conducive to the public health, convenience and welfare of this City and the inhabitants of the City; (ii) the Assessed Property is specially benefited by the Special Assessments; and (iii) the Special Assessments have been petitioned for by the owner of 100% of the Assessed Property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated June 14, 2021 (the "Petition"), which Petition, together with a *Supplement to Plan for 221 E. Fourth Street Project* (the "Supplemental Plan"), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

Section 2. That this Council hereby approves and authorizes the City Manager to execute an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary to effectuate the purpose of the Petition and Ohio Revised Code Chapter 1710, provided that any such modifications shall not, in the judgment of the City Manager, be adverse to the City.

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 221 E. Fourth Street, Cincinnati, Ohio (the "Assessed Property"), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the "Authorized Improvements") on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition (collectively, the "Assessment Project"), which

Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

Section 4. That the plans and specifications and total cost of the Assessment Project now on file in the office of the Clerk of Council are approved, subject to changes as provided for in the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "ESID"), and as permitted by Ohio Revised Code Chapter 727. The Assessment Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Assessment Project.

Section 5. That this Council finds and determines that: (i) the Assessment Project is conducive to the public health, convenience, and welfare of this City and the inhabitants thereof, and that it is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project as defined in Ohio Revised Code Section 1710.01(I); (ii) the Assessed Property is specially benefited by the Assessment Project; and (iii) the Assessment Project has been petitioned for by the owner of 100% of the Assessed Property. It is hereby determined that the Assessment Project's elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Assessment Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner, and that the Assessment Project's elements shall be treated as a single improvement pursuant to Ohio Revised Code Section 727.09.

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the Assessment Project is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the Assessment Project. The board of directors of the ESID must

obtain from any sale, transfer, lease, or conveyance of the Assessment Project any consideration greater than or equal to \$1.00.

Section 7. That the costs of the Assessment Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Assessed Property, and the assessment for such purpose (the "Special Assessments") shall be assessed and paid as specified in the Petition. The portion of the costs of the Assessment Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 8. That the City's Finance Director and/or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Assessment Project in accordance with the method of assessment set forth in the Petition and this Resolution.

Section 9. That the Special Assessments shall be levied and paid in fifty (50) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

Section 10. That the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under Ohio Revised Code Section 727.13.

Section 11. That pursuant to and subject to the provisions of a valid Petition signed by the Owner, as the owner of one hundred percent (100%) of the Assessed Property, which Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

Section 12. That this Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of

property owners under the law, including, but not limited to, those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Assessed Property.

Section 13. That the City's Finance Director and/or her designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Assessment Project.

Section 14. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. That this 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 to ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: \_\_\_\_\_, 2021


\_\_\_\_\_  
John Cranley, Mayor

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

**ATTACHMENT A**

202102340

Date: June 17, 2021

**To:** Councilmember Steven Goodin  
**From:** Andrew W. Garth, City Solicitor   
**Subject:** **Emergency Ordinance – FY 2022 Appropriations Community  
Oriented Policing and Gun Violence Reduction**

---

Transmitted herewith is a resolution captioned as follows:

**AUTHORIZING** the transfer and appropriation of the sum of \$10,000 from the unappropriated surplus of General Fund 050 to the City Manager's Office non-personnel operating budget account no. 050x101x7200, effective July 1, 2021, for the purpose of providing resources for Community Oriented Policing and Gun Violence Reduction in FY 2022.

AWG/CMZ/(lnk)  
Attachment  
342274



EMERGENCY

City of Cincinnati

CMZ

BWB

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

- 2021

**AUTHORIZING** the transfer and appropriation of the sum of \$10,000 from the unappropriated surplus of General Fund 050 to the City Manager's Office non-personnel operating budget account no. 050x101x7200, effective July 1, 2021, for the purpose of providing resources for Community Oriented Policing and Gun Violence Reduction in FY 2022.

WHEREAS, \$10,000 was included in the Approved FY 2021 Budget Update for Councilmember Goodin's office, which will return to the General Fund unappropriated surplus at FY 2021 year end; and

WHEREAS, Council desires to provide resources in the amount of \$10,000 for Community Oriented Policing and Gun Violence Reduction through the Cincinnati Initiative to Reduce Violence (CIRV) in FY 2022 to fund important programs benefitting the community; now, therefore,

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

Section 1. That the sum of \$10,000 is hereby transferred and appropriated from the unappropriated surplus of General Fund 050 to City Manager's Office non-personnel operating budget account no. 050x101x7200, effective July 1, 2021, for the purpose of providing resources for Community Oriented Policing and Gun Violence Reduction through the Cincinnati Initiative to Reduce Violence.

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

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 meet commitments and ensure contracts can be executed as soon as possible.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 21, 2021

To: Members of the Budget and Finance Committee 202102342

From: Paula Boggs Muething, City Manager

Subject: **CRA AGREEMENT FOR GEST STREET DISTRIBUTIONS, LLC,  
NEHEMIAH MANUFACTURING COMPANY LLC, AND THE  
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

---

Attached is an Emergency Ordinance captioned as follows:

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Gest Street Distributions, LLC, Nehemiah Manufacturing Company LLC, and the Port of Greater Cincinnati Development Authority, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 979 Berlin Street in the Lower Price Hill neighborhood of Cincinnati, in connection with the construction of approximately 46,961 square feet of industrial space and approximately 2,939 square feet of office space, at a total construction cost of approximately \$3,630,000.

### **BACKGROUND/CURRENT CONDITIONS**

For more than a decade, the City strategically acquired and prepared approximately 18 acres of land in Lower Price Hill, consolidated and commonly referred to as the Metro West Commerce Park (“Metro West”).

In January 2020, the Department of Community and Economic Development (“DCED”) issued a Request for Proposals (“RFP”) for the subject property. The RFP was awarded to Nehemiah Manufacturing Company LLC.

### **DEVELOPER INFORMATION**

The Developer, Gest Street Distributions, LLC, is an affiliate of Nehemiah Manufacturing Company LLC. Nehemiah Manufacturing successfully redeveloped the adjacent site and relocated their headquarters to 1907 South Street in 2018. Al. Neyer has been selected as the general contractor for the project.

The Developer intends to enter into a transaction with the Port of Greater Cincinnati Development Authority (the “Port”) under which it will convey the property to the Port before undertaking construction of the project’s improvements, and the Port will lease the improvements to be constructed back to Developer.

## **PROJECT DESCRIPTION**

The Developer plans to expand their existing facility by constructing a 49,900 square foot light manufacturing and office facility on the subject property at an estimated cost of \$3,630,000. The project will result in the retention of 101 full-time equivalent employees (“FTEs”) with a total annual payroll of \$6,675,000, the relocation and retention of 17 FTEs with a total annual payroll of \$543,500, and the creation of 15 FTEs with a total annual payroll of approximately \$450,000. The project will also result in the creation of 34 full-time temporary construction jobs with an associated annual payroll of \$1,490,000.

The proposed sale of property and the proposed vacation and sale of a portion of Summer Street were approved by the City Planning Commission on December 18, 2020.

The Department of City Planning hosted a public engagement meeting on the proposed sale of City-owned property and the proposed vacation and sale of a portion of Summer Street on May 26, 2021. No concerns about the proposed project were expressed.

## **PROPOSED INCENTIVE**

DCED is recommending a 15-year, net 67% CRA tax exemption.

DCED is also recommending the sale of this City-owned property and the vacation and sale of a portion of Summer Street for \$1.00. This proposed incentive is outlined in a separate ordinance.

Pursuant to the Commercial CRA policy established by City Council, this project has committed to a 33% PILOT to Cincinnati Public Schools. DCED has determined that this project meets the qualifications of an *Undercapitalized Project*, as described in Section 3 of Ordinance 339-2018, passed on October 31, 2018, based on the following factors:

- Due to its history, this property requires significant pre-development costs related to environmental remediation.
- The feasibility of the project is dependent on the vacation of a portion of Summer Street, which has significantly increased the cost of the project.

Additionally, it is anticipated that this project will create new jobs, stimulate economic growth in the Lower Price Hill neighborhood, and restore the City’s Sale Property to a productive use.

<b>SUMMARY</b>	
<b>Forgone Public Benefit if Project Does not Proceed</b>	
CPS PILOT ( <i>Forgone New Revenue</i> )	(\$333,669)
VTICA ( <i>Forgone New Revenue</i> )	\$0
Income Tax ( <i>Forgone New Revenue</i> )	(\$2,117,430)
<b>Total Public Benefit Lost</b>	<b>(\$2,451,099)</b>
<b>Incentive Value</b>	
Annual Net Incentive to Developer	\$45,163
<b>Total Term Incentive to Developer</b>	<b>\$677,450</b>
<b>City's Portion of Property Taxes Forgone</b>	<b>\$130,496</b>
<b>Public Benefit</b>	
CPS PILOT	
Annual CPS Pilot	\$22,245
Total Term CPS PILOT	<b>\$333,669</b>
VTICA	
Annual VTICA	\$0
Total Term VTICA	<b>\$0</b>
Income Tax (Max)	<b>\$2,117,430</b>
<b>Total Public Benefit (CPS PILOT/VTICA /Income Tax)</b>	<b>\$2,451,099</b>
Total Public Benefit ROI*	\$3.62
City's ROI**	\$16.23

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

\*\*This figure represents the total dollars returned for City/VTICA over the City's property taxes forgone

## **RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance. The reason for the emergency is to accommodate the construction timeline of the Project.

Attachment: A. Property Location and Site Plan

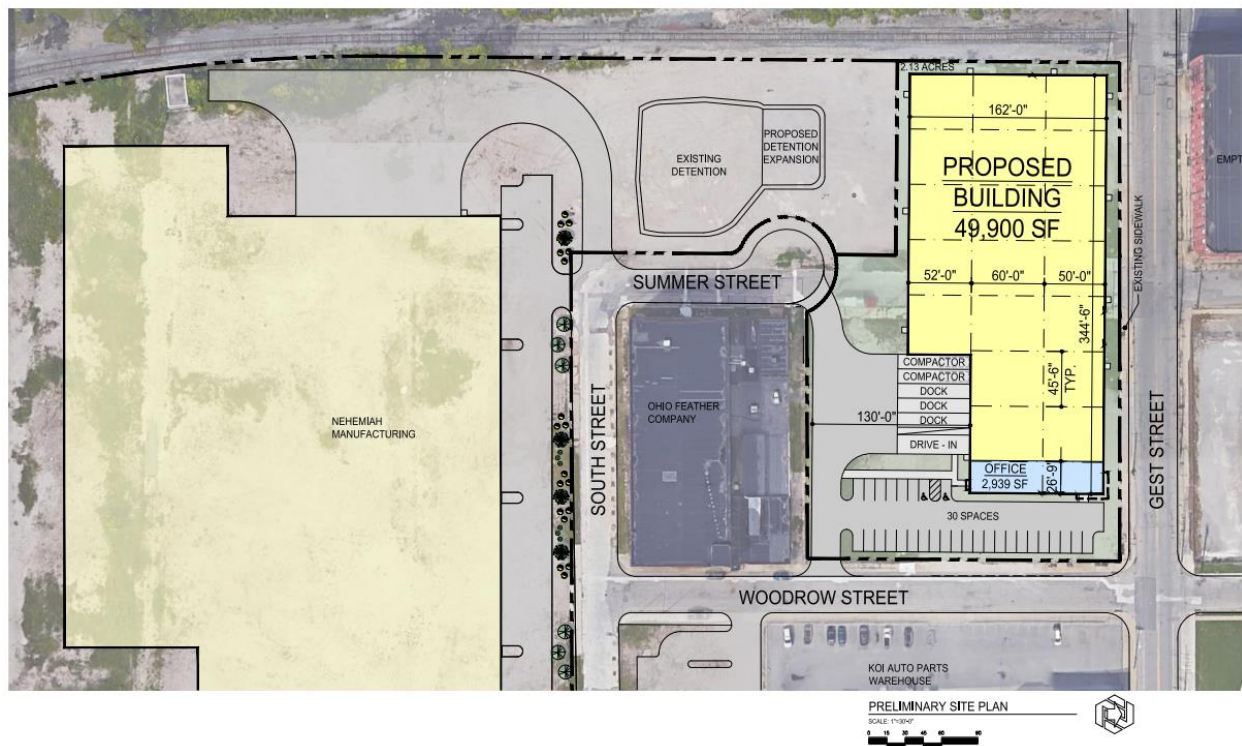
Copy: Markiea L. Carter, Director, Department of Community & Economic Development *MLC*



## Attachment A: Property Location and Site Plan



*Property Location - 1917-1933 Gest Street.*



*Site Plan*



EMERGENCY

City of Cincinnati

TJL

BWL

An Ordinance No. \_\_\_\_\_ - 2021

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Gest Street Distributions, LLC, Nehemiah Manufacturing Company LLC, and the Port of Greater Cincinnati Development Authority, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 979 Berlin Street in the Lower Price Hill neighborhood of Cincinnati, in connection with the construction of approximately 46,961 square feet of industrial space and approximately 2,939 square feet of office space, at a total construction cost of approximately \$3,630,000.

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, Gest Street Distributions, LLC and Nehemiah Manufacturing Company LLC (collectively, the "Company") desire to construct approximately 46,961 square feet of industrial space and approximately 2,939 square feet of office space on real property at 979 Berlin Street located within the corporate boundaries of the City of Cincinnati (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 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 Gest Street Distributions, LLC, Nehemiah Manufacturing Company LLC, and the Port of Greater Cincinnati Development Authority (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 979 Berlin Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the construction of approximately 46,961 square feet of industrial space and approximately 2,939 square feet of office space, to be completed at a total construction cost of approximately \$3,630,000.

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 construction 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

## 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 among the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), GEST STREET DISTRIBUTIONS, LLC, an Ohio limited liability company (the "Lessee"), NEHEMIAH MANUFACTURING COMPANY LLC, an Ohio limited liability company (the "Sublessee"; and collectively with Lessee, the "Company"), and the PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY, an Ohio port authority, d/b/a THE PORT (the "Owner").

## Recitals:

- A. [The City and the Company are parties to a certain *Property Sale and Development Agreement* dated \_\_\_\_\_, 2021 (the "Development Agreement"). Pursuant to the Development Agreement, the City agreed to convey a portion of the Property (as defined below) to the Company and to provide the Company with financial support for the Project (as defined below).]
- B. 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").
- C. 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.
- D. 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.
- E. The Sublessee is the long-term tenant of certain real property within the City, located at 979 Berlin Street, Cincinnati, Ohio 45204 (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 to construct 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.
- 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, 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.
- 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. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021.
- Q. 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, 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 construct of approximately 46,961 square feet of industrial space and approximately 2,939 square feet of office space on the Property (the "Improvements") at an estimated aggregate cost of Three Million Six Hundred Thirty Thousand Dollars (\$3,630,000) to commence after the execution of this Agreement and to be completed no later than March 31, 2023; *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 construction 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 construction, (B) the cost of construction, (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 2023 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the fifteenth (15<sup>th</sup>) 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.<sup>1</sup>

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, Sublessee has (a) 118 full-time equivalent employees in the City of Cincinnati, with a total annual payroll of \$7,218,500, and (b) no existing employment at the Property or at other locations 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 (i) cause the relocation and retention of 17 existing full-time equivalent employees to the Property, with a total annual payroll of \$543,500, in connection with the Project, and (ii) retain 101 existing full-time equivalent employees in the City of Cincinnati, with a total annual payroll of \$6,675,000.

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<sup>1</sup> 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.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 15 full-time permanent jobs and (ii) 34 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 construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of construction and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$450,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$1,490,000 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 it gives 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 and (ii) use best efforts to confirm that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati.

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 (including, without limitation, its obligation to comply with the [Development 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. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). 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 Lessee:

Gest Street Distributions, LLC  
Attention: Dan Meyer  
212 E. 3<sup>rd</sup> Street,  
Cincinnati, Ohio 45202

To the Sublessee:

Nehemiah Manufacturing Company, LLC  
Attention: \_\_\_\_\_  
[\_\_\_\_\_]

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 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. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement 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. Joint and Several Liability. The obligations and liability of the Lessee and the Sublessee under this Agreement are joint and several, except as otherwise expressly indicated. In dealing with said entities, the City shall be entitled to rely upon information, notices, documents and the like received by the City from only one of said entities to the same extent as if the same had been provided to the City by both entities.

Section 39. 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

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

Date: \_\_\_\_\_, 2021

**Error! Reference source not found.**GEST  
STREET DISTRIBUTIONS, LLC  
an Ohio limited liability company

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

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

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

Date: \_\_\_\_\_, 2021

Authorized by resolution dated \_\_\_\_\_

NEHEMIAH MANUFACTURING COMPANY LLC  
an Ohio limited liability company

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

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

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

Date: \_\_\_\_\_, 2021

Approved as to Form:

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

PORT OF GREATER CINCINNATI  
DEVELOPMENT AUTHORITY, d/b/a  
THE PORT, an Ohio port authority

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

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

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

Date: \_\_\_\_\_, 2021

Authorized by resolution dated \_\_\_\_\_.

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

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

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

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

{00332975-6}

**Exhibit A to CRA Agreement**

LEGAL DESCRIPTION OF PROPERTY

SEE ATTACHED

### **Tract I**

**Property Address:** 1917 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel No.:** 149-0014-0067-00

Situate in the State of Ohio, County of Hamilton, and in the City of Cincinnati, and described as follows:

All that certain lot in Cincinnati, formerly Storrs Township, Hamilton County, Ohio, commencing at a point on the south side of Plank Road (Gest Street), 25 feet west of East line of Block "P" as laid down upon Stephen Wilders Subdivision, recorded in Plat Book 1, Page 282, of the Plat Records of Hamilton County, Ohio, which point is also the southwest corner of Gest Street and a 50 foot street laid out by C. R. Wilder, now known as Woodrow Street; thence west along Gest Street 25 feet; thence south at right angles 80.05 feet to the northwest corner of the property sold by Donald and Robert Schloemer to Hoeltge Bros. Inc. in Deed Book 2661, Page 600; thence North 89 degrees 35' East along the northerly side of an 8" brick wall, 25 feet to the west line of Woodrow Street; thence north along said Woodrow Street, 79.95 feet to the place of beginning.

### **Tract II**

**Property Address:** 1919 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0065-00 (-65, -66, -160, -175, -183 Cons.)

Parcel No. 149-14-65

All that certain real estate in the City of Cincinnati, Hamilton County, Ohio, situated on the southside of Gest Street, being 25.00 feet front by 95.00 feet deep between Berlin and Summer Streets, 50.00 feet west of Berlin Street, and lying 75 feet west of the east line of the block, being in Block "P" S.L. Wilder's Subdivision.

and

Parcel No. 149-14-66

Situate in the City of Cincinnati, Hamilton County, Ohio, and being part of Block "P" of Stephen Wilder's Subdivision, a plat of which is recorded in Plat Book 1, Page 383, Hamilton County Records, viz:

Beginning at a point on the south side of Gest Street 50 feet west of the northeast corner of said block and running thence west with said Gest Street 25 feet; thence south and parallel with the east line of said block 95 feet to a vacated alley; thence east and parallel to Gest Street 25 feet; thence North 95 feet to the place of beginning; the property herein referred to fronting 25 feet on the south side of Gest Street by 95 feet in depth between parallel lines and lying 25 feet west of the west line of Berlin Street.

and

Parcel No. 149-14-160

Situated in the City of Cincinnati, County of Hamilton, and State of Ohio, and being more particularly described as follows:

Commencing at a point 94.00 feet east of the southeast corner of Gest and Summer Streets in Block "P" in S. Wilder's Subdivision of lands in Storrs Township, Hamilton County, Ohio; thence running south from Gest Street 95.00 feet parallel to the west line of said block; thence east 31.00 feet parallel to Gest Street;

thence north between parallel lines 95.00 feet to Gest Street; thence west on Gest Street 31.00 feet to the place of beginning. Being known and numbered as No. 1923 Gest Street.

and

Parcel Nos. 149-14-175 and -183

All that lot of land in the City of Cincinnati, Hamilton County, Ohio and being part of Block "P" of Stephen Wilder's Subdivision as recorded in Plat Book 1, Page 282 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the intersection of the westerly line of Woodrow Street with the northerly line of an 8 inch brick wall located South 0 degrees 24 minutes west, 79.95 feet from the southwesterly intersection of Gest and Woodrow Streets; thence South 0 degrees 24 minutes west along the westerly line of Woodrow Street, 20.05 feet; thence south 89 degrees 48 minutes west parallel with the southerly line of Gest Street, 25 feet; thence North 0 degrees 24 minutes east parallel with the westerly line of Woodrow Street, 19.95 feet to the north side of an 8 inch brick wall 25 feet to the place of beginning.

Tract III

**Property Address:** 1919 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0190-00

Situate in the City of Cincinnati, Hamilton County, Ohio, and being part of Block "P" of Stephen Wilder's Subdivision, same being recorded in Plat Book 1, Page 282, Recorder's Office, also being part of the resubdivision of Block "P" of Stephen Wilder's Subdivision, same being recorded in Case No. 41960 of the Superior Court of Cincinnati, Book 31, Page 300, of the Superior Court Records, and being more particularly described as follows, to-wit:

Beginning at a point on the west line of Woodrow Street, said point being 100 feet south of the southwest corner of Gest Street and Woodrow Street; thence continuing south with the west line of Woodrow Street for a distance of 11.60 feet; thence westerly parallel to Gest Street for a distance of 75.20 feet; thence northwardly parallel to Woodrow Street for a distance of 16.60 feet; thence eastwardly parallel to Gest Street for a distance of 50.20 feet; thence southwardly parallel to Woodrow Street for a distance of 5.00 feet; thence eastwardly parallel to Gest Street for a distance of 25.00 feet to the place of beginning.

Tract IV

**Property Address:** 1929 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0063-00

The following described premises located in the City of Cincinnati, Hamilton County, and State of Ohio, and more particularly described as follows:

Beginning at a point in the South line of Gest Street 106 feet west of Woodrow Street and 119 feet east of the northwest corner of said Block "P"; thence west with the south line of Gest Street 31 feet; thence south parallel to the west line of said Block "P" and 63 feet east of Summer Street, 100 feet; thence east parallel with Gest Street 31 feet to a point 106 feet west of Woodrow Street; thence north parallel with Woodrow Street 100 feet to the place of beginning.

Tract V

**Property Address:** 1933 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0062-00 (-62, -64, -68, -69, -164 Cons.)



Situated in Section 30, Town 4, Fractional Range 1 of the Miami Purchase, in the City of Cincinnati, County of Hamilton, State of Ohio and being part of Block "P" of Stephen Wilder's Subdivision as recorded in Plat Book 1, Page 282, of the Hamilton County Recorder's Office and more particularly described as follows:

Begin at the intersection of the South right-of-way of Gest Street with the East right-of-way of Summer Street (found notch N. 5.0'), said point being North 89°30'00" East, 25.00 feet from the Northwest corner of the above-mentioned Block "P"; thence with the South right-of-way of Gest Street and North line of Block "P" North 89° 30'00" East, 32.00 feet to a set notch and the TRUE POINT OF BEGINNING;

thence from the TRUE POINT OF BEGINNING and continuing with the South right-of-way of Gest Street and North line of said Block "P" North 89°30'00" East, 31.00 feet to a set notch (found notch N. 5.0');

thence leaving said right-of-way and North line of Block "P" and with the West line of Inwood Automotive Products Co., Inc., as recorded in Deed Book 3289, Page 17, South 00°02'00" West, 100.00 feet to a set iron pin;

thence with the South line of Inwood Automotive Products Co., Inc., and The Central Carton Company as recorded in Deed Book 2213, Page 157, North 89°30'00" East, 62.00 feet to a set iron pin;

thence with the West line of Inwood Automotive Products Co., Inc., as recorded in Deed Book 3263, Page 162, South 00°02' 00" West, 11.60 feet (existing building corner N. 0.4' E. 1.0');

thence with the South line of said Inwood Automotive Products Co., Inc., North 89°30'00" East, 75.20 feet to a set notch in the West right-of-way of Woodrow Street;

thence with said right-of-way and parallel to and 25 feet West of the East line of Block "P" of Stephen Wilder's Subdivision South 00°02'00" West, 146.03 feet to a set notch at the Southeast corner of Lot 3 made by the Commissioners in Partition Case #41960 Superior Court of Cincinnati, Ohio;

thence with the South line of said Lot 3 and North line of Gabriel and Regina Guigui as recorded in Deed Book 4340, Page 485, South 89°30'00" West, 200.20 feet to a set notch in the East right-of-way of Summer Street;

thence with said East right-of-way, parallel to and 25 feet East of the West line of Block "P" of Stephen Wilder's Subdivision North 00°02'00" East, 162.63 feet to a found notch;

thence leaving said right-of-way and with the South line of The Central Carton Company as recorded in Deed Book 3289, Page 196, North 89°30'00" East, 32.00 feet to a set iron pin;

thence with the East line of The Central Carton Company North 00°02'00" East, 95.00 feet to the TRUE POINT OF BEGINNING.

### **Tract VI**

**Property Address:** 1935 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0061-00

Situated in the City of Cincinnati, Hamilton County, Ohio, and being a part of Lot P of Stephen Wilder's plat of Subdivision recorded in Plat Book 1, page 282, Hamilton County, Ohio, records, and commencing at a point 25 feet east of the northwest corner of said Lot P as marked in said plat, which point is also the southeast corner of Gest Street and a 50 foot street, now called Sumner Street, laid out by said Stephen Wilder; thence south 95 feet in a line parallel with the west line of said block; thence east 32 feet in a line parallel with Gest Street; thence north 95 feet parallel with the west line of said block; thence west on Gest Street 32 feet to the place of beginning.

### **Tract VII**

**Property Address:** None: a parcel located at the SW Corner of the intersection of Gest and Summer Streets, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0205-00

Situate in Section 30, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at a set Mag nail at the intersection of the south line of Gest Street, 60' R/W and the west line of Sumner Street, 50' R/W; thence with said west line of Sumner Street South 06°30'40" West, 184.39 feet to a set 5/8" iron pin; thence North 83°29'20" West, 159.99 feet to a set 5/8" iron pin; thence North 06°30'40" East, 182.93 feet to a set 5/8" iron pin at the south line of said Gest Street; thence with the south line of said Gest Street South 84°00'41" East, 160.00 feet to the Place of Beginning. Containing 29,384 square feet of land more or less (0.6746 acres). Bearings are based on NAD 83 (2007). Subject to all legal highways, easements and restrictions of record. Based on a survey performed under the direction of Joseph N. Koopman, Ohio Registration Number 7184.

## **Vacated Portion of Summer Street**

### **Description for: Summer Street Vacation, 0.2751 Acres**

#### **Location: City of Cincinnati, Ohio**

Situated in Section 30, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, State of Ohio, being part of Summer Street and being more particularly described as follows:

**BEGINNING** at the intersection of the south line of Gest Street and the east line of Summer Street;

Thence along said east line of Summer Street, South 06°30'40" West, 257.91 feet to the northwest corner of a tract conveyed to RWG South Street, LLC, recorded in Official Record 12326, Page 1585 of the Hamilton County Recorder's Office;

Thence through said Summer Street, along new division lines, North 84°06'22" West, 2.34 feet to a set cross notch **AND** along a curve deflecting to the left, having a radius of 41.00 feet, an arc length of 57.57 feet, a delta angle of 80°27'05" and being subtended by a chord bearing North 57°38'05" West, 52.96 feet to an existing iron pin and cap stamped City of Cincinnati Engineering in the west line of Summer Street;

Thence along said west line of Summer Street, North 06°30'40" East, 234.39 feet to an existing MAG nail in the south line of aforesaid Gest Street;

Thence along said south line of Gest Street, South 84°00'41" East, 50.00 feet to the **POINT OF BEGINNING**.

**CONTAINING 0.2751 ACRES.** Together with and subject to all easements of record.

Bearings are based on State Plane Coordinate System, Ohio South Zone (NAD83).

Prepared by G.J. BERDING SURVEYING, INC. on October 27, 2020. Based on a Vacation Plat prepared by G.J. BERDING SURVEYING, INC. on October 27, 2020

**Exhibit B to CRA Agreement**  
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

June 21, 2021

To: Members of the Budget and Finance Committee 202102345

From: Paula Boggs Muething, City Manager

Subject: **PROPERTY SALE AND DEVELOPMENT AGREEMENT FOR  
VACANT LOTS AT 1917-1933 GEST STREET AND A PORTION OF  
VACATED SUMMER STREET**

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Attached is an Emergency Ordinance captioned as follows:

**AUTHORIZING** the City Manager to execute a *Property Sale and Development Agreement* with Gest Street Distributions, LLC, an affiliate of Nehemiah Manufacturing Company LLC, pursuant to which the City will vacate and sell approximately 0.2751 acres of real property designated as public right-of-way known as Summer Street and sell approximately 1.8591 acres of unimproved real property generally located south of Gest Street and west of Berlin Street in the Lower Price Hill neighborhood.

### **BACKGROUND/CURRENT CONDITIONS**

For more than a decade, the City of Cincinnati strategically acquired and prepared approximately 18 acres of land in Lower Price Hill, consolidated and commonly referred to as the Metro West Commerce Park ("Metro West"). The City sold off prior portions of Metro West to Tri-State Wholesale and Nehemiah Manufacturing.

In January 2020, the Department of Community and Economic Development ("DCED") issued a Request for Proposals ("RFP") for the subject property. The RFP was awarded to Nehemiah Manufacturing Company LLC.

### **DEVELOPER INFORMATION**

The Developer, Gest Street Distributions, LLC, is an affiliate of Nehemiah Manufacturing Company LLC. Nehemiah Manufacturing successfully redeveloped the adjacent site and relocated their headquarters to 1907 South Street in 2018. Al. Neyer has been selected as the general contractor for the project.

The Developer intends to enter into a transaction with the Port of Greater Cincinnati Development Authority (the “Port”) under which it will convey the property to the Port before undertaking construction of the project’s improvements, and the Port will lease the improvements to be constructed back to Developer.

### **PROJECT DESCRIPTION**

The Developer plans to expand their existing facility by constructing a 49,900 square foot light manufacturing and office facility on the subject property at an estimated cost of \$3,630,000. The project will result in the retention of 101 full-time equivalent employees (“FTEs”) with a total annual payroll of \$6,675,000, the relocation and retention of 17 FTEs with a total annual payroll of \$543,500, and the creation of 15 FTEs with a total annual payroll of approximately \$450,000. The project will also result in the creation of 34 full-time temporary construction jobs with an associated annual payroll of \$1,490,000.

The proposed sale of property and the proposed vacation and sale of a portion of Summer Street were approved by the City Planning Commission on December 18, 2020.

The Department of City Planning hosted a public engagement meeting on the proposed sale of City-owned property and the proposed vacation and sale of a portion of Summer Street on May 26, 2021. No concerns about the proposed project were expressed.

### **PROPOSED INCENTIVE**

DCED is recommending the sale of the City-owned property (1.8591 acres) and the vacation and sale of a portion of Summer Street (0.2751 acres) for \$1.00.

DCED is also recommending a 15-year, net 67% CRA tax exemption. This proposed incentive is outlined in a separate ordinance.

The approximate Fair Market Value (“FMV”) of the City-owned property was determined by appraisal to be \$195,500, and the approximate FMV of the portion of Summer Street was determined by appraisal to be \$13,500. The total FMV of the property was determined to be \$209,000.

DCED is recommending a \$1.00 sale based on the following factors:

- Due to its history, this property requires significant pre-development costs related to environmental remediation.
- The feasibility of the project is dependent on the vacation of a portion of Summer Street, which has significantly increased the cost of the project.

Additionally, it is anticipated that this project will create new jobs, stimulate economic growth in the Lower Price Hill neighborhood, and restore the City's Sale Property to a productive use.

### **RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance. The reason for the emergency is to accommodate the construction timeline of the Project.

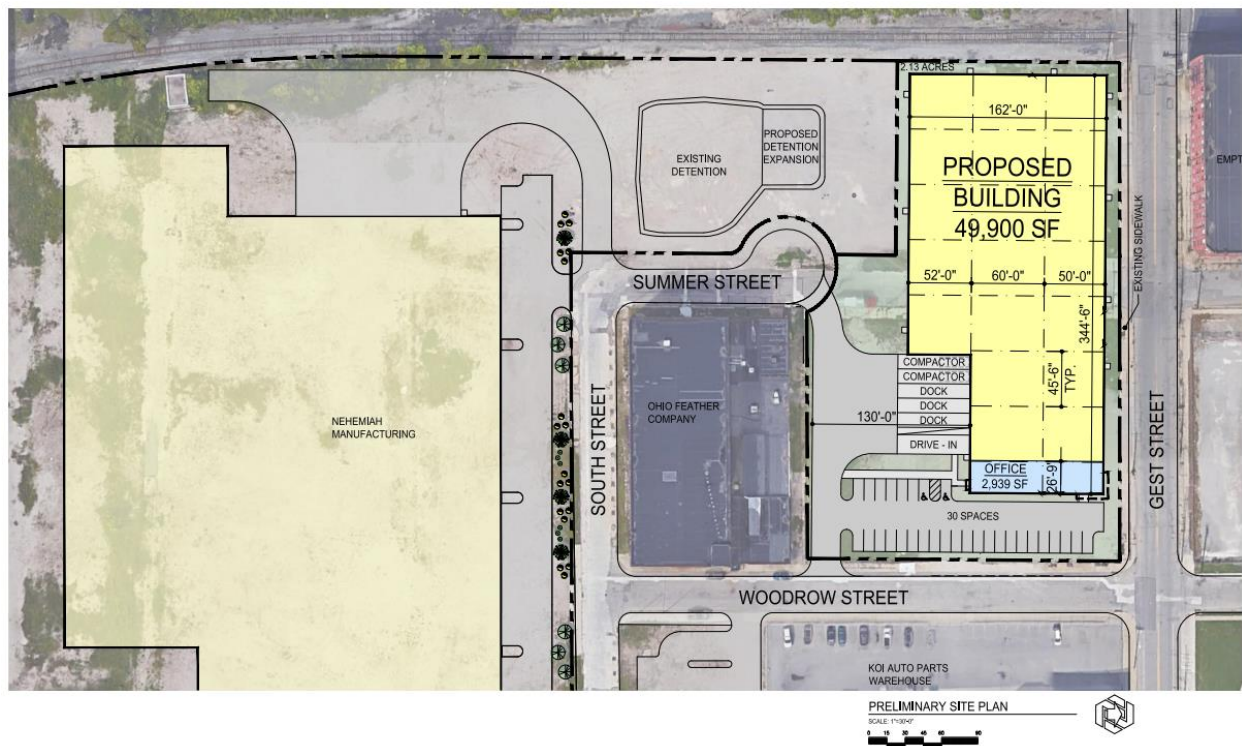
Attachment: A. Property Location and Site Plan

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

## Attachment A: Property Location and Site Plan



*Property Location - 1917-1933 Gest Street.*



*Site Plan*



EMERGENCY  
**City of Cincinnati**

CHM

*AWB*

**An Ordinance No. \_\_\_\_\_ - 2021**

**AUTHORIZING** the City Manager to execute a *Property Sale and Development Agreement* with Gest Street Distributions, LLC, an affiliate of Nehemiah Manufacturing Company LLC, pursuant to which the City will vacate and sell approximately 0.2751 acres of real property designated as public right-of-way known as Summer Street and sell approximately 1.8591 acres of unimproved real property generally located south of Gest Street and west of Berlin Street in the Lower Price Hill neighborhood.

WHEREAS, the City owns the following real property generally located south of Gest Street in the Lower Price Hill neighborhood and more particularly depicted and described in the attached *Property Sale and Development Agreement*: (i) approximately 1.8591 acres of unimproved real property generally located west of Berlin Street (the “Gest Property”), which Gest Property is under the management of the City’s Department of Community and Economic Development (“DCED”); and (ii) approximately 0.2751 acres of real property designated as public right-of-way known as Summer Street (the “ROW Property,” and together with the Gest Property, collectively referred to herein as the “Sale Property”), which ROW Property is under the management of the City’s Department of Transportation and Engineering (“DOT”); and

WHEREAS, the City issued a request for proposals to solicit offers to develop the Gest Property, and Gest Street Distributions, LLC, an Ohio limited liability company (“Developer”), submitted a response proposing to purchase the Sale Property from the City as an assemblage to construct an approximately 49,900-square foot manufacturing facility resulting in a capital investment of approximately \$3,630,000 and the creation of up to 15 new full-time jobs and 34 temporary construction jobs (the “Project”), which proposal the City determined to be most advantageous to the City; and

WHEREAS, Ann D. Jennings, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney’s Certificate of Title dated June 9, 2021, certifying that the City and the Port of Greater Cincinnati Development Authority are the owners of all real property abutting the ROW Property; and (ii) the written consent of all necessary abutters to the City’s vacation and sale of the ROW Property to Developer; and

WHEREAS, pursuant to Ohio Revised Code Sec. 723.05, the City may 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, 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 any municipal purpose; and

WHEREAS, the City Manager, in consultation with DCED and DOTE, has determined that: (i) the ROW Property is not needed for transportation purposes or any other municipal purpose; (ii) there is good cause to vacate the ROW Property; (iii) the vacation of the ROW Property will not be detrimental to the public interest; and (iv) the Gest Property is not needed for any municipal purpose; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; 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 believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements; and

WHEREAS, the City's Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Gest Property is \$195,500 and that the approximate fair market value of the ROW Property is \$13,500 for a combined value of the Sale Property of \$209,000; however, the City is agreeable to conveying the Sale Property for less than fair market value, namely, for \$1.00, because the City will receive economic and noneconomic benefits from the Project that equal or exceed the fair market value of the Sale Property because it is anticipated that the Project will create new jobs and stimulate economic growth in the Lower Price Hill neighborhood; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Gest Property and the City's vacation and sale of the ROW Property on December 18, 2020; 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 do all things necessary to vacate approximately 0.2751 acres of real property designated as a portion of the Summer Street

public right-of-way. The portion of Summer Street to be vacated is more particularly described as follows (the "ROW Property"):

Situated in Section 30, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, State of Ohio, being part of Summer Street and being more particularly described as follows: BEGINNING at the intersection of the south line of Gest Street and the east line of Summer Street; Thence along said east line of Summer Street, South 06°30'40" West, 257.91 feet to the northwest corner of a tract conveyed to RWG South Street, LLC, recorded in Official Record 12326, Page 1585 of the Hamilton County Recorder's Office; Thence through said Summer Street, along new division lines, North 84°06'22" West, 2.34 feet to a set cross notch AND along a curve deflecting to the left, having a radius of 41.00 feet, an arc length of 57.57 feet, a delta angle of 80°27'05" and being subtended by a chord bearing North 57°38'05" West, 52.96 feet to an existing iron pin and cap stamped City of Cincinnati Engineering in the west line of Summer Street; Thence along said west line of Summer Street, North 06°30'40" East, 234.39 feet to an existing MAG nail in the south line of aforesaid Gest Street; Thence along said south line of Gest Street, South 84°00'41" East, 50.00 feet to the POINT OF BEGINNING. CONTAINING 0.2751 ACRES. Together with and subject to all easements of record. Bearings are based on State Plane Coordinate System, Ohio South Zone (NAD83).

Section 2. That the City Manager is hereby authorized to execute a *Property Sale and Development Agreement* with Gest Street Distributions, LLC, an Ohio limited liability company and an affiliate of Nehemiah Manufacturing Company LLC ("Developer"), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference (the "Agreement"), pursuant to which the City will sell to Developer the ROW Property and approximately 1.8591 acres of unimproved real property generally located south of Gest Street and west of Berlin Street in the Lower Price Hill neighborhood (the "Gest Property," and together with the ROW Property, collectively referred to herein as the "Sale Property").

Section 3. That Council finds (i) there is good cause to vacate the ROW Property, that such vacation will not be detrimental to the general interest, and the ROW Property is not needed

for transportation purposes or any other municipal purpose; and (ii) that the Gest Property is not needed for any municipal purpose.

Section 4. That the fair market value of the Sale Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$195,500 for the Gest Property and approximately \$13,500 for the ROW Property for an aggregate value of \$209,000; however, the City is agreeable to convey the Sale Property for less than fair market value, namely, for \$1.00, because the City will receive equivalent economic and noneconomic benefits from Developer's proposed development project that consist of an approximately 49,900-square foot manufacturing facility resulting in a capital investment of approximately \$3,630,000 and the creation of up to 15 new full-time jobs and 34 temporary construction jobs (the "Project"), which economic and noneconomic benefits are anticipated to equal or exceed the fair market value of the Sale Property because the Project will stimulate economic development in the Lower Price Hill neighborhood.

Section 5. That eliminating competitive bidding in connection with the City's sale of the Sale Property is in the best interest of the City because the City Manager, in consultation with the Department of Community and Economic Development, has determined that the Project was the most advantageous development proposal for the City in response to a request for proposals, and further because the Developer has obtained the consent of all necessary abutters to the City's vacation and sale of the ROW Property and, as a practical matter, no one other than an abutting property owner would have any use for the ROW Property.

Section 6. That the proceeds from the sale of the Sale 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 7. 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 8. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the ROW Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.

Section 9. That the City Manager and other proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, by executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation and sale of the ROW Property and the sale of the Gest Property to Developer including a *Property Sale and Development Agreement* in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference.

Section 10. 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 11. 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 enable the City to vacate the ROW Property and sell the

Sale Property as soon as possible so that Developer can promptly move forward with the Project, thereby creating new jobs, stimulating economic growth in the City, and enabling the Sale Property to be put to productive use for the economic benefit of the City at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Contract No. \_\_\_\_\_

**PROPERTY SALE AND DEVELOPMENT AGREEMENT**

*between the*

**CITY OF CINCINNATI**

*and*

**GEST STREET DISTRIBUTIONS, LLC**

Project Name: Metro West Commerce Park 2.0

(sale of vacant lots at 1917-1933 Gest Street and a portion of vacated Summer street  
to build  
a new manufacturing facility)

Effective as of the Effective Date, as defined on the signature page

{00326366-6}

## PROPERTY SALE AND DEVELOPMENT 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 is 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), and **GEST STREET DISTRIBUTIONS, LLC**, an Ohio limited liability company ("**Developer**"), an affiliate of Nehemiah Manufacturing Company LLC, with an address of 1907 South Street, Cincinnati, OH 45204 ("**NMC**").

### Recitals:

A. The City owns approximately 1.8591 acres of unimproved real property generally located south of Gest Street and west of Berlin Street in the Lower Price Hill neighborhood, as more particularly depicted on Exhibit A (*Survey Plat*) hereto (the "**Gest Property**"), which is under the management of the City's Department of Community and Economic Development ("**DCED**").

B. The City owns approximately 0.2751 acres of real property designated as public right-of-way, commonly known as Summer Street, as more particularly depicted on Exhibit A hereto (the "**ROW Property**"), and together with the Gest Property, collectively referred to herein as the "**Sale Property**", which is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. The City issued a request for proposals to solicit offers to develop the Gest Property. Developer submitted a proposal in response, which proposal the City determined is the most advantageous to the City, involving a capital investment of at least \$3,630,000 to construct an approximately 49,900 square foot manufacturing facility to be leased to NMC, resulting in the creation of up to 15 new full-time jobs by NMC and 34 temporary construction jobs (the "**Project**").

D. Developer seeks the vacation and sale of the ROW Property to consolidate the Sale Property to facilitate the Project on a larger development site. Also, Developer or its designee intends to enter into a transaction with the Port of Greater Cincinnati Development Authority (the "**Port**") under which it will convey the Sale Property to the Port before undertaking construction of the Project's improvements, and the Port will lease the improvements to be constructed back to Developer or its designee (the "**Port Lease Transaction**"). The City supports and is agreeable to the Port Lease Transaction, finding that it is vital to put the currently undeveloped land to productive use and provide the City with the jobs and other economic benefits that are anticipated to result from the Project.

E. Ann D. Jennings, Esq., a reputable attorney practicing in Hamilton County, Ohio, at the request of the City has provided the following: (i) an Attorney's Certificate of Title dated June 9, 2021, certifying that the City and the Port are the owners of all real property abutting the ROW Property, and (ii) the written consent of all necessary abutters to the City's vacation and sale of the ROW Property to Developer.

F. 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 any municipal purpose.

G. The City has made the following determinations: (i) that the ROW Property is not needed for transportation or any other municipal purpose and that the sale of the ROW Property will not be detrimental to the public interest; (ii) that the Gest Property is not needed for any municipal purpose; (iii) it is in the best interest of the City to eliminate competitive bidding in connection with the City's sale of the Gest Property because the City issued a request for proposals to solicit offers to develop the Gest Property, and the City finds that Developer's development proposal is the most suitable and advantageous to the City; (iv) it is in the best interest of the City to eliminate competitive bidding in connection with the City's vacation and sale of the ROW Property because the City and the Port own all real property that abuts the ROW Property, Developer has obtained the consent of all necessary abutters

{00326366-6}



to the City's vacation and sale of the ROW Property, and as a practical matter no one other than an abutting property owner would have any use for it.

H. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research.

I. The City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state and local laws and requirements. Accordingly, the City is cooperating to facilitate a real property tax abatement with respect to the Project pursuant to a *Community Reinvestment Area Tax Exemption Agreement* (the "**CRA Agreement**"), subject to passage by City Council of a separate ordinance authorizing such abatement.

J. The City's Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Gest Property is \$195,500, and that the approximate fair market value of the ROW Property is \$13,500 for a combined total of \$209,000, however, the City is agreeable to convey the Sale Property for less than fair market value; namely, for \$1.00, because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the Sale Property because it is anticipated that the Project will create new jobs, stimulate economic growth in the Lower Price Hill neighborhood, and restore the City's Sale Property to a productive use.

K. The City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Gest Property and the City's vacation and sale of the ROW Property on December 18, 2020.

L. Cincinnati City Council approved the City's sale of the Sale Property to Developer, and the execution of this Agreement by Ordinance No. [\_\_\_\_]-2021, passed by City Council on [\_\_\_\_], 2021.

NOW, THEREFORE, the parties agree as follows:

**1. DUE DILIGENCE.**

(A) Due Diligence Materials. Developer shall conduct due diligence investigations for the Sale Property and Project and, in connection therewith, shall obtain and, as they are received, shall deliver to the City, at no cost to the City, the following items (collectively the "**Due Diligence Materials**"):

- (i) *Title Commitment:* A current title commitment for the Sale Property;
- (ii) *ALTA Survey:* An ALTA survey of the Sale Property;
- (iii) *Construction Schedule:* The proposed construction schedule for the Project;
- (iv) *Environmental Site Assessment:* A Phase I Environmental Site Assessment of the Property; if the Phase I Environmental Site Assessment reports any recognized environmental conditions, then Developer shall also obtain a Phase II Environmental Site Assessment;
- (v) *Financing, Tax Credits, and Incentives:* Evidence of a satisfactory loan commitment or letter from Developer's lender evidencing that Developer has secured or will be able to secure all financing necessary to complete the Project. Developer having satisfied itself that it will qualify for and ultimately obtain tax credits, abatements, and/or other incentives and financing to support the Project, including but not limited to, the CRA Agreement;

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- (vi) *Zoning Approval*: Evidence that any and all zoning approvals that may be required for completion of the Project;
- (vii) *Building Permit*: Evidence that Developer has obtained or is ready to obtain a building permit issued by the City's Department of Buildings and Inspections for the construction of the Project;
- (viii) *Project Plans*: A copy of the Final Plans (as defined below), as specified below;
- (ix) *Final Bids and Budget*: A copy of the Final Bids (as defined below) and Budget (as defined below) for the Project, as specified below;
- (x) *Plats*: A copy of a consolidation plat for the Sale Property, and vacation plat for the ROW Property for the Project;
- (xi) *Construction Contract*: A copy of the executed final construction contract executed by Developer's general contractor for construction of the Project;
- (xii) *As-Built Appraisal*: An "as-built" appraisal of the Project (if required by Developer's lender); and
- (xiii) *Other Information*: Such other information and documents pertaining to Developer or the Project as the City may reasonably require.

The City may, in its sole and absolute discretion, waive the requirement for delivery of any of the Due Diligence Materials or may permit that any of the Due Diligence Materials be delivered following the Closing (as defined below).

(B) Preparation of Plans and Specifications; Coordinated Site Review Process. At no cost to the City, the Developer shall prepare plans and specifications for the Project and shall submit the same to the City's Coordinated Site Review process ("**CSPRO**") for review and approval, including completion of all levels of review and approval. The plans and specifications for the Project, as approved by the City and its various departments during CSPRO, are referred to herein as the "**Final Plans**". Following approval, the Final Plans shall not be materially altered without the City's prior written consent.

(C) Consolidation Plat; Vacation Plat. Prior to Closing and at no cost to the City, the Developer shall conduct all necessary surveying work and prepare (i) a consolidation plat and legal description for the Sale Property, which shall consolidate all City-owned parcels comprising the Project site and the adjacent ROW Property; and (ii) a vacation plat and legal description for the ROW Property for the Summer Street right-of-way to be vacated and sold to Developer. Developer shall submit the consolidation plat and vacation plat to the City for review and approval (the City-approved consolidation plat and vacation plat are individually referred to herein, respectively, as the "**Consolidation Plat**" and "**Vacation Plat**" and collectively referred to as the "**Plats**"). The City's Department of Community and Economic Development ("**DCED**") and the Developer shall work collaboratively to secure all appropriate Office of the County Engineer, Hamilton County, Ohio and Office of the County Auditor, Hamilton County, Ohio approvals of the Plats, in accordance with applicable law and regulation. Prior to Closing and at no cost to the City, the Developer shall provide to the City recordable versions of the Plats and any other related necessary documentation required by the City and shall pay for all other fees and expenses associated with the approval and recording of such Plats.

(D) Final Bids. Following approval of the Final Plans in accordance with Section 1(B) above, Developer shall solicit bids for construction of the Project. Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor's Performance list. The final bids the Project, as approved by Developer, are referred to herein as the "**Final Bids**".

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(E) Budget. Promptly after Final Bids have been approved, Developer shall provide the City with an updated budget for the Project (as the same may thereafter be updated from time to time during construction, the "**Budget**").

(F) Clearing of Title Objections. The City agrees to cooperate with the Developer, at no cost to the City, in the release or other clearing from title of title objections raised by the Developer with respect to the Sale Property prior to Closing; provided, however, that such release or other clearing from title does not violate the findings of the CSPRO review and approval.

(G) Due Diligence Expenses; Copies of Due Diligence Materials and Reports to be Provided to City. Developer shall be responsible for all expenses incurred by it relating to due diligence investigations of the Property and the Project, and the City shall have no obligation to reimburse or otherwise pay for any such expenses. Prior to Closing and as such reports and materials are obtained by Developer, Developer, at no cost to the City, shall provide DCED with copies of the Due Diligence Materials and, upon the request of DCED, any other inspection, engineering, and environmental report, title report, surveys, and other materials prepared by third party professionals obtained by Developer that pertain to the Project. Unless otherwise directed by the DCED Director or the terms of this Agreement, Developer shall deliver all Due Diligence Materials and other reports to be provided by Developer to the City under this Agreement to the DCED Director (for review by DCED and other City departments as deemed necessary or appropriate by DCED) and shall generally coordinate all aspects of the Project (as they relate to the City) through DCED. All reports and the like obtained by Developer from third parties and delivered to the City shall be recent (i.e., prepared or updated, as the case may be, within six (6) months from the date that the item is delivered to the City or such longer period of time as the City may, in its sole discretion, deem reasonable) and each report and the like has been or shall be prepared by properly licensed and qualified companies or individuals acceptable to the City. In addition to the above due diligence items, Developer and the City may conduct whatever other investigations concerning the Project as they deem necessary.

(H) Right to Terminate. If prior to Closing, either party determines that the Project is not feasible for any reason, then, notwithstanding anything in this Agreement to the contrary, such party may terminate this Agreement by giving the other party written notice thereof, whereupon this Agreement shall terminate and neither party shall thereafter have any rights or obligations hereunder. Upon Closing, the termination rights of the parties under this Section 1(H) shall automatically terminate. Discretionary approvals discussed herein are not affected by this provision.

## **2. Real Estate Closing**

(A) Purchase Price. Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Developer, and Developer hereby agrees to purchase the Sale Property from the City, for a purchase price of \$1.00 (the "**Purchase Price**"). Developer acknowledges that it is familiar with the condition of the Sale Property and, at the Closing (as defined below), the City shall convey the Sale Property to Developer in "as is" condition. The City makes no representations or warranties to Developer 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 Developer for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

(B) Closing Date. Subject to the terms and conditions herein, the purchase of the Sale Property by Developer and the sale and conveyance of the Sale Property by the City to Developer (the "**Closing**") shall take place (i) **60 days** from the date that Council authorized the execution of this Agreement, or (ii) on such earlier or later date as the parties may agree upon once both parties agree that the Closing Conditions (as defined below) are reasonably satisfied (the "**Closing Date**").

(C) Closing Conditions. The Closing shall not occur unless and until the following conditions have been satisfied (the "**Closing Conditions**"); *provided, however*, that if the City, in its sole discretion, determines that one or more of the Closing 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 Developer or handle such Conditions post-Closing. Developer shall perform all work and investigations {00326366-6}

and shall obtain and prepare all necessary documents pertaining to the satisfaction of the Conditions, at no cost to the City. The City, in its sole discretion, may waive one or more of the Closing Conditions.

- (i) Due Diligence Materials: Each party must be satisfied with the various Due Diligence Materials and other reports related to the Project, as described in Section 1 above;
- (ii) Inspections and Utilities: Developer's approval (or waiver) of [x] inspections of the Sale Property, including without limitation environmental assessments and soil assessments, to the extent Developer, at its option, elects to obtain such inspections, [y] MSDGC/GCWW: Developer shall (i) have submitted a Request for Availability for Sewer Service to the Metropolitan Sewer District of Greater Cincinnati and be complying with all related City requirements, and (ii) be satisfactorily coordinating construction of the Project with the City's Greater Cincinnati Water Works and Division Stormwater Management Utility and complying with applicable requirements with respect to all matters pertaining to utility service for the Sale Property;
- (iii) Project Completion: Based upon all information then available to the City, the City must be reasonably satisfied that the Developer has attained or will attain all approvals and awards necessary to complete the Project; has made no false or misleading claims to the City regarding the Project; and is otherwise prepared, able, and ready to complete the Project in accordance with the requirements of this Agreement;
- (iv) Plats, Legal Descriptions, and Deeds: Developer shall have provided the City with all plats and legal descriptions as required by DOTE, the Department of City Planning, and the Hamilton County Auditor, Engineer, and Recorder in connection with the City's sale of the Sale Property, including a new legal description of the Sale Property;
- (v) Continued Compliance: Developer is in compliance with all obligations under this Agreement and that all representations made by Developer, as applicable, under this Agreement or the CRA Agreement continue to be true and accurate.
- (vi) Coordinated Report Conditions (CR #78-2019) \*Subject to change following satisfaction by Developer\*:

(a) DOTE:

(1) Maintain 10' minimum clearance from the face of curb to the property/Right-of-Way line for all parcels. The City shall retain this space or require any development to dedicate this back to the City when parcels are consolidated.

(2) DOTE shall review and approve future development plans.

(b) MSDGC:

(1) [intentionally omitted]

(2) As a reminder, the MSDGC Request for Availability for Sewer Service (RASS) will be required for a future development or redevelopment project, if not already requested to MSDGC. The MSDGC RASS will determine the availability of a sewer and outline any additional MSDGC project requirements that could impact a project schedule if not considered, such as the need to obtain any MSDGC tap permits, Ohio EPA Permit to Install, utilization of licensed and bonded sewer tappers with MSDGC, sewer inspection scheduling, project on-site separation of flow requirements, MSDGC Excavation/Fill permitting and bonding, MSDGC detention requirements per Section 303 of the MSDGC Rules and Regulations, need for a grease interception system, and/or a reminder for the project to coordinate with City of Cincinnati Stormwater Management

Utility of the Department of the Greater Cincinnati Waterworks for their specific additional detailed storm water, storm water detention, and flood plain requirements. As details of the project concept are developed, MSDGC Development Services Branch will serve as MSDGC's point of contact.

(c) GCWW:

(1) There is an inactive 5/8" lead water service branch (H-57508) attached to parcel 149-0014-0065. Because the existing branch is lead, it cannot be repurchased or reactivated. The future owner would need to purchase a new water service branch for the property.

(2) If in the future, the petitioner or their agents determine the existing water system does not meet their fire and/or domestic water demands, then the petitioner may need to upgrade the water mains in their area to meet their future water demands. The Water Works approval of this Coordinated Report for the sale of this City Parcel in no way relieves the petitioner of their responsibility to potentially upgrade the water system to meet their future fire and domestic water demands. This work will be performed at the expense of the petitioner and not at the expense of the Water Works.

(3) All conditions of water service to this property, including the location of attachment to the public water system, and abandonment of any existing water service branches that presently serve the subject premises, will be determined upon submission of final plans and application for service. Water service to this property is subject to all rules, regulations, and current practices and policies of the Cincinnati Water Works.

(d) Cincinnati Bell: [intentionally omitted]

(D) Right to Terminate. If the Closing Conditions have not been satisfied or waived and the Closing has not occurred by **12 months** from the date that Council authorized the execution of this Agreement, then the City or Developer shall have the right to terminate this Agreement by giving written notice thereof to the other, whereupon this Agreement and all rights and obligations of the parties hereunder shall immediately terminate.

(E) Conveyance; Miscellaneous Closing Provisions. At the Closing, (i) Developer shall pay the Purchase Price and (ii) the City shall convey the Sale Property to Developer by a Quitclaim Deed in substantially the form of the attached Exhibit B (Form of Quitclaim Deed) (the "**Deed**"). Developer shall pay all conveyance fees, transfer taxes, recording fees, title exam fees, title insurance premiums, settlement fees, and any and all other closing costs associated with the Closing such that the City shall not be required to come up with any funds for the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Purchaser shall pay all real estate taxes and assessments thereafter becoming due. At Closing, the parties shall execute a settlement statement and any and all other customary closing documents that are necessary for the Closing, in such forms as are approved by the City. The City shall not however be required to execute a title affidavit at Closing. The provisions of this Agreement shall survive the City's execution and delivery of the *Quitclaim Deed* and shall not be deemed to have been merged therein. Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Developer shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed by Developer to the City.

(F) Maintenance of Sale Property Between the Closing and Prior to Construction. Between the Closing and Developer's commencement of construction, Developer, at no expense to the City, shall maintain the Sale Property in presentable condition, including keeping the site reasonably free of debris and other unsightly materials.

(G) Transfer of fee title to the Port. Nothing in this Agreement shall be construed to prohibit Developer from entering into a sale and leaseback arrangement with respect to the Sale Property in which fee title to the Sale Property is held by the Port; *provided, however*, that (a) the purpose for the Port Lease Transaction is to take advantage of the sales tax exemption on the purchase of Project building materials, (b) the transfer of title to the Sale Property to the Port does not occur prior to the execution of the CRA Agreement, if such CRA Agreement is authorized by City Council, (c) Developer shall provide the City with such documents and other information with respect to this arrangement as the City may reasonably request, including the final form of the Port Lease Transaction documents that are to be executed after the execution of the CRA Agreement, at least 7 days prior to the date set by the parties for the Closing, (d) Developer agrees to execute an amendment to the terms of this Agreement, containing terms and provisions mutually agreed upon by the parties, should the City indicate, in writing, that such an amendment (or such amendments) are required to effect any technical and legal changes that the City may, in its discretion, deem to be necessary or desirable to accommodate such an arrangement while maintaining all of the material economic and financial terms of this Agreement, and (e) the City and Developer agree to negotiate in good faith towards any such amendment. Developer may not assign its rights, obligations, or any other interest under this Agreement to any other party, at any time, except that subject to the provisions of this paragraph, once Developer has obtained the fee interest in any given portion of the Sale Property, Developer may convey the same fee interest to the Port, in the manner, and subject to the terms described, above, but such fee title transferred to the Port shall still be subject to the City's rights under this Agreement to the First Repurchase Option, as described in Section 3, below, until the same are no longer valid under the Agreement. Developer hereby provides notice to the City that Developer will enter into the Port Lease Transaction.

### **3. Project Commencement; Reconveyance of Sale Property to City Upon Failure to Timely Commence Construction.**

(A) Construction Commencement & Completion Dates. Developer shall commence on-site construction of the Project no later than 6 months after the Deed is placed of record by the Hamilton County, Ohio Recorder (the "**Construction Commencement Date**"). Developer shall complete construction of the Project (as evidenced by a certificate of occupancy for the Project) in accordance with the Final Plans and all other City approvals ("**Construction Completion**") no later than **March 23, 2023** (the "**Completion Deadline**").

(B) Construction Commencement; First Repurchase Option. No later than the Construction Commencement Date, Developer shall (i) have applied for and received the required building permits from the City's Department of Buildings and Inspections for construction of the Project and (ii) have commenced on-site construction of the Project in accordance with the Final Plans ("**Construction Commencement**"). If Construction Commencement has not occurred on or before the Construction Commencement Date, then, at any time thereafter, the City shall have the right to re-purchase the Sale Property, exercisable by written notice thereof to Developer (the "**Repurchase Option**"). If the City elects to re-purchase the Sale Property, the reconveyance shall take place on the date specified in the City's notice. On the date of reconveyance: [x] the City shall refund the Purchase Price to Developer; [y] Developer shall reconvey the Sale Property (including any and all improvements) to the City in the same condition as presently exists, reasonable wear and tear and damage by the elements excepted (and under no circumstances shall the City be required to pay for the value of any improvements made by Developer to the Sale Property); (iii) Developer shall convey marketable title to the Sale Property to the City by limited warranty deed, free and clear of all liens and encumbrances, except for the lien of real estate taxes not yet then due and payable and except for those encumbrances, if any, that were in existence or newly-created at the time of the City's conveyance of the Sale Property to Developer; (iv) Developer shall pay all customary closing costs associated with such reconveyance (*e.g.*, conveyance fees, transfer tax, recording fees); and (v) real estate taxes and assessments shall be prorated as of the date of the reconveyance. The provisions of this paragraph shall be reflected in the City's Quitclaim Deed attached hereto as Exhibit B.

(C) Special Environmental Compliance Requirements. Developer hereby acknowledges that it is aware that the Sale Property is located in what is technically referred to in environmental parlance as a "Brownfield," and that as such, it is subject to a No Further Action letter ("**NFA**") #13NFA518 and a {00326366-6}

Covenant Not to Sue issued by the Ohio Environmental protection Agency dated June 16, 2014 (“CNS”), and all of the associated special environmental requirements to safely develop the Sale Property, and maintain safe conditions with respect to all aspects of the Sale Property, developed and undeveloped. Developer understands and acknowledges that the responsibility to abide by the terms of the NFA and CNS with respect to the Sale Property run with the land and will thus transfer to Developer upon conveyance of each respective piece of the Sale Property to Developer. In furtherance of this legal duty, Developer specifically agrees that it will ensure that all engineering controls installed at the Sale Property, including, but not limited to, a vapor barrier system to be installed, are designed, engineered, installed and maintained in the future in accordance with all laws, ordinances, rules, regulations, restrictions, and continued compliance requirements of the Ohio Environmental Protection Agency.

(D) Applicable Laws. Developer shall obtain, pay for and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state and local laws, codes, ordinances and other governmental requirements applicable to the construction of the improvements, including without limitation those set forth on Exhibit C (Additional City Requirements) hereto. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits or other approvals from the City’s Department of Buildings and Inspections, the City’s Department of Transportation and Engineering, other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(E) Reports and Inspections during Construction. During construction, the City, its employees and agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations under this Agreement. If the City determines that the Project is not substantially in accordance with the City-approved plans and specifications or other requirements of this Agreement, is not in compliance with all applicable laws, or is not performed in a good and workmanlike manner, the City shall have the right, in its reasonable judgment and after giving Developer reasonable prior written notice thereof, to stop such work and order its replacement at Developer’s expense.

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

(G) Recognition of City Support. Developer shall acknowledge the support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, project and identification signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a participant, Developer shall use either the phrase “Project made possible by the City of Cincinnati” or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. Developer’s obligations under this section shall commence on the Effective Date and shall terminate on the date on which the Project has been completed.

(H) Barricade Fees Payable to DOTE. Developer acknowledges that (i) it may be required to obtain a barricade permit and pay barricade fees to DOTE for the closure of any sidewalks and curb lanes of the adjacent streets if and when demolition or construction necessitates closing the adjoining streets or portions thereof, and (ii) with many entities competing for space on City streets, it is important that construction activities be limited to as little space and the shortest duration as possible and that all work be scheduled and performed to cause the least interruption to vehicular travel, bicyclists, pedestrians and businesses; therefore, DOTE shall have the right to evaluate Developer’s need for a barricade throughout construction and, if at any time after consultation with Developer DOTE determines that a barricade is not needed, DOTE shall have the right to withdraw the permit.

#### **4. Insurance; Indemnification**

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(A) Insurance. Throughout construction, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$2,000,000 per occurrence, combined single limit/\$3,000,000 aggregate, naming the City as an additional insured, (ii) builder's risk insurance in the amount of one-hundred percent (100%) of the value of the improvements constructed, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Developer's construction lenders, and (v) such other insurance as may be reasonably required by the City's Division of Risk Management prior to closing. Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City.

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

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

**5. Casualty; Eminent Domain**. If the improvements are damaged or destroyed by fire or other casualty during construction, or if any portion of the Sale Property is taken by exercise of eminent domain (federal, state or local), Developer shall repair and restore the affected property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Sale Property was in immediately prior to such occurrence. To the extent the City's participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including without limitation obtaining the City's approval of the plans and specifications if they deviate from the original City-approved plans. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Sale Property is being repaired or restored.

**6. Default; Remedies**

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

(i) The failure of Developer to perform any obligation under this Agreement, and failure by Developer to correct such failure within thirty (30) days after Developer's receipt of written notice thereof from the City; *provided, however*, that if the nature of the default is such that it cannot reasonably be cured within 30 days, Developer shall not be in default so long as Developer commences to cure the default within such 30-day period and thereafter diligently completes such cure within a reasonable period of time (but not exceeding 90 days) after Developer's receipt of the City's initial notice of default. The foregoing notwithstanding, if Developer's failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency

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as determined by the City, an event of default shall be deemed to have occurred if Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency; or

(ii) The dissolution of Developer, the filing of any bankruptcy or insolvency proceedings by Developer, or the making by Developer of an assignment for the benefit of creditors; or

(iii) The filing of any bankruptcy or insolvency proceedings against Developer, or the appointment of a receiver (temporary or permanent) for Developer, or the attachment of, levy upon, or seizure by legal process of any of Developer's property, that, in each such event, is not released within 60 days after the filing thereof.

(iv) Any event of default under the CRA Agreement.

(B) **Remedies.** Upon the occurrence of an event of default under this Agreement, the City shall be entitled to: (i) demand immediate repayment of all previously disbursed funds if this Agreement provides for City funding, (ii) terminate this Agreement by giving Developer written notice thereof, (iii) take such actions in the way of "self help" as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of Developer, and (iv) exercise any and all other rights and remedies under this Agreement or otherwise available at law or in equity. Developer shall be liable for all costs and damages, including without limitation attorneys' fees, suffered or incurred by the City as a result of a default of Developer under this Agreement or the City's enforcement or termination of this Agreement. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy.

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

To the City:

City of Cincinnati  
Dept of Community & Economic Development  
805 Central Avenue, Suite 700  
Cincinnati, OH 45202

To Developer:

Gest Street Distribution LLC  
1907 South Street  
Cincinnati, OH 45204

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

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

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

(ii) Developer has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein.

(iii) Developer's execution, delivery and performance of this Agreement and the transactions contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or Developer's organizational documents, or any mortgage, contract,

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agreement or other undertaking to which Developer is a party or which purports to be binding upon Developer or upon any of its assets, nor is Developer in violation or default of any of the foregoing.

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

(v) Developer 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 Developer that could reasonably be expected to interfere substantially with its normal operations or materially and adversely affect its financial condition or its completion of the Project.

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

(vii) Neither Developer nor its affiliates owe any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

## **9. Reporting Requirements.**

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

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

## **10. 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 Developer agrees that venue in such court is proper. Developer hereby waives trial by jury with respect to any and all disputes arising under this Agreement.

(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.

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(E) Assignment. Developer shall not assign its rights or obligations under this Agreement without the prior written consent of the City, except as described above in Section 2(G) of this Agreement, which consent the City may be withheld in the its sole discretion, and any attempt by Developer to assign its rights or obligations under this Agreement without the City's consent shall, at the City's option, render this Agreement null and void. The City hereby consents to a collateral assignment of Developer's rights under this Agreement to Developer's construction lender for the Project.

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

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

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

(I) Brokers. Developer shall be responsible for payment of any and all commissions and fees payable to brokers and agents who have assisted Developer in its acquisition of the Sale Property.

(J) 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.

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

(L) 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.

(M) Joint and Several Liability. The obligations and liability of the parties comprising Developer under this Agreement (if more than one person or entity) are joint and several. In dealing with said entities, the City shall be entitled to rely upon information, notices, documents and the like received by the City from only one of said entities to the same extent as if the same had been provided to the City by both entities.

11. Counterparts; E-Signature. This Agreement may be executed via electronic signature and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

12. Exhibits. The following exhibits are attached hereto and made a part hereof:  
Exhibit A – *Survey Plat*  
Exhibit B - *Quitclaim Deed*  
Exhibit C - *Additional City Requirements*

[ *City Signature Page Follows* ]

This Agreement is executed by the parties on the dates indicated below their respective signatures, effective as of the later of such dates (the “**Effective Date**”).

**CITY OF CINCINNATI**

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

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

{00326366-6}

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

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

Recommended by:

\_\_\_\_\_  
Markiea L. Carter, Director  
Department of Community and Economic Development

Approved by:

\_\_\_\_\_  
Jennifer B. Mackenzie Interim Director,  
Department of Economic Inclusion

Approved as to Form:

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

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

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

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

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

[ *Developer Signature Page Follows* ]

**GEST STREET DISTRIBUTIONS, LLC,**  
an Ohio limited liability company

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

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

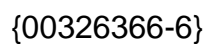
Title: \_\_\_\_\_

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

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*SURVEY PLAT*



**EXHIBIT B**  
to Property Sale and Development Agreement

*FORM OF QUITCLAIM DEED*

SEE ATTACHED



-----  
[SPACE ABOVE FOR RECORDER'S USE]

### QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the “**City**”), for valuable consideration paid, hereby grants and conveys to **GEST STREET DISTRIBUTIONS, LLC**, an Ohio limited liability company, whose mailing address is 1907 South Street, Cincinnati, OH 45204 (“**Grantee**”), all of the City’s right, title and interest in and to (i) the real property described on Exhibit A (*Legal Description – Gest Street Parcels*), and (ii) the real property described on Exhibit B (*Legal Description – Vacated Portion of Summer Street*) hereto (the “**Property**”):

Address	APN	Prior Instrument Reference
1917 Gest Street	149-0014-0067-00	OR 10233, Page 3730 Hamilton County, Ohio Records
1919 Gest Street	149-0014-0065-00 (-65, -66, -160, -175, -183 Cons.)	OR 10783, Page 1291 Hamilton County, Ohio Records
1919 Gest Street	149-0014-0190-00	OR 10783, Page 1291 Hamilton County, Ohio Records
1929 Gest Street	149-0014-0063-00	OR 10783, Page 1291 Hamilton County, Ohio Records
1933 Gest Street	149-0014-0062-00 (-62, -64, -68, -69, -164 Cons.)	OR 10233, Page 3730 Hamilton County, Ohio Records
1935 Gest Street	149-0014-0061-00	OR 10233, Page 3730 Hamilton County, Ohio Records
None: a parcel located at the SW Corner of the intersection of Gest and Summer Streets	149-0014-0205-00	OR 13411, Page 1481 Hamilton County, Ohio Records
None: a portion of former public right-of-way designated as Summer Street	None: a portion of former public right-of-way designated as Summer Street	None: a portion of former public right-of-way designated as Summer Street

This conveyance was authorized by Ordinance No. \_\_\_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021. Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. \_\_\_\_-2021, the portion of public right-of-way designated as Summer Street, as more particularly described on Exhibit B and depicted on Exhibit C (*Vacation Plat – Summer Street*) hereto, is hereby vacated as public right-of-way by the City.

(A) Creation of Utility Easements: The conveyance of the former public right-of-way, as more particularly described on Exhibit B and depicted on Exhibit C hereto, 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 portion of Summer Street for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities. Following the relocation of any City-owned or operated public utilities in such vacated portion of the public right-of-way to the satisfaction of the affected City-owned public utility, upon Grantee's request, the City agrees to execute and deliver to Grantee a recordable release, for recording in the Hamilton County Recorder's office, at Grantee's cost.

(B) Permanent Sewer Easement and Restrictions in favor of the City of Cincinnati: The conveyance of the former public right-of-way, as more particularly described on Exhibit B and depicted on Exhibit C hereto, is subject to the following easement:

The City hereby reserves and creates a permanent, non-exclusive 30-foot wide utility easement centered on the centerline of an existing combined sewer line, facilities, equipment, and appurtenances for the operation, maintenance, repair, reconstruction, removal, or replacement of said existing sewer lines, facilities, equipment, and all appurtenances located within the easement area, including the right to enter upon and enter upon the Property to access the sewer easement.

No structure of any kind which can interfere with access to said public sewers shall be placed in or upon the sewer easement area, excepting items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress and egress, plants, trees, shrubbery, fences, landscaping, or other similar items, being natural or artificial. Any of the aforesaid surfaces, paved areas, plants, trees, shrubbery, fences, landscaping, or other similar items which may be placed upon the sewer easement area shall be so placed at the sole expense of Grantee, its successor, or assigns, and the City, its successors, or assigns shall not be responsible to Grantee, its successors or assigns, for the condition, damage to, or replacement of any such aforesaid items, or any other items placed upon the sewer easement area, resulting from the existence or use of the sewer easement by the City, its successors or assigns.

Any structure constructed on the Property after the date of acknowledgment herein shall be kept not less than three (3) feet outside the sewer easement line nearest the site of the proposed structure.

Any deviation from the aforesaid restrictions shall be petitioned to the City by written request. Each such request shall be considered on an individual basis.

(C) Re-conveyance of Property to City for Failure to Timely Commence Construction. The City and Grantee are parties to that certain *Property Sale and Development Agreement* dated [\_\_\_\_\_] (the "**Sale Agreement**"). As provided in the Sale Agreement, if Grantee fails to obtain the required building permits from the City's Department of Buildings and Inspections for construction of the Project, as defined by the Sale Agreement, and commenced on-site construction of the Project in accordance with the Final Plans, as defined by the Sale Agreement, no later than 6 months after this conveyance instrument is placed of record by the Office of the Recorder, Hamilton County, Ohio, then Grantee shall re-convey the Property to the City free and clear of all liens and encumbrances, as more particularly described in the Sale Agreement. At such time as Grantee is no longer required to re-convey the Property to the City under the Sale Agreement, upon Grantee's request, the City shall execute and deliver to Grantee a recordable release, for recording in the Hamilton County Recorder's office, at Grantee's cost.

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. This is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved by:

\_\_\_\_\_  
Markiea L. Carter, Director  
Department of Community and Economic Development

Approved as to Form:

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

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

**EXHIBIT A**  
to Quitclaim Deed

*Legal Description – Gest Street Parcels*

**Tract I**

**Property Address:** 1917 Gest Street, Cincinnati, Ohio 45204  
**Auditor's Parcel No.:** 149-0014-0067-00

Situate in the State of Ohio, County of Hamilton, and in the City of Cincinnati, and described as follows:

All that certain lot in Cincinnati, formerly Storrs Township, Hamilton County, Ohio, commencing at a point on the south side of Plank Road (Gest Street), 25 feet west of East line of Block "P" as laid down upon Stephen Wilders Subdivision, recorded in Plat Book 1, Page 282, of the Plat Records of Hamilton County, Ohio, which point is also the southwest corner of Gest Street and a 50 foot street laid out by C. R. Wilder, now known as Woodrow Street; thence west along Gest Street 25 feet; thence south at right angles 80.05 feet to the northwest corner of the property sold by Donald and Robert Schloemer to Hoeltge Bros. Inc. in Deed Book 2661, Page 600; thence North 89 degrees 35' East along the northerly side of an 8" brick wall, 25 feet to the west line of Woodrow Street; thence north along said Woodrow Street, 79.95 feet to the place of beginning.

**Tract II**

**Property Address:** 1919 Gest Street, Cincinnati, Ohio 45204  
**Auditor's Parcel Nos.:** 149-0014-0065-00 (-65, -66, -160, -175, -183 Cons.)

Parcel No. 149-14-65

All that certain real estate in the City of Cincinnati, Hamilton County, Ohio, situated on the southside of Gest Street, being 25.00 feet front by 95.00 feet deep between Berlin and Summer Streets, 50.00 feet west of Berlin Street, and lying 75 feet west of the east line of the block, being in Block "P" S.L. Wilder's Subdivision.

and

Parcel No. 149-14-66

Situate in the City of Cincinnati, Hamilton County, Ohio, and being part of Block "P" of Stephen Wilder's Subdivision, a plat of which is recorded in Plat Book 1, Page 383, Hamilton County Records, viz:

Beginning at a point on the south side of Gest Street 50 feet west of the northeast corner of said block and running thence west with said Gest Street 25 feet; thence south and parallel with the east line of said block 95 feet to a vacated alley; thence east and parallel to Gest Street 25 feet; thence North 95 feet to the place of beginning; the property herein referred to fronting 25 feet on the south side of Gest Street by 95 feet in depth between parallel lines and lying 25 feet west of the west line of Berlin Street.

and

## **EXHIBIT A (Cont.)**

### **Parcel No. 149-14-160**

Situated in the City of Cincinnati, County of Hamilton, and State of Ohio, and being more particularly described as follows:

Commencing at a point 94.00 feet east of the southeast corner of Gest and Summer Streets in Block "P" in S. Wilder's Subdivision of lands in Storrs Township, Hamilton County, Ohio; thence running south from Gest Street 95.00 feet parallel to the west line of said block; thence east 31.00 feet parallel to Gest Street; thence north between parallel lines 95.00 feet to Gest Street; thence west on Gest Street 31.00 feet to the place of beginning. Being known and numbered as No. 1923 Gest Street.

and

### **Parcel Nos. 149-14-175 and -183**

All that lot of land in the City of Cincinnati, Hamilton County, Ohio and being part of Block "P" of Stephen Wilder's Subdivision as recorded in Plat Book 1, Page 282 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at a point in the intersection of the westerly line of Woodrow Street with the northerly line of an 8 inch brick wall located South 0 degrees 24 minutes west, 79.95 feet from the southwesterly intersection of Gest and Woodrow Streets; thence South 0 degrees 24 minutes west along the westerly line of Woodrow Street, 20.05 feet; thence south 89 degrees 48 minutes west parallel with the southerly line of Gest Street, 25 feet; thence North 0 degrees 24 minutes east parallel with the westerly line of Woodrow Street, 19.95 feet to the north side of an 8 inch brick wall 25 feet to the place of beginning.

### **Tract III**

**Property Address:** 1919 Gest Street, Cincinnati, Ohio 45204  
**Auditor's Parcel Nos.:** 149-0014-0190-00

Situate in the City of Cincinnati, Hamilton County, Ohio, and being part of Block "P" of Stephen Wilder's Subdivision, same being recorded in Plat Book 1, Page 282, Recorder's Office, also being part of the resubdivision of Block "P" of Stephen Wilder's Subdivision, same being recorded in Case No. 41960 of the Superior Court of Cincinnati, Book 31, Page 300, of the Superior Court Records, and being more particularly described as follows, to-wit:

Beginning at a point on the west line of Woodrow Street, said point being 100 feet south of the southwest corner of Gest Street and Woodrow Street; thence continuing south with the west line of Woodrow Street for a distance of 11.60 feet; thence westerly parallel to Gest Street for a distance of 75.20 feet; thence northwardly parallel to Woodrow Street for a distance of 16.60 feet; thence eastwardly parallel to Gest Street for a distance of 50.20 feet; thence southwardly parallel to Woodrow Street for a distance of 5.00 feet; thence eastwardly parallel to Gest Street for a distance of 25.00 feet to the place of beginning.

## **EXHIBIT A (Cont.)**

### **Tract IV**

**Property Address:** 1929 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0063-00

The following described premises located in the City of Cincinnati, Hamilton County, and State of Ohio, and more particularly described as follows:

Beginning at a point in the South line of Gest Street 106 feet west of Woodrow Street and 119 feet east of the northwest corner of said Block "P"; thence west with the south line of Gest Street 31 feet; thence south parallel to the west line of said Block "P" and 63 feet east of Summer Street, 100 feet; thence east parallel with Gest Street 31 feet to a point 106 feet west of Woodrow Street; thence north parallel with Woodrow Street 100 feet to the place of beginning.

### **Tract V**

**Property Address:** 1933 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0062-00 (-62, -64, -68, -69, -164 Cons.)

Situated in Section 30, Town 4, Fractional Range 1 of the Miami Purchase, in the City of Cincinnati, County of Hamilton, State of Ohio and being part of Block "P" of Stephen Wilder's Subdivision as recorded in Plat Book 1, Page 282, of the Hamilton County Recorder's Office and more particularly described as follows:

Begin at the intersection of the South right-of-way of Gest Street with the East right-of-way of Summer Street (found notch N. 5.0'), said point being North 89°30'00" East, 25.00 feet from the Northwest corner of the above-mentioned Block "P"; thence with the South right-of-way of Gest Street and North line of Block "P" North 89° 30'00" East, 32.00 feet to a set notch and the TRUE POINT OF BEGINNING;

thence from the TRUE POINT OF BEGINNING and continuing with the South right-of-way of Gest Street and North line of said Block "P" North 89°30'00" East, 31.00 feet to a set notch (found notch N. 5.0');

thence leaving said right-of-way and North line of Block "P" and with the West line of Inwood Automotive Products Co., Inc., as recorded in Deed Book 3289, Page 17, South 00°02'00" West, 100.00 feet to a set iron pin;

thence with the South line of Inwood Automotive Products Co., Inc., and The Central Carton Company as recorded in Deed Book 2213, Page 157, North 89°30'00" East, 62.00 feet to a set iron pin;

thence with the West line of Inwood Automotive Products Co., Inc., as recorded in Deed Book 3263, Page 162, South 00°02' 00" West, 11.60 feet (existing building corner N. 0.4' E. 1.0');

thence with the South line of said Inwood Automotive Products Co., Inc., North 89°30'00" East, 75.20 feet to a set notch in the West right-of-way of Woodrow Street;

thence with said right-of-way and parallel to and 25 feet West of the East line of Block "P" of Stephen Wilder's Subdivision South 00°02'00" West, 146.03 feet to a set notch at the Southeast corner of Lot 3 made by the Commissioners in Partition Case #41960 Superior Court of Cincinnati, Ohio;

thence with the South line of said Lot 3 and North line of Gabriel and Regina Guigui as recorded in Deed Book 4340, Page 485, South 89°30'00" West, 200.20 feet to a set notch in the East right-of-way of Summer Street;

### **EXHIBIT A (Cont.)**

thence with said East right-of-way, parallel to and 25 feet East of the West line of Block "P" of Stephen Wilder's Subdivision North 00°02'00" East, 162.63 feet to a found notch;

thence leaving said right-of-way and with the South line of The Central Carton Company as recorded in Deed Book 3289, Page 196, North 89°30'00" East, 32.00 feet to a set iron pin;

thence with the East line of The Central Carton Company North 00°02'00" East, 95.00 feet to the TRUE POINT OF BEGINNING.

#### **Tract VI**

**Property Address:** 1935 Gest Street, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0061-00

Situated in the City of Cincinnati, Hamilton County, Ohio, and being a part of Lot P of Stephen Wilder's plat of Subdivision recorded in Plat Book 1, page 282, Hamilton County, Ohio, records, and commencing at a point 25 feet east of the northwest corner of said Lot P as marked in said plat, which point is also the southeast corner of Gest Street and a 50 foot street, now called Sumner Street, laid out by said Stephen Wilder; thence south 95 feet in a line parallel with the west line of said block; thence east 32 feet in a line parallel with Gest Street; thence north 95 feet parallel with the west line of said block; thence west on Gest Street 32 feet to the place of beginning.

#### **Tract VII**

**Property Address:** None: a parcel located at the SW Corner of the intersection of Gest and Summer Streets, Cincinnati, Ohio 45204

**Auditor's Parcel Nos.:** 149-0014-0205-00

Situate in Section 30, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at a set Mag nail at the intersection of the south line of Gest Street, 60' R/W and the west line of Sumner Street, 50' R/W; thence with said west line of Sumner Street South 06°30'40" West, 184.39 feet to a set 5/8" iron pin; thence North 83°29'20" West, 159.99 feet to a set 5/8" iron pin; thence North 06°30'40" East, 182.93 feet to a set 5/8" iron pin at the south line of said Gest Street; thence with the south line of said Gest Street South 84°00'41" East, 160.00 feet to the Place of Beginning. Containing 29,384 square feet of land more or less (0.6746 acres). Bearings are based on NAD 83 (2007). Subject to all legal highways, easements and restrictions of record. Based on a survey performed under the direction of Joseph N. Koopman, Ohio Registration Number 7184.

**EXHIBIT B**  
to Quitclaim Deed

*Legal Description – Vacated Portion of Summer Street*

**Description for: Summer Street Vacation, 0.2751 Acres**

**Location: City of Cincinnati, Ohio**

Situated in Section 30, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, State of Ohio, being part of Summer Street and being more particularly described as follows:

**BEGINNING** at the intersection of the south line of Gest Street and the east line of Summer Street;

Thence along said east line of Summer Street, South 06°30'40" West, 257.91 feet to the northwest corner of a tract conveyed to RWG South Street, LLC, recorded in Official Record 12326, Page 1585 of the Hamilton County Recorder's Office;

Thence through said Summer Street, along new division lines, North 84°06'22" West, 2.34 feet to a set cross notch **AND** along a curve deflecting to the left, having a radius of 41.00 feet, an arc length of 57.57 feet, a delta angle of 80°27'05" and being subtended by a chord bearing North 57°38'05" West, 52.96 feet to an existing iron pin and cap stamped City of Cincinnati Engineering in the west line of Summer Street;

Thence along said west line of Summer Street, North 06°30'40" East, 234.39 feet to an existing MAG nail in the south line of aforesaid Gest Street;

Thence along said south line of Gest Street, South 84°00'41" East, 50.00 feet to the **POINT OF BEGINNING**.

**CONTAINING 0.2751 ACRES.** Together with and subject to all easements of record.

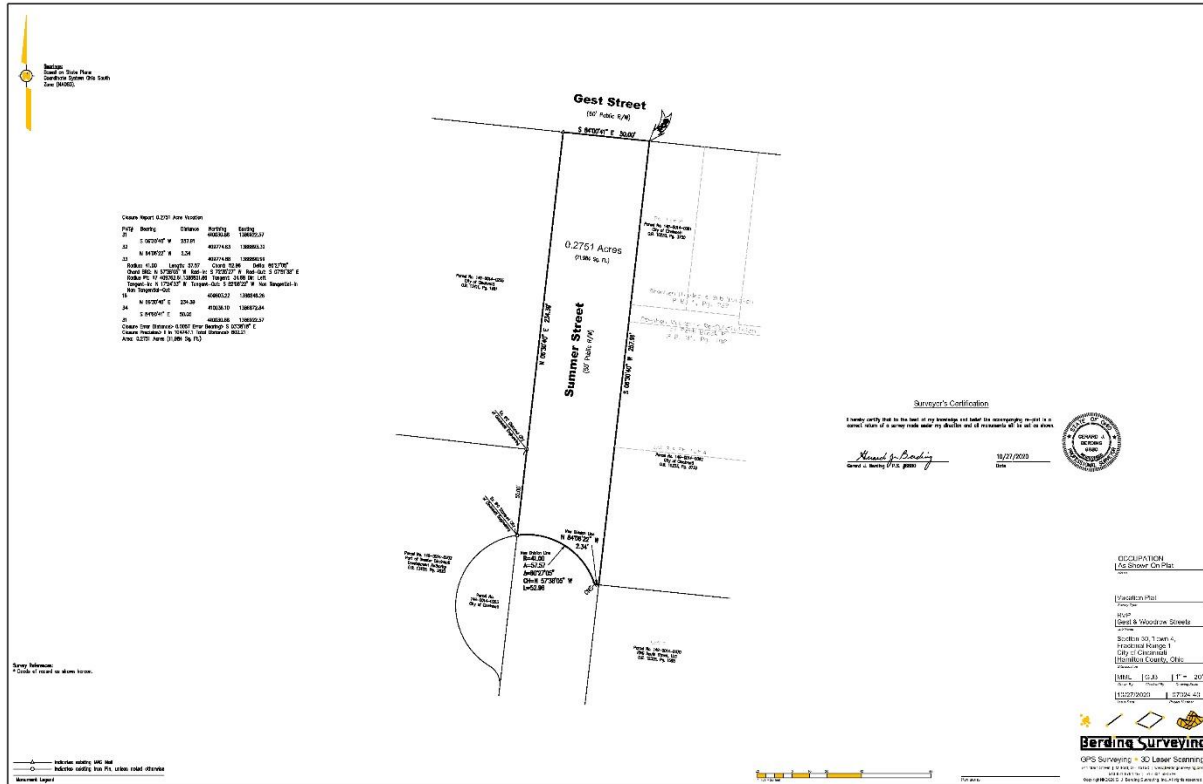
Bearings are based on State Plane Coordinate System, Ohio South Zone (NAD83).

Prepared by G.J. BERDING SURVEYING, INC. on October 27, 2020. Based on a Vacation Plat prepared by G.J. BERDING SURVEYING, INC. on October 27, 2020



# **EXHIBIT C** to Quitclaim Deed

## *Vacation Plat- Vacated Portion of Summer Street*



**EXHIBIT C**  
to Property Sale and Development Agreement

***ADDITIONAL CITY REQUIREMENTS***

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

This Exhibit serves two functions:

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

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

(A) Construction Workforce.

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

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

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

in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "**Construction Workforce Goals**").

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

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

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

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

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

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

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

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Conferring with Trade Unions.

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

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

(ii) Contracts and Subcontracts; Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to "construction contracts" under Cincinnati Municipal Code Chapter 321. Municipal Code Chapter 321 defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by {00326366-6}

Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority,” and “contract” as “all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction.”

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

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

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

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

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

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

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

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

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

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

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

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

(F) Small Business Enterprise Program.

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

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

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

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

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

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

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

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

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

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

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

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

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

(J) Prompt Payment. The provisions of Chapter 319 of the Cincinnati Municipal Code, which provides for a "Prompt Payment System", may apply to this Agreement. Municipal Code Chapter 319 {00326366-6}

also (i) provides certain requirements for invoices from contractors with respect to the Prompt Payment System, and (ii) obligates contractors to pay subcontractors for satisfactory work in a timely fashion as provided therein.

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

(L) Ohio Means Jobs. If this Agreement constitutes a construction contract (pursuant to the guidance with respect to the definition of that term provided in Section (A) above), then, pursuant to Ordinance No. 238-2010: To the extent allowable by law, Developer and its general contractor shall use its best efforts to post available employment opportunities with Developer, the general contractor's organization, or the organization of any subcontractor working with Developer or its general contractor with the OhioMeansJobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

(M) 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.

(N) Americans With Disabilities Act; Accessibility.

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

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

June 21, 2021

To: Members of the Budget and Finance Committee 202102346

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance - Tax Increment Financing (TIF)  
Exemption for Liberty & Elm Development**

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Attached is an Emergency Ordinance captioned:

**DECLARING** improvements to certain real property located at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, to be constructed pursuant to a *Development Agreement* between the City of Cincinnati and OTR Project Partners, LLC, to be a public purpose and exempt from real property taxation for a period of 30 years pursuant to Section 5709.41 of the Ohio Revised Code.

#### **BACKGROUND/CURRENT CONDITIONS**

Previously, pursuant to Council Ordinance 027-2021, effective February 3, 2021, City Council authorized the City Manager to execute a Development Agreement with OTR Project Partners, LLC, pertaining to the development and construction of residential rental units and commercial space at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, and providing for City assistance to the project in the form of a rebate of a portion of the service payments in lieu of taxes imposed in connection with a proposed 30-year property tax exemption for improvements pursuant to Ohio Revised Code Section 5709.41, subject to the passage by this Council of a separate ordinance authorizing such tax exemption.

#### **DEVELOPER INFORMATION**

OTR Partner Projects, LLC is an affiliate between FG OTR 1, LLC (KEAN Ventures), an Ohio company, and BC OTR Cincinnati, LLC (Buckingham Companies), an Indiana company. Together, the partnership is also developing the former Anthem Office Site in the East Walnut Hills neighborhood of Cincinnati where they broke ground in 2020.

#### **PROJECT DESCRIPTION**

Developer will first demolish the existing improvements at 1621 Logan Street and subsequently develop a six to seven story residential apartment building with 130



market-rate rental units. The newly constructed building at 1617 Elm Street will be a five-story mixed-use development consisting of 148 market-rate apartment units, 10,000 square feet of commercial space, and a 220-space structured parking garage. Freeport Alley will also be restored for pedestrian and bicycle use as part of the project. Once completed, monthly rents for the project will range from \$1,400 for a studio apartment to \$2,800 for a four-bedroom unit. Total project cost is estimated to be \$77,000,000.

### **PROPOSED INCENTIVE**

DCED is recommending a Tax Increment Financing (TIF) exemption for the project site pursuant to Ohio Revised Code 5709.41 for a period of 30 years. Following the creation of the project TIF, the City and Developer will enter a Service Agreement which will require payment of full statutory Service Payments in lieu of real estate taxes. Prior to the rebate of any Service Payments to the Developer, 33% of the Service Payments will be paid to Cincinnati Public Schools, and for tax years 11-30, Developer is willing to make a VTICA contribution equal to the greater of \$90,000 or 7% of the Service Payments for the purpose of funding the maintenance and operations of the streetcar. Without the project TIF, the Developer is unable to secure the construction financing for the project improvements.

### **RECOMMENDATION**

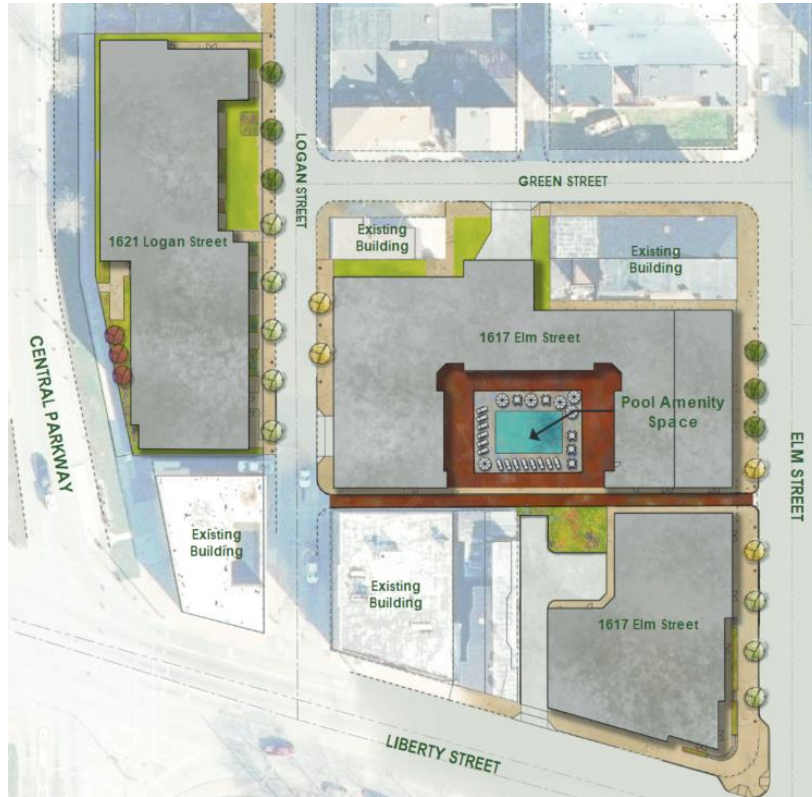
The Administration recommends approval of this Emergency Ordinance. The emergency clause is necessary to establish the TIF exemption prior to the start of construction of improvements which are anticipated to begin on the site in July.

Attachment: A. Property location and photographs

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

## **Attachment A: Location and Concept Plan**

### *Property Location & Concept Plan*



### *1617 Elm Street – Elevation*





## EMERGENCY

City of Cincinnati

KMG

BWB

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

- 2021

**DECLARING** improvements to certain real property located at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, to be constructed pursuant to a *Development Agreement* between the City of Cincinnati and OTR Project Partners, LLC, to be a public purpose and exempt from real property taxation for a period of 30 years pursuant to Section 5709.41 of the Ohio Revised Code.

WHEREAS, on March 29, 2021, the City of Cincinnati and OTR Project Partners, LLC (“Developer”) entered into a *Development Agreement* (the “Development Agreement”), pertaining to real property located at 1617 Elm Street and 1621 Logan Street in Cincinnati, more particularly described on Attachment A to this ordinance (the “Property”), as authorized by Ordinance No. 27-2021, passed by this Council on February 3, 2021; and

WHEREAS, the City executed the Development Agreement in order to (i) create or preserve jobs and improve the economic welfare of the people of the City, consistent with Section 13 of Article VIII of the Ohio Constitution, and (ii) increase the availability of quality housing, consistent with Section 16 of Article VIII of the Ohio Constitution; and

WHEREAS, the City executed the Development Agreement in furtherance of a program of redevelopment the City undertook pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter and ordinances of the City, and Plan Cincinnati (2012); and

WHEREAS, pursuant to the Development Agreement, (i) the City acquired fee title to the Property; and (ii) the City subsequently re-conveyed the Property to an affiliate of Developer, for later conveyance of the Property to Developer to enable Developer to undertake its redevelopment obligations under the Development Agreement; and

WHEREAS, the Property is located within the boundaries of the District 3-Downtown/OTR West District Incentive District, which was created by Ordinance No. 413-2002, passed by Council on December 18, 2002, as subsequently amended; and

WHEREAS, Ohio Revised Code Sections 5709.41, 5709.42, and 5709.43 provide that Council may, in furtherance of its redevelopment activities: (i) declare by ordinance to be a public purpose any Improvement (as defined in Ohio Revised Code Section 5709.41) to a parcel of real property and thereby authorize the exemption of such Improvement from real property taxation for a period of time if (a) the City held fee title to the parcel at any time prior to the adoption of the ordinance, and (b) the parcel is leased, or the fee of the parcel is conveyed, to any person either before or after the adoption of the ordinance; (ii) require the payment of service payments in lieu of taxes by the owner or owners of the parcel; and (iii) establish an urban redevelopment tax increment equivalent fund for the deposit of those service payments; and



WHEREAS, the City has determined that it is necessary and appropriate, in furtherance of the City's redevelopment activities, and in the best interests of the City, to (i) provide for exemption of the Improvement to the Property from real property taxation, and for the payment of semiannual service payments in lieu of taxes with respect to the Property ("Service Payments"), pursuant to Ohio Revised Code Sections 5709.41 to 5709.43; and (ii) enter into a *Service Agreement* with Developer, in substantially the form attached to the Development Agreement, to establish certain terms and conditions regarding the payment of the Service Payments as further described therein; now, therefore,

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

Section 1. That, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.41, Council hereby declares that 100% of the increase in the assessed value of the Improvement (as defined in Ohio Revised Code Section 5709.41) to the real property located at 1617 Elm Street and 1621 Logan Street in Cincinnati, as more particularly described on Attachment A to this ordinance (the "Property"), is a public purpose and exempt from real property taxation commencing on the effective date of this ordinance and ending after the Improvement has been exempted from real property taxation for 30 years, or on the date on which the City can no longer require service payments to be paid on the Improvement, all in accordance with the requirements of Ohio Revised Code Sections 5709.41 through 5709.43.

Section 2. That Council hereby confirms, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.42, that the owners from time to time of all or any portion of the Property shall be required to pay service payments in lieu of taxes ("Service Payments") with respect to the Improvement, subject to the specific terms and conditions provided for in the *Service Agreement* to be entered into with respect to the Property, in substantially the form attached to the *Development Agreement* between the City and OTR Project Partners, LLC ("Developer") pertaining to the development of the Property (the "Service Agreement," and the "Development Agreement," respectively).

Section 3. That any and all Service Payments received by the City shall be deposited into Fund No. 763, Urban Redevelopment Tax Increment Equivalent Fund II, established by Ordinance No. 217-2015 (the “Fund Ordinance”).

Section 4. That Council hereby confirms, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, that the Service Payments shall be applied in accordance with the Development Agreement and the Service Agreement and shall be used in accordance with the Fund Ordinance.

Section 5. That, to facilitate the redevelopment project, Council hereby authorizes the City Manager, upon request of and in consultation with Developer, to prepare (or cooperate in the preparation of) and file an application for the real property tax exemption granted in Section 1 of this ordinance.

Section 6. That Council confirms its approval in all respects of the Development Agreement and the Service Agreement, which provide for, among other things, (i) covenants running with the land of the owner or owners, from time to time, of the Property, including covenants relating to the obligation to pay Service Payments; and (ii) compensation to the Board of Education of the Cincinnati City School District pursuant to its *Tax Incentive Agreement* with the City effective as of April 28, 2020.

Section 7. That the proper City officials are hereby authorized to take all necessary and appropriate actions to fulfill the terms of this ordinance, the Development Agreement, and the Service Agreement, including, without limitation, executing any and all ancillary agreements and other documents.

Section 8. That, pursuant to Ohio Revised Code Section 5709.41(E), the Clerk of this Council is hereby directed to deliver a copy of this ordinance to the Director of the State of Ohio

Development Services Agency (“ODSA”), 77 South High Street, 29th Floor, Columbus, Ohio 43215, within fifteen days after its passage, and that, on or before March 31 of each year that the exemption set forth in Section 1 hereof remains in effect, the City Manager is authorized to prepare and submit to the Director of ODSA the status report required under Ohio Revised Code Section 5709.41(E).

Section 9. That it is hereby found and determined that all formal actions of 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 of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 10. 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 of the improvements to the Property described in the Development Agreement to commence at the earliest possible time, for the economic welfare of the people of the City of Cincinnati.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

ATTACHMENT A  
LEGAL DESCRIPTION

**1617 Elm Street Description:**

**Parcel No.:** 133-0003-0143-00

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

**BEGINNING** at a set Cross Notch at the intersection of the North line of W. Liberty Street and the west line of Elm Street.

Thence along the north line of said W. Liberty Street, North 89°39'00" West, 136.77 feet to the southeast corner of a tract, conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 of the Hamilton County Recorder's Office, (Hamilton County Auditor's Parcel 133-0003-0021), said point being referenced by a set Cross Notch at South 15°27'32" East, 3.00 feet;

Thence leaving the north line of said W. Liberty Street, along the east line of said Hamilton County Auditor's Parcel 133-0003-0021, North 15°27'32" West, 114.94 feet to a set Cross Notch;

Thence in part along the north line of aforesaid Hamilton County Auditor's Parcel 133-0003-00021 and in part with the north line of a tract conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 of the Hamilton County Recorder's Office (Hamilton County Auditor's Parcel 133-0003-0020) and in part along a tract conveyed to 224 W Liberty School, LLC in Official Record 12664, Page 314, South 74°20'00" West, 111.91 feet to a set Cross Notch in the east line of Logan Street;

Thence with the east line of said Logan Street, North 15°36'55" West, 150.59 feet to the southwest corner of a tract conveyed to Baymiller Manor Limited Partnership as recorded in Official Record 9742, Page 4432 of the Hamilton County Recorder's Office, said point being referenced by a set Cross Notch at South 74°21'43" West, 3.00 feet;

Thence along the lines of said Baymiller Manor Limited Partnership, North 74°21'43" East, 69.50 feet to a set Cross Notch AND North 15°36'55" West, 25.00 feet to a point in the south line of Green Street, said point being referenced by a set Cross Notch at North 15°36'55" West, 3.00 feet;

Thence along the south line of said Green Street, North 74°21'43" East, 62.36 feet to the northwest corner of a tract conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 (Hamilton County Auditor's Parcel 133-0003-0043), said point being referenced by a set Cross Notch at North 15°38'24" West, 3.00 feet;

Thence leaving the south line of said Green Street, along the west line of said Hamilton County Auditor's Parcel 133-0003-0043 and west line of a tract conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 (Hamilton County Auditor's Parcel 133-0003-0041), South 15°38'24" East, 49.87 feet to a set Cross Notch at the southwest corner of said Hamilton County Auditor's Parcel 133-0003-0041;

**1617 Elm Street Description continued:**

Thence along the south line of said Hamilton County Auditor's Parcel 133-0003-0041, North 74°29'32" East, 111.74 feet to a point in the west line of aforesaid Elm Street, said point being referenced by a set Cross Notch at North 74°29'32" East, 3.0 feet;

Thence along the west line of said Elm Street, South 15°30'28" East, 278.03 feet to the **POINT OF BEGINNING**.

**Containing 1.2172 Acres** and being subject to all legal easements and highways of record.

Being all of Hamilton County Auditor's Parcel No.'s 133-0003-0022 thru 0040 conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 of the Hamilton County Recorder's Office and all of Hamilton County Auditor's Parcel No.'s 133-0003-0140 & 0141 conveyed to W Liberty & Elm, LLC as recorded in Official Record 13646, Page 1334 of the Hamilton County Recorder's Office.

Bearings Based On Registered Land Certificate Number 239453.

Prepared by G.J. BERDING SURVEYING, INC. on July 19, 2018. Based on a Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on July 19, 2018.

  
Gerard J. Berding, P.S. - 6880

7-31-18  
Date





**1621 Logan Street Description:**

**Parcel No.:** 133-0003-0145-00

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being all of Lots 55, 56, 57 and 58 of McLean's Subdivision of Northern Liberties as recorded in Deed Book 112, Page 42 and being all of the land conveyed to OTR BIH, LLC as recorded in Official Record 13728, Page 2171 of the Hamilton County Recorder's Office containing 0.5512 acres and being further described as follows:

Begin at the southeast corner of Lot 54 of said McLean's Subdivision of Northern Liberties, said corner being the southeast corner of Kevin Hageman as recorded in Official Record 12125, Page 1871 and being on the west right of way of Logan Street (40' R/W) and referenced by a set cross notch, North 80° 00' 21" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning, departing said Kevin Hageman and with the west right of way of said Logan Street, South 09° 53' 39" East, 252.00 feet to the northeast corner of Lot 59 of said McLean's Subdivision of Northern Liberties, said corner being the northeast corner of Grandin Company, Ltd. as recorded in Official Record 12792, Page 1791 and being referenced by a set cross notch, North 80° 00' 21" East, 3.00 feet;

thence, departing the west right of way of said Logan Street, South 80° 00' 21" West, beginning the east right of way of Central Parkway at 67.16 feet, a total distance of 78.00 feet to the east right of way of Central Parkway being referenced by a set cross notch, South 80° 00' 21" West, 3.00 feet;

thence, with the east right of way of said Central Parkway the following two courses: North 21° 24' 44" West, 110.18 feet being referenced by a found cross notch, South 80° 00' 21" West, 2.00;

thence, North 09° 53' 39" West, 144.00 feet to the southwest corner of said Kevin Hageman, said corner being referenced by a set cross notch, South 80° 00' 21" West, 3.00;

thence, departing the east right of way of said Central Parkway, with said Kevin Hageman, North 80° 00' 21" East, 100.00 feet to the True Point of Beginning **containing 0.5512 acres** of land more or less.

Basis of Bearings: State Plane Coordinates (3402) Ohio South Zone, NAD83.

The above description was prepared from a consolidation plat made on April 27, 2021 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

June 21, 2021

To: Members of the Budget and Finance Committee 202102347

From: Paula Boggs Muething, City Manager

Subject: **ORDINANCE – TIF PRIORITY FOR ELM & LIBERTY**

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Attached is an Ordinance captioned as follows:

**ESTABLISHING** priority order of property tax exemptions granted for parcels of real property located at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, within Cincinnati's Downtown/OTR West District Incentive District, in connection with a development undertaken by OTR Project Partners, LLC.

#### **BACKGROUND**

Previously, pursuant to Council Ordinance 027-2021, effective February 3, 2021, City Council authorized the City Manager to execute a Development Agreement with OTR Project Partners, LLC, pertaining to the development and construction of residential rental units and commercial space at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, and providing for City assistance to the project in the form of a rebate of a portion of the service payments in lieu of taxes imposed in connection with a proposed 30-year property tax exemption for improvements pursuant to Ohio Revised Code Section 5709.41, subject to the passage by this Council of a separate ordinance authorizing such tax exemption.

#### **PROJECT DESCRIPTION**

This Ordinance will establish the following priority order of real property tax exemptions granted with respect to the project site;

First, the project Exemption, as authorized by separate Emergency Ordinance passed by this Council in conjunction with this Ordinance; and

Second, the 2002 District TIF Exemption, as authorized and granted by Ordinance No. 413-2002.

#### **RECOMMENDATION**

The Administration recommends passage of this Ordinance.

Copy: Markiea L. Carter, Director of Community and Economic Development *MLC*

KMG  
AWG

City of Cincinnati

An Ordinance No. \_\_\_\_\_ - 2021

**ESTABLISHING** priority order of property tax exemptions granted for parcels of real property located at 1617 Elm Street and 1621 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, within Cincinnati's Downtown/OTR West District Incentive District, in connection with a development undertaken by OTR Project Partners, LLC.

WHEREAS, by Ordinance No. 413-2002, passed on December 18, 2002, as subsequently amended, Council created the District 3-Downtown/OTR West District Incentive District, and declared certain improvements to parcels therein to be exempt from real property taxation pursuant to Section 5709.40(C) of the Ohio Revised Code (the "District 3 TIF" and the "District TIF Ordinance", as applicable); and

WHEREAS, by Ordinance No. 27-2021, passed on February 3, 2021, this Council authorized a *Development Agreement* between the City and OTR Project Partners, LLC ("Developer"), pertaining to the development of real property located at 1617 Elm Street and 1621 Logan Street, as more particularly described in Attachment A to this ordinance (the "Property"), which is contained within the District 3 TIF; and

WHEREAS, by a separate ordinance passed by this Council in conjunction with this ordinance, this Council declared improvements to the Property to be a public purpose and exempt from real property taxation pursuant to Section 5709.41 of the Ohio Revised Code (the "Project TIF Ordinance"), all in furtherance of the City's Downtown-OTR West Tax Increment Financing (TIF) Plan for the District 3 TIF and to create or preserve jobs and improve the economic welfare of the people of the City; and

WHEREAS, pursuant to the provisions of Section 5709.911 of the Ohio Revised Code, Council desires to establish the priority order of the real property tax exemptions granted by the District TIF Ordinance and the Project TIF Ordinance; now, therefore,

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

Section 1. That Council hereby finds and determines that improvements to the property located at 1617 Elm Street and 1621 Logan Street in Cincinnati, as more particularly described in Attachment A to this ordinance (the "Property"), shall be subject to exemption from real property taxes in the following order: (a) the exemption granted by a separate ordinance passed by this Council in conjunction with this ordinance, which declared the improvements to the

Property to be a public purpose and exempt pursuant to Section 5709.41 of the Ohio Revised Code, shall have priority over (b) the exemption granted by Ordinance No. 413-2002, passed on December 18, 2002, as subsequently amended, which created the District 3-Downtown/OTR West District Incentive District, and declared certain improvements to parcels therein to be exempt from real property taxation pursuant to Section 5709.40(C) of the Ohio Revised Code.

Section 2. That the Clerk is hereby directed to forward a copy of this ordinance to the Hamilton County Auditor.

Section 3. That it is hereby found and determined 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 of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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

ATTACHMENT A  
LEGAL DESCRIPTION

**1617 Elm Street Description:**

**Parcel No.:** 133-0003-0143-00

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

**BEGINNING** at a set Cross Notch at the intersection of the North line of W. Liberty Street and the west line of Elm Street.

Thence along the north line of said W. Liberty Street, North 89°39'00" West, 136.77 feet to the southeast corner of a tract, conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 of the Hamilton County Recorder's Office, (Hamilton County Auditor's Parcel 133-0003-0021), said point being referenced by a set Cross Notch at South 15°27'32" East, 3.00 feet;

Thence leaving the north line of said W. Liberty Street, along the east line of said Hamilton County Auditor's Parcel 133-0003-0021, North 15°27'32" West, 114.94 feet to a set Cross Notch;

Thence in part along the north line of aforesaid Hamilton County Auditor's Parcel 133-0003-00021 and in part with the north line of a tract conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 of the Hamilton County Recorder's Office (Hamilton County Auditor's Parcel 133-0003-0020) and in part along a tract conveyed to 224 W Liberty School, LLC in Official Record 12664, Page 314, South 74°20'00" West, 111.91 feet to a set Cross Notch in the east line of Logan Street;

Thence with the east line of said Logan Street, North 15°36'55" West, 150.59 feet to the southwest corner of a tract conveyed to Baymiller Manor Limited Partnership as recorded in Official Record 9742, Page 4432 of the Hamilton County Recorder's Office, said point being referenced by a set Cross Notch at South 74°21'43" West, 3.00 feet;

Thence along the lines of said Baymiller Manor Limited Partnership, North 74°21'43" East, 69.50 feet to a set Cross Notch AND North 15°36'55" West, 25.00 feet to a point in the south line of Green Street, said point being referenced by a set Cross Notch at North 15°36'55" West, 3.00 feet;

Thence along the south line of said Green Street, North 74°21'43" East, 62.36 feet to the northwest corner of a tract conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 (Hamilton County Auditor's Parcel 133-0003-0043), said point being referenced by a set Cross Notch at North 15°38'24" West, 3.00 feet;

Thence leaving the south line of said Green Street, along the west line of said Hamilton County Auditor's Parcel 133-0003-0043 and west line of a tract conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 (Hamilton County Auditor's Parcel 133-0003-0041), South 15°38'24" East, 49.87 feet to a set Cross Notch at the southwest corner of said Hamilton County Auditor's Parcel 133-0003-0041;

**1617 Elm Street Description continued:**

Thence along the south line of said Hamilton County Auditor's Parcel 133-0003-0041, North 74°29'32" East, 111.74 feet to a point in the west line of aforesaid Elm Street, said point being referenced by a set Cross Notch at North 74°29'32" East, 3.0 feet;

Thence along the west line of said Elm Street, South 15°30'28" East, 278.03 feet to the **POINT OF BEGINNING**.

**Containing 1.2172 Acres** and being subject to all legal easements and highways of record.

Being all of Hamilton County Auditor's Parcel No.'s 133-0003-0022 thru 0040 conveyed to W Liberty & Elm, LLC as recorded in Official Record 13614, Page 383 of the Hamilton County Recorder's Office and all of Hamilton County Auditor's Parcel No.'s 133-0003-0140 & 0141 conveyed to W Liberty & Elm, LLC as recorded in Official Record 13646, Page 1334 of the Hamilton County Recorder's Office.

Bearings Based On Registered Land Certificate Number 239453.

Prepared by G.J. BERDING SURVEYING, INC. on July 19, 2018. Based on a Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on July 19, 2018.

  
Gerard J. Berding, P.S. - 6880

7-31-18  
Date



**1621 Logan Street Description:**

**Parcel No.:** 133-0003-0145-00

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being all of Lots 55, 56, 57 and 58 of McLean's Subdivision of Northern Liberties as recorded in Deed Book 112, Page 42 and being all of the land conveyed to OTR BIH, LLC as recorded in Official Record 13728, Page 2171 of the Hamilton County Recorder's Office containing 0.5512 acres and being further described as follows:

Begin at the southeast corner of Lot 54 of said McLean's Subdivision of Northern Liberties, said corner being the southeast corner of Kevin Hageman as recorded in Official Record 12125, Page 1871 and being on the west right of way of Logan Street (40' R/W) and referenced by a set cross notch, North 80° 00' 21" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning, departing said Kevin Hageman and with the west right of way of said Logan Street, South 09° 53' 39" East, 252.00 feet to the northeast corner of Lot 59 of said McLean's Subdivision of Northern Liberties, said corner being the northeast corner of Grandin Company, Ltd. as recorded in Official Record 12792, Page 1791 and being referenced by a set cross notch, North 80° 00' 21" East, 3.00 feet;

thence, departing the west right of way of said Logan Street, South 80° 00' 21" West, beginning the east right of way of Central Parkway at 67.16 feet, a total distance of 78.00 feet to the east right of way of Central Parkway being referenced by a set cross notch, South 80° 00' 21" West, 3.00 feet;

thence, with the east right of way of said Central Parkway the following two courses: North 21° 24' 44" West, 110.18 feet being referenced by a found cross notch, South 80° 00' 21" West, 2.00;

thence, North 09° 53' 39" West, 144.00 feet to the southwest corner of said Kevin Hageman, said corner being referenced by a set cross notch, South 80° 00' 21" West, 3.00;

thence, departing the east right of way of said Central Parkway, with said Kevin Hageman, North 80° 00' 21" East, 100.00 feet to the True Point of Beginning **containing 0.5512 acres** of land more or less.

Basis of Bearings: State Plane Coordinates (3402) Ohio South Zone, NAD83.

The above description was prepared from a consolidation plat made on April 27, 2021 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.



June 21, 2021

To: Members of the Budget and Finance Committee 202102348

From: Paula Boggs Muething, City Manager

Subject: **DETERMINING TO PROCEED WITH THE PACE ASSESSMENT  
PROJECT FOR 221 E. 4<sup>TH</sup> STREET**

---

Attached is an Emergency Ordinance captioned as follows:

DETERMINING to proceed with the assessment project at 221 E. 4<sup>TH</sup> Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

#### **BACKGROUND/CURRENT CONDITIONS**

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt-in to a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. Acabay Atrium Two, L.P., has requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their elevators in the building.

#### **DEVELOPER INFORMATION**

The development entity is Acabay Atrium Two, L.P., and are affiliates of parent company, Motter Properties, which includes seasoned executives with over 40 years as an integrated, full service real estate group. The parent company specializes in industrial and commercial real estate, and construction management experience. Originally concentrating on building its investments in industrial real estate in Montreal, the group expanded into commercial real estate in Colchester, Vermont in 1955 and now have completed various projects in Ohio, Michigan, Quebec and Vermont.



## **PROJECT DESCRIPTION**

The project will include modernizing elevators that are nearing the end of their useful life at the currently occupied Atrium II office building site in the Central Business District. The total cost of the PACE eligible improvements is \$3,408,511.

## **PROPOSED INCENTIVE**

DCED is recommending that the City amend the Energy Special Improvements District (ESID) boundaries to add this property to the ESID, and levy special assessments on the property. This will allow the developer to access financing for energy efficiency upgrades to the elevators in the building.

## **RECOMMENDATION**

The Administration recommends approval of this legislative resolution.

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

EMERGENCY

City of Cincinnati

BWL

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

- 2021

**DETERMINING** to proceed with the special assessment project at 221 E. Fourth Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, prior to the passage of this ordinance, this Council duly adopted a resolution declaring the necessity of the assessment project at 221 E. Fourth Street in the City of Cincinnati (the "Resolution of Necessity"), which provides for the levying and collection of special assessments to be assessed on such property sufficient to pay the costs of the Authorized Improvements (as defined in the Resolution of Necessity); and

WHEREAS, all statutory procedural requirements for the imposition of special assessments on the assessed property, including, without limitation, the right to make claims for damages alleged to result from and objections to the Assessment Project (as defined in the Resolution of Necessity), have been waived by the owners of 100% of the affected property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this ordinance as Attachment A.

Section 2. That it is hereby determined to proceed with the Assessment Project described in the Resolution of Necessity. The Assessment Project shall be made in accordance with the provisions of the Resolution of Necessity, the Petition (a copy of which is attached to the Resolution of Necessity), and the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Clerk of Council.

Section 3. That the assessment of the Special Assessments to pay costs of the Assessment Project shall be assessed against the Assessed Property in the manner and in the number of installments provided in the Petition. The Special Assessments shall be assessed

against the Assessed Property commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2045 for collection in 2046.

Section 4. That the estimated Special Assessments for costs of the Assessment Project prepared and filed in the office of the Clerk of Council and in the office of the City's Director of Finance, in accordance with the Resolution of Necessity, are hereby adopted.

Section 5. That all contracts for the construction of the Assessment Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code and the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc., and the costs of the Assessment Project shall be financed as provided in the Resolution of Necessity.

Section 6. That in compliance with Ohio Revised Code Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this ordinance to the Hamilton County Auditor within fifteen (15) days after the date of passage.

Section 7. That it is hereby found and determined 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 of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. 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 ensure that the board of directors of the City of Cincinnati, Ohio Energy Special

Improvement District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**ATTACHMENT A**

## EMERGENCY

### Legislative Resolution

RESOLUTION NO. \_\_\_\_\_ - 2021

**DECLARING** by legislative resolution the necessity of the special assessment project at 221 E. Fourth Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision that has approved a petition for special assessments for public improvements in a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, pursuant to Resolution No. 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the "ESID") was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, Acabay Atrium Two L.P. (together with all future owners of the Project Site, as defined below, the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of June 14, 2021 (the "Petition"), including a *Supplement to Plan for 221 E. Fourth Street Project* (the "Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the "Authorized Improvements") to be located at 221 E. Fourth Street in Cincinnati (the "Assessed Property"); and

WHEREAS, the Petition and the Supplemental Plan are on file with the Clerk of Council, and copies thereof are attached to this Resolution as Attachment A; and

WHEREAS, in the Petition, the Owner requests that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the "Special Assessments") in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, and the Owner, in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the "Standing Assignment Agreement"); and

WHEREAS, in order to provide for the assignment and transfer of the Special Assessments, the ESID has requested that the City execute and deliver an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council; and

WHEREAS, (i) the Special Assessments are conducive to the public health, convenience and welfare of this City and the inhabitants of the City; (ii) the Assessed Property is specially benefited by the Special Assessments; and (iii) the Special Assessments have been petitioned for by the owner of 100% of the Assessed Property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated June 14, 2021 (the “Petition”), which Petition, together with a *Supplement to Plan for 221 E. Fourth Street Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

Section 2. That this Council hereby approves and authorizes the City Manager to execute an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary to effectuate the purpose of the Petition and Ohio Revised Code Chapter 1710, provided that any such modifications shall not, in the judgment of the City Manager, be adverse to the City.

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 221 E. Fourth Street, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition (collectively, the “Assessment Project”), which

Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

Section 4. That the plans and specifications and total cost of the Assessment Project now on file in the office of the Clerk of Council are approved, subject to changes as provided for in the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "ESID"), and as permitted by Ohio Revised Code Chapter 727. The Assessment Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Assessment Project.

Section 5. That this Council finds and determines that: (i) the Assessment Project is conducive to the public health, convenience, and welfare of this City and the inhabitants thereof, and that it is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project as defined in Ohio Revised Code Section 1710.01(I); (ii) the Assessed Property is specially benefited by the Assessment Project; and (iii) the Assessment Project has been petitioned for by the owner of 100% of the Assessed Property. It is hereby determined that the Assessment Project's elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Assessment Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner, and that the Assessment Project's elements shall be treated as a single improvement pursuant to Ohio Revised Code Section 727.09.

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the Assessment Project is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the Assessment Project. The board of directors of the ESID must



obtain from any sale, transfer, lease, or conveyance of the Assessment Project any consideration greater than or equal to \$1.00.

Section 7. That the costs of the Assessment Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Assessed Property, and the assessment for such purpose (the "Special Assessments") shall be assessed and paid as specified in the Petition. The portion of the costs of the Assessment Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 8. That the City's Finance Director and/or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Assessment Project in accordance with the method of assessment set forth in the Petition and this Resolution.

Section 9. That the Special Assessments shall be levied and paid in fifty (50) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

Section 10. That the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under Ohio Revised Code Section 727.13.

Section 11. That pursuant to and subject to the provisions of a valid Petition signed by the Owner, as the owner of one hundred percent (100%) of the Assessed Property, which Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

Section 12. That this Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of

property owners under the law, including, but not limited to, those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Assessed Property.

Section 13. That the City's Finance Director and/or her designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Assessment Project.

Section 14. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. That this 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 to ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**ATTACHMENT A**

**PETITION FOR SPECIAL ASSESSMENTS FOR  
SPECIAL ENERGY IMPROVEMENT PROJECTS**

**A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS**

To: The City Manager and City Council of the City of Cincinnati, Ohio

Acabay Atrium Two L.P., a Delaware limited partnership (the "Petitioner"), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). The Petitioner will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "Corporation"), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the "District"), created within the boundaries of the City of Cincinnati, Ohio (the "City") has approved a plan (the "Program Plan") for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the "Supplemental Plans") (the Program Plan and every Supplemental Plan together constituting the "Plan") to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of

those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 50 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by their respective undersigned duly authorized signatories.

**PETITIONER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Petitioner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

STATE OF Vermont )


SS:

COUNTY OF Chittenden )

On the 14 day of June, 2021, Frank Motter, as the Manager of Acabay Atrium Two L.P., personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Acabay Atrium Two L.P. and that the same was the free act and deed of such officer and of such limited partnership. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



Notary Public

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

The real property subject to this Petition is located at the commonly used mailing address 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00, and the following legal description:

#### **PARCEL 1 (Fee):**

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

And known as including part of Inlots 61 and 63, as recorded in Deed Book E-2, Pages 62 through 66, of the Hamilton County, Ohio Records;

Lots 223, 224, 225, 226, and 227 of Hugh Moore's Subdivision of Inlot 62;

Lots 1, 2, 3 and 4 of D. K. Estes Estate, as recorded in Plat Book 18, Page 602 of the Common Pleas Court Records;

And part of vacated Hammond Street;

And more particularly described pursuant to a boundary survey recorded in Plat Book 243, Page 37 of the Hamilton County, Ohio Records as follows:

Beginning at the Intersection of the Southerly line of Fourth Street (66 feet wide) with the Westerly line of Sycamore Street (66 feet wide);

Thence South 15 deg. 26' East, along the Westerly line of Sycamore Street a distance of 260.34 feet;

Thence Southwestwardly on a curved line deflecting to the right with a radius of 32 feet, a distance of 28.93 feet (Chord of said curve bears South 49 deg. 05' 15" West, a distance of 27.95 feet);

Thence South 74 deg. 59' West, a distance of 104.36 feet;

Thence Southwestwardly on a curved line deflecting to the left with a radius of 46 feet, a distance of 24.49 feet (chord of said curve bears South 59 deg. 44' West, a distance of 24.20 feet);

Thence North 88 deg. 36' 51" West, a distance of 9.50 feet;

Thence Northwestwardly on a curved line deflecting to the left with a radius of 56 feet, a distance of 18.86 feet (Chord of said curve bears North 47 deg. 11' 28" West, a distance of 18.77 feet);

Thence Northwestwardly on a curved line deflecting to the left with a radius of 112 feet, a distance of 60.72 feet (Chord of said curve bears North 72 deg. 21' 56" West, a distance of 59.98 feet);

Thence North 15 deg. 32' West, a distance of 50.37 feet;

DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER

Tax Map - Dec 03 2018 DB

CAGIS - \_\_\_\_\_

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Thence North 74 deg. 40' East, a distance of 33.68 feet;

Thence North 15 deg. 31' 45" West, a distance of 177.39 feet to the Southerly line of Fourth Street;

Thence along the Southerly line of Fourth Street, North 75 deg. 31' East, a distance of 6.00 feet and North 74 deg. 57' East, a distance of 182.92 feet to the place of beginning.

**PARCEL 2 (easement):**

TOGETHER WITH the easement estates and rights under a certain Deed of Easement recorded in Deed Book 4241, Page 1391, of the Hamilton County, Ohio Records.

**PARCEL 3 (easement):**

TOGETHER WITH the easement estates and rights under a certain Easement and Maintenance Agreement recorded in Deed Book 4327, Page 1915 of the Hamilton County Records.

**PARCEL 4 (easement):**

TOGETHER WITH the easement estates and rights under a certain Fourth Street Walkway Agreement and Right of Entry recorded in OR Book 6917, Page 424 of the Hamilton County Records.

**PARCEL 5 (easement):**

TOGETHER WITH the easement estates and rights under a certain Grant of Easement recorded in OR Book 8398, Page 1533, of the Hamilton County Records.

## **EXHIBIT B**

### **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

#### **SUPPLEMENT TO PLAN FOR 221 E. FOURTH STREET PROJECT**

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the "Plan"), the City of Cincinnati, Ohio Energy Special Improvement District (the "District") has undertaken the administration of a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owner") has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

The Authorized Improvements applicable to the Property will include energy-efficient elevator modernization improvements, electrical upgrades, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

**The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.**

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

**PROPERTY OWNER:**

**ACABAY ATRIUM TWO L.P.**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Property Owner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00.

## SUPPLEMENTAL PLAN—ATTACHMENT A

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
7/31/2033	137,817.62
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
1/31/2037	137,817.62
7/31/2037	137,817.62
1/31/2038	137,817.62
7/31/2038	137,817.62
1/31/2039	137,817.62
7/31/2039	137,817.62
1/31/2040	137,817.62
7/31/2040	137,817.62
1/31/2041	137,817.62
7/31/2041	137,817.62
1/31/2042	137,817.62
7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62

## SUPPLEMENTAL PLAN—ATTACHMENT B

### Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Date: 3/22/2021

Energy Project Name: Acabay Atrium Two L.P. Parcel ID: 083-0003-0036-00 County/State: Hamilton County, OH						
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)
1	Elevator Modernization	30	Fujitec	\$3,213,555	\$4,617 (Electric)	\$2,219 (electric)
	Elevator Modernization – Change Order	N/A	Fujitec	\$37,278.74	N/A	N/A
	Electrical upgrades, required for Elevator Modernization	N/A	Hunt Builders Corporation	\$157,678	N/A	N/A
4						
5						
6						
<b>TOTALS:</b>		30 yrs		\$3,408,511.74	\$4,617	\$2,219



**EXHIBIT C**

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT  
PROGRAM PLAN**

[See Attached]

## **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.

### **I. Purpose of the Program**

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the “Authorized Improvements”). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the “Program Obligations”) may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

**Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.**

## **II. The District’s Governance, Program Administrator, and Conduit Financing Entity**

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors (“Board”) of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the “Corporation”) to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District’s “Program Administrator” and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District’s “Conduit Financing Entity” and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

### **III. Program Eligibility, Approvals, Financing, and Procurement**

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

**Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.**

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

#### **IV. Services Plan**

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

#### V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

**Application Fee.** The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

## **VI. Energy Efficiency and Renewable Energy Regulations and Requirements**

**Energy Efficiency Reporting Requirements.** Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code



Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

**Energy Efficiency Credits.** The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

**Renewable Energy Credits.** The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

**Monetizing Other Energy Efficiency or Renewable Energy Attributes.** The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

## **VII. Statutory Requirements**

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

#### **VIII. Changes in State and Federal Law**

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.

#### **IX. Releases and Indemnification**

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.

#### **X. Changes in the Program Terms; Severability**

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

#### **XI. Disclosure of Property Owner Information**

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.


**Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.**

**BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW  
HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO  
PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN  
THIS PLAN.**

Date: July 23, 2014

**Property Owner:  
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

**Authorized Signatory**

  
\_\_\_\_\_  
Laura Brunner, as  
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development  
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

**Parcel One**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

**Parcel Two**

**[Property Owner Consent to Plan]**

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

## **PETITION FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS**

### **A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS**

To: The City Manager and City Council of the City of Cincinnati, Ohio

Acabay Atrium Two L.P., a Delaware limited partnership (the “Petitioner”), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the “Property”). The Petitioner will implement special energy improvement projects on the Property (the “Authorized Improvements,” as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the “Corporation”), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the “District”), created within the boundaries of the City of Cincinnati, Ohio (the “City”) has approved a plan (the “Program Plan”) for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the “Supplemental Plans”) (the Program Plan and every Supplemental Plan together constituting the “Plan”) to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of

those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the “Special Assessments”) to pay the costs of the Authorized Improvements.

In consideration of the City’s acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code



Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 50 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by their respective undersigned duly authorized signatories.

**PETITIONER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Petitioner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

STATE OF Vermont )

SS:


COUNTY OF Chittenden )

On the 14 day of June, 2021, Frank Motter, as the Manager of Acabay Atrium Two L.P., personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Acabay Atrium Two L.P. and that the same was the free act and deed of such officer and of such limited partnership. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



  
Notary Public

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

The real property subject to this Petition is located at the commonly used mailing address 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00, and the following legal description:

#### **PARCEL 1 (Fee):**

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

And known as including part of Inlots 61 and 63, as recorded in Deed Book E-2, Pages 62 through 66, of the Hamilton County, Ohio Records;

Lots 223, 224, 225, 226, and 227 of Hugh Moore's Subdivision of Inlot 62;

Lots 1, 2, 3 and 4 of D. K. Estes Estate, as recorded in Plat Book 18, Page 602 of the Common Pleas Court Records;

And part of vacated Hammond Street;

And more particularly described pursuant to a boundary survey recorded in Plat Book 243, Page 37 of the Hamilton County, Ohio Records as follows:

Beginning at the Intersection of the Southerly line of Fourth Street (66 feet wide) with the Westerly line of Sycamore Street (66 feet wide);

Thence South 15 deg. 26' East, along the Westerly line of Sycamore Street a distance of 260.34 feet;

Thence Southwestwardly on a curved line deflecting to the right with a radius of 32 feet, a distance of 28.93 feet (Chord of said curve bears South 49 deg. 05' 15" West, a distance of 27.95 feet);

Thence South 74 deg. 59' West, a distance of 104.36 feet;

Thence Southwestwardly on a curved line deflecting to the left with a radius of 46 feet, a distance of 24.49 feet (chord of said curve bears South 59 deg. 44' West, a distance of 24.20 feet);

Thence North 88 deg. 36' 51" West, a distance of 9.50 feet;

Thence Northwestwardly on a curved line deflecting to the left with a radius of 56 feet, a distance of 18.86 feet (Chord of said curve bears North 47 deg. 11' 28" West, a distance of 18.77 feet);

Thence Northwestwardly on a curved line deflecting to the left with a radius of 112 feet, a distance of 60.72 feet (Chord of said curve bears North 72 deg. 21' 56" West, a distance of 59.98 feet);

Thence North 15 deg. 32' West, a distance of 50.37 feet;

DESCRIPTION ACCEPTABLE  
HAMILTON COUNTY ENGINEER

Tax Map - Dec 03 2018 DB

CAGIS - \_\_\_\_\_

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Thence North 74 deg. 40' East, a distance of 33.68 feet;

Thence North 15 deg. 31' 45" West, a distance of 177.39 feet to the Southerly line of Fourth Street;

Thence along the Southerly line of Fourth Street, North 75 deg. 31' East, a distance of 6.00 feet and North 74 deg. 57' East, a distance of 182.92 feet to the place of beginning.

**PARCEL 2 (easement):**

TOGETHER WITH the easement estates and rights under a certain Deed of Easement recorded in Deed Book 4241, Page 1391, of the Hamilton County, Ohio Records.

**PARCEL 3 (easement):**

TOGETHER WITH the easement estates and rights under a certain Easement and Maintenance Agreement recorded in Deed Book 4327, Page 1915 of the Hamilton County Records.

**PARCEL 4 (easement):**

TOGETHER WITH the easement estates and rights under a certain Fourth Street Walkway Agreement and Right of Entry recorded in OR Book 6917, Page 424 of the Hamilton County Records.

**PARCEL 5 (easement):**

TOGETHER WITH the easement estates and rights under a certain Grant of Easement recorded in OR Book 8398, Page 1533, of the Hamilton County Records.

## **EXHIBIT B**

### **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

#### **SUPPLEMENT TO PLAN FOR 221 E. FOURTH STREET PROJECT**

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the “Plan”), the City of Cincinnati, Ohio Energy Special Improvement District (the “District”) has undertaken the administration of a property assessed clean energy (“PACE”) program (the “Program”). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the “Property Owner”) has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00 (the “Property”). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

The Authorized Improvements applicable to the Property will include energy-efficient elevator modernization improvements, electrical upgrades, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

**The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.**

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

**PROPERTY OWNER:**

**ACABAY ATRIUM TWO L.P.,**  
a Delaware limited partnership

By: 

Name: FRANK J MOTTER

Title: MANAGER

Address for notices to Property Owner:

Acabay Atrium Two L.P.  
100-105 West View Rd  
Colchester, Vermont 05446  
Attention: Richard Brunelle

With A Copy To:

Gallagher Kavinsky & Burkhart LPA  
8740 Orion Place, Suite 200  
Columbus, Ohio 43240  
Attention: Terrence L. Gallagher

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 221 E. Fourth Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 083-0003-0036-00.

## SUPPLEMENTAL PLAN—ATTACHMENT A

### Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$6,890,881.00
Estimated semi-annual special assessments for 25 years:	\$ 137,817.62
Number of semi-annual assessments:	50
First semi-annual installment due:	January 31, 2022

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
1/31/2022	\$137,817.62
7/31/2022	137,817.62
1/31/2023	137,817.62
7/31/2023	137,817.62
1/31/2024	137,817.62
7/31/2024	137,817.62
1/31/2025	137,817.62
7/31/2025	137,817.62
1/31/2026	137,817.62
7/31/2026	137,817.62
1/31/2027	137,817.62
7/31/2027	137,817.62
1/31/2028	137,817.62
7/31/2028	137,817.62
1/31/2029	137,817.62
7/31/2029	137,817.62
1/31/2030	137,817.62
7/31/2030	137,817.62
1/31/2031	137,817.62
7/31/2031	137,817.62
1/31/2032	137,817.62
7/31/2032	137,817.62
1/31/2033	137,817.62

<sup>1</sup> Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

<sup>2</sup> Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.



Special Assessment Payment Date <sup>1</sup>	Special Assessment Installment Amount <sup>2</sup>
7/31/2033	137,817.62
1/31/2034	137,817.62
7/31/2034	137,817.62
1/31/2035	137,817.62
7/31/2035	137,817.62
1/31/2036	137,817.62
7/31/2036	137,817.62
1/31/2037	137,817.62
7/31/2037	137,817.62
1/31/2038	137,817.62
7/31/2038	137,817.62
1/31/2039	137,817.62
7/31/2039	137,817.62
1/31/2040	137,817.62
7/31/2040	137,817.62
1/31/2041	137,817.62
7/31/2041	137,817.62
1/31/2042	137,817.62
7/31/2042	137,817.62
1/31/2043	137,817.62
7/31/2043	137,817.62
1/31/2044	137,817.62
7/31/2044	137,817.62
1/31/2045	137,817.62
7/31/2045	137,817.62
1/31/2046	137,817.62
7/31/2046	137,817.62

## SUPPLEMENTAL PLAN—ATTACHMENT B

### Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Date: 3/22/2021

Energy Project Name: Acabay Atrium Two L.P. Parcel ID: 083-0003-0036-00 County/State: Hamilton County, OH						
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)
1	Elevator Modernization	30	Fujitec	\$3,213,555	\$4,617 (Electric)	\$2,219 (electric)
	Elevator Modernization – Change Order	N/A	Fujitec	\$37,278.74	N/A	N/A
	Electrical upgrades, required for Elevator Modernization	N/A	Hunt Builders Corporation	\$157,678	N/A	N/A
4						
5						
6						
<b>TOTALS:</b>		30 yrs		\$3,408,511.74	\$4,617	\$2,219

**EXHIBIT C**

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT  
PROGRAM PLAN**

[See Attached]

## **CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. **By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.**

### **I. Purpose of the Program**

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the “Authorized Improvements”). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the “Program Obligations”) may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

**Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.**

## **II. The District’s Governance, Program Administrator, and Conduit Financing Entity**

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors (“Board”) of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the “Corporation”) to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District’s “Program Administrator” and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District’s “Conduit Financing Entity” and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

### **III. Program Eligibility, Approvals, Financing, and Procurement**

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

**Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.**

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

#### **IV. Services Plan**

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.



- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

#### V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

## **VI. Energy Efficiency and Renewable Energy Regulations and Requirements**

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

Energy Efficiency Credits. The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

## **VII. Statutory Requirements**

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

#### **VIII. Changes in State and Federal Law**

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

#### **IX. Releases and Indemnification**

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

**By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.**

#### **X. Changes in the Program Terms; Severability**

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

#### **XI. Disclosure of Property Owner Information**

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

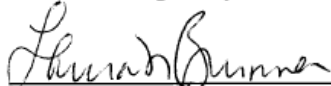
**Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.**

**BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW  
HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO  
PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN  
THIS PLAN.**

Date: July 23, 2014

**Property Owner:  
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

**Authorized Signatory**

  
\_\_\_\_\_

Laura Brunner, as  
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development  
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

**Parcel One**

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

**Parcel Two**

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

City of Cincinnati  
PACE Project Information



1. Legal Name of Property Owner

Acabany Atorium Two LP

2. Parent Entity/Company

3. Legal Address of Property Owner

100-105 West View Rd

4. Applicant Contact Person & Title

Richard Brunelle CFO

5. Phone

450-679-7786

6. Email

r.brunelle@fmetter.com

7. Is the applicant applying for any other City of Cincinnati incentives for this project?

8. Address(es) of Project Property

221 E Fourth St

9. Hamilton County Auditor Parcel ID #(s)

083-0003-0036-00

10. City of Cincinnati Neighborhood

CPD

11. Construction Type

New Construction ☐ Renovation ☒

12. Total sqft/units to be constructed or renovated

Commercial (sqft) 653,000<sup>+</sup> Office (sqft) 653,000<sup>+</sup> Industrial (sqft) 0  
Residential (sqft) 0 Residential (units) 0

13. Estimated hard cost of construction or renovation

14. Estimated total project cost (including soft costs & acquisition)

\$3,408,511

15. Projected

construction start date

3/15/20

16. Projected

construction end date

substantially complete

17. Please indicate if the project will attain any of the certifications listed below:

LEED ☐ Living Building Challenge (LBC) ☐ Other ☒ None

18. Actual/Anticipated date presented to Community Council

5/6/20

19. Community Council support for the project

Yes ☐ No ☒

20. Please provide a brief description of project and which specific improvements qualify for PACE financing:

Modernizing Elevators that are nearing the end of useful life



June 21, 2021

**To:** Members of the Budget and Finance Committee 202102341

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – City Council Omnibus Adjustments: FY 2022 General Fund Operating Budget**

---

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer of \$695,000 within the General Fund to various operating budget accounts within the General Fund, according to the attached Schedule of Transfer, for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget to provide funding as follows: ongoing leveraged support for the Women Helping Women Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$250,000; leveraged support for the ArtsWave Black and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; and leveraged support for two Cintrifuse Hackathon events, \$20,000; **ESTABLISHING** new capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility; **AUTHORIZING** the transfer and appropriation of \$500,000 from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x7400 to capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million dollar project to replace the aging Marx Theatre with a modern, inclusive facility; and **DECLARING** expenditures from capital improvement program project account no. 980x164x221612, "Playhouse in the Park," to be for a public purpose.

Pursuant to Motion #202102281, this Emergency Ordinance provides funding for the following items for inclusion in the FY 2022 General Fund Operating Budget: ongoing leveraged support for the Women Helping Women (WHW) Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$250,000; leveraged support for the ArtsWave Black and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; leveraged support for two Cintrifuse Hackathon events, \$20,000; and Playhouse in the Park, \$500,000.

The reason for the emergency is to ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021.

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

Attachment

EMERGENCY

City of Cincinnati

CMZ

AWB

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

- 2021

**AUTHORIZING** the transfer of \$695,000 within the General Fund to various operating budget accounts within the General Fund, according to the attached Schedule of Transfer, for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget to provide funding as follows: ongoing leveraged support for the Women Helping Women Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$250,000; leveraged support for the ArtsWave Black and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; and leveraged support for two Cintrifuse Hackathon events, \$20,000; **ESTABLISHING** new capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility; **AUTHORIZING** the transfer and appropriation of \$500,000 from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x7400 to capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million dollar project to replace the aging Marx Theatre with a modern, inclusive facility; and **DECLARING** expenditures from capital improvement program project account no. 980x164x221612, "Playhouse in the Park," to be for a public purpose.

WHEREAS, passage of this ordinance will appropriate funds and authorize expenditures from the General Fund for the fiscal year beginning July 1, 2021 and ending June 30, 2022, pursuant to Council's recommended changes to the FY 2022 General Fund Operating Budget; now, therefore,

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

Section 1. That the transfer of \$695,000 within the General Fund, according to the attached Schedule of Transfer, is hereby authorized for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget in order to provide funding as follows: ongoing leveraged support for the Women Helping Women Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$250,000; leveraged support for the ArtsWave Black

and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; and leveraged support for two Cintrifuse Hackathon events, \$20,000.

Section 2. That new capital improvement program project account no. 980x164x221612, "Playhouse in the Park," is hereby established for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility.

Section 3. That the sum of \$500,000 is hereby transferred and appropriated from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x7400 to capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility.

Section 4. That the "Playhouse in the Park" capital improvement program project is hereby declared to serve a public purpose because the project will replace the aging Marx Theatre and provide a modern inclusive facility for the citizens of Cincinnati to enjoy and increase neighborhood vitality, and the project has an estimated life or period of usefulness of five years or more.

Section 5. That the appropriate City officials are hereby authorized to do all things necessary and proper to implement Sections 1 through 4 of this ordinance.

Section 6. That the effective date of this ordinance shall be July 1, 2021.

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 ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

# SCHEDULE OF TRANSFER

## FY 2022 OPERATING BUDGET - CITY COUNCIL ADJUSTMENT ORDINANCE (OMNIBUS)

Fund 050 General Fund

REDUCTIONS					INCREASES				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>TRANSFERS WITHIN APPROPRIATIONS</b>					<b>TRANSFERS WITHIN APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
DEPARTMENT OF HUMAN RESOURCES					OFFICE OF THE CITY MANAGER				
ADMINISTRATION	050	121	7100	20,000	OFFICE OF THE CITY MANAGER	050	101	7200	250,000
					OFFICE OF THE CITY MANAGER	050	101	7400	75,000
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT					OFFICE OF PERFORMANCE AND DATA ANALYTICS	050	108	7200	20,000
DIRECTOR/ADMINISTRATION	050	161	7100	15,000					
DEPARTMENT OF FINANCE					DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT				
ACCOUNTS AND AUDITS	050	133	7100	60,000	DIRECTOR/ADMINISTRATION	050	161	7400	100,000
OFFICE OF THE CITY MANAGER									
CITY MANAGER'S OFFICE	050	101	7200	75,000	CITIZEN COMPLAINT AUTHORITY				
OFFICE OF PERFORMANCE AND DATA ANALYTICS	050	108	7100	20,000	INVESTIGATIONS, RESEARCH, AND EVALUATION	050	181	7100	123,460
					INVESTIGATIONS, RESEARCH, AND EVALUATION	050	181	7500	57,540
CINCINNATI RECREATION COMMISSION					INVESTIGATIONS, RESEARCH, AND EVALUATION	050	181	7200	69,000
ADMINISTRATION	050	199	7100	105,000					
DEPARTMENT OF PARKS									
OPERATIONS AND FACILITIES	050	202	7100	50,000					
CINCINNATI POLICE DEPARTMENT									
PATROL BUREAU	050	222	7100	250,000					
NON-DEPARTMENTAL ACCOUNTS									
ENTERPRISE SOFTWARE AND LICENSES	050	952	7400	100,000					
<b>TOTAL FUND 050 REDUCTIONS</b>				<b>695,000</b>	<b>TOTAL FUND 050 INCREASES</b>				<b>695,000</b>



EMERGENCY

City of Cincinnati

CMZ/B

AWB

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

- 2021

**AUTHORIZING** the transfer of \$795,000 within the General Fund to various operating budget accounts within the General Fund, according to the attached Schedule of Transfer, for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget to provide funding as follows: ongoing leveraged support for the Women Helping Women Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$350,000; leveraged support for the ArtsWave Black and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; and leveraged support for two Cintrifuse Hackathon events, \$20,000; **ESTABLISHING** new capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility; **AUTHORIZING** the transfer and appropriation of \$500,000 from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x7400 to capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million dollar project to replace the aging Marx Theatre with a modern, inclusive facility; and **DECLARING** expenditures from capital improvement program project account no. 980x164x221612, "Playhouse in the Park," to be for a public purpose.

WHEREAS, passage of this ordinance will appropriate funds and authorize expenditures from the General Fund for the fiscal year beginning July 1, 2021 and ending June 30, 2022, pursuant to Council's recommended changes to the FY 2022 General Fund Operating Budget; now, therefore,

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

Section 1. That the transfer of \$795,000 within the General Fund, according to the attached Schedule of Transfer, is hereby authorized for the purpose of implementing Council's recommended changes to the FY 2022 General Fund Operating Budget in order to provide funding as follows: ongoing leveraged support for the Women Helping Women Domestic Violence Enhanced Response Team (DVERT), \$250,000; allocation of personnel and non-personnel resources to the Citizen Complaint Authority, \$350,000; leveraged support for the ArtsWave Black

and Brown Artists Fund, \$75,000; leveraged support for The Children's Home of Cincinnati, \$100,000; and leveraged support for two Cintrifuse Hackathon events, \$20,000.

Section 2. That new capital improvement program project account no. 980x164x221612, "Playhouse in the Park," is hereby established for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility.

Section 3. That the sum of \$500,000 is hereby transferred and appropriated from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x7400 to capital improvement program project account no. 980x164x221612, "Playhouse in the Park," for the purpose of providing resources to assist with the multi-million-dollar project to replace the aging Marx Theatre with a modern, inclusive facility.

Section 4. That the "Playhouse in the Park" capital improvement program project is hereby declared to serve a public purpose because the project will replace the aging Marx Theatre which will provide a modern inclusive facility for the citizens of Cincinnati to enjoy and increase neighborhood vitality, and the project has an estimated life or period of usefulness of five years or more.

Section 5. That the appropriate City officials are hereby authorized to do all things necessary and proper to implement Sections 1 through 4 of this ordinance.

Section 6. That the effective date of this ordinance shall be July 1, 2021.

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 ensure that necessary funding is in place prior to the beginning of Fiscal Year 2022, which begins on July 1, 2021.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

# SCHEDULE OF TRANSFER

## FY 2022 OPERATING BUDGET - CITY COUNCIL ADJUSTMENT ORDINANCE (OMNIBUS) AMENDED

Fund 050 General Fund

REDUCTIONS					INCREASES				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>TRANSFERS WITHIN APPROPRIATIONS</b>					<b>TRANSFERS WITHIN APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
DEPARTMENT OF HUMAN RESOURCES					OFFICE OF THE CITY MANAGER				
ADMINISTRATION	050	121	7100	20,000	OFFICE OF THE CITY MANAGER	050	101	7200	250,000
					OFFICE OF THE CITY MANAGER	050	101	7400	75,000
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT					OFFICE OF PERFORMANCE AND DATA ANALYTICS	050	108	7200	20,000
DIRECTOR/ADMINISTRATION	050	161	7100	15,000					
					DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT				
DEPARTMENT OF FINANCE					DIRECTOR/ADMINISTRATION	050	161	7400	100,000
ACCOUNTS AND AUDITS	050	133	7100	60,000					
OFFICE OF THE CITY MANAGER					CITIZEN COMPLAINT AUTHORITY				
CITY MANAGER'S OFFICE	050	101	7200	75,000	INVESTIGATIONS, RESEARCH, AND EVALUATION	050	181	7100	185,190
OFFICE OF PERFORMANCE AND DATA ANALYTICS	050	108	7100	20,000	INVESTIGATIONS, RESEARCH, AND EVALUATION	050	181	7500	86,310
					INVESTIGATIONS, RESEARCH, AND EVALUATION	050	181	7200	78,500
CINCINNATI RECREATION COMMISSION									
ADMINISTRATION	050	199	7100	105,000					
DEPARTMENT OF PARKS									
OPERATIONS AND FACILITIES	050	202	7100	50,000					
CINCINNATI POLICE DEPARTMENT									
PATROL BUREAU	050	222	7100	250,000					
NON-DEPARTMENTAL ACCOUNTS									
ENTERPRISE SOFTWARE AND LICENSES	050	952	7400	100,000					
RESERVE FOR CONTINGENCIES	050	990	7200	100,000					
<b>TOTAL FUND 050 REDUCTIONS</b>				<b>795,000</b>	<b>TOTAL FUND 050 INCREASES</b>				<b>795,000</b>

**Date:** June 16, 2021

**To:** Councilmembers Jan-Michele Lemon Kearney and Liz Keating  
**From:** Andrew Garth, City Solicitor *AWG*  
**Subject:** **Emergency Ordinance – Honorary Street Name “Sharesse ‘ReRe’ Crossing”**

---

Transmitted herewith is an emergency ordinance captioned as follows:

**DECLARING** that the crosswalk across Vine Street at the intersection of Vine Street and Ehrman Street in the Avondale neighborhood shall hereby receive the honorary, secondary name of “Sharesse ‘ReRe’ Crossing” in honor of Sharesse Lattimore, a seven-year-old girl who was hit by a car while crossing Vine Street, and as a reminder of the necessity for both drivers and pedestrians to know and observe road and traffic regulations.

AWG/JRS/(lnk)  
Attachment  
339330

EMERGENCY

City of Cincinnati

JRS

BWB

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

- 2021

**DECLARING** that the crosswalk across Vine Street at the intersection of Vine Street and Ehrman Street in the Avondale neighborhood shall hereby receive the honorary, secondary name of "Sharesse 'ReRe' Crossing" in honor of Sharesse Lattimore, a seven-year-old girl who was hit by a car while crossing Vine Street, and as a reminder of the necessity for both drivers and pedestrians to know and observe road and traffic regulations.

WHEREAS, Sharesse Lattimore was a happy, vibrant, and talkative seven-year-old girl who was full of life and loved rainbows, unicorns, and making people smile; and

WHEREAS, Sharesse was tragically struck and killed by a driver while she was crossing Vine Street near the intersection of Vine Street and Ehrman Street; and

WHEREAS, Sharesse was loved dearly by her family and friends and she will be greatly missed for all of the joy she brought into the world; and

WHEREAS, the City Council, together with Sharesse's loving and dedicated family, wishes to honor her memory by placing an honorary, secondary name on the crosswalk across Vine Street at the intersection of Vine Street and Ehrman Street in the Avondale neighborhood; and

WHEREAS, by this action, the Council and Sharesse's family further seek to increase education and awareness of pedestrian safety issues in the hope that future tragedies of this type are prevented; now, therefore,

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

Section 1. That the crosswalk across Vine Street at the intersection of Vine Street and Ehrman Street in the Avondale neighborhood shall hereby receive the honorary, secondary name of "Sharesse 'ReRe' Crossing" to honor Sharesse Lattimore and to serve as a reminder of the necessity for both drivers and pedestrians to know and observe road and traffic regulations.

Section 2. That the appropriate City officials are hereby authorized to do all things necessary and proper to implement the provisions of Section 1 herein, including the generation

and installation of appropriate signage at the crosswalk, which shall designate the crosswalk across Vine Street at the intersection of Vine Street and Ehrman Street as “Sharesse ‘ReRe’ Crossing” in accordance with the Department of Transportation and Engineering’s procedures relating to street designation and related signage.

Section 3. That the Clerk shall cause a copy of this ordinance be provided to Ms. Lattimore’s family via the office of Councilmembers Kearney and Keating.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the Department of Transportation and Engineering to move forward with the administrative requirements needed to construct and implement the signage at the designated location.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

June 16, 2021

**To:** Mayor and Members of City Council 202102245  
**From:** Paula Boggs Muething, City Manager  
**Subject:** Ordinance – Renaming the Reeves Annex Building the “Tony Yates Junior Golf Learning Center”

---

Transmitted is an Ordinance captioned:

**RENAMING** the Reeves Annex Building in the Linwood neighborhood the “Tony Yates Junior Golf Learning Center.”

The City Planning Commission recommended approval of the ordinance at its June 4, 2021 meeting.

Summary

In accordance with the City of Cincinnati Committee of Names, Procedure for Processing Proposals for the naming or renaming of City Facilities and streets, as empowered by Resolution 16-2003, a request to rename the Reeves Annex Building to the “Tony Yates Junior Golf Learning Center” has been submitted for consideration: The renaming of the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center”. The Committee of Names met on May 20, 2021 and unanimously voted in favor of the renaming of the Reeves Annex Building.

The Committee decided that the name change is appropriate and meet the following criteria:

As per Resolution 16-2003, these names meet Criteria V, B 1. “Names of persons should be considered only if it is determined to be in the public interest to honor the person or the person’s family for historical or commemorative reasons” and Criteria V, B 4. “Names usually will not be considered suitable unless the person was associated with or made a significant contribution to the facility (or street) or area in which the facility (or street) is located.” Also, The Reeves name will still be preserved as it is the name of the golf course.

The Tony Yates Junior Golf Academy was founded in 1991 by Mr. Yates and PGA Golf Professional Zachary Fink. Since the late 1980s, the Tony Yates Caring for Kids Foundation has worked to provide inspiration and opportunity for economically disadvantaged children of Cincinnati. The academy teaches both golf and life-skills training. In the beginning, the academy served 60 students per day. Now the academy serves 200. The organization has provided over 20 scholarships to college over the years.

The proposed renaming is consistent with Plan Cincinnati (2012) and the Linwood Community Council has also submitted a letter of support for the proposal.

The City Planning Commission recommended the following on June 4, 2021 to City Council:

**APPROVE** the changing of the name of the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center” in Linwood.

cc: Katherine Keough-Jurs, AICP, Director, Department of City Planning and Engagement



## City of Cincinnati

DBS

*BW*

# An Ordinance No. \_\_\_\_\_ - 2021

**RENAMING** the Reeves Annex Building in the Linwood neighborhood the “Tony Yates Junior Golf Learning Center.”

WHEREAS, the Cincinnati Recreation Commission (“CRC”) has proposed that the Reeves Annex Building be renamed the “Tony Yates Junior Golf Learning Center” in honor of the late Tony Yates; and

WHEREAS, the Reeves Annex Building is a CRC facility located at the Lunken Playfield in the Linwood neighborhood, and it is used to support the needs of the Tony Yates Junior Golf Academy; and

WHEREAS, Tony Yates provided substantial and meaningful contributions to the City’s youth by, among other things, founding and growing the Tony Yates Junior Golf Academy and the Tony Yates Caring for Kids Foundation that together provided economically disadvantaged children with access to the game of golf, hands-on instruction from experienced golfers, classroom instruction focusing on life skills, college scholarships, and golf equipment; and

WHEREAS, Tony Yates’s dedication to improving the lives of children in the City helped the Tony Yates Junior Golf Academy to flourish, serving thousands of children since its founding in 1991; and

WHEREAS, proposals to rename public buildings are considered pursuant to Resolution No. 16-2003, which calls for proposed renamings to be reviewed by the Committee of Names and the City Planning Commission prior to their approval by the City Council; and

WHEREAS, the Committee of Names, after considering the proposal to rename the Reeves Annex Building the “Tony Yates Junior Golf Learning Center,” recommended the renaming; and

WHEREAS, the City Planning Commission considered the proposed renaming at its regularly scheduled meeting on June 4, 2021, and it too recommended approval of the proposed renaming; and

WHEREAS, the Council finds that the proposed renaming is consistent with *Plan Cincinnati* (2012), particularly the Live Initiative Area and the goal “to build stronger communities by increasing civic engagement” (page 153); and

WHEREAS, the Council further finds that renaming the Reeves Annex Building in the Linwood neighborhood the “Tony Yates Junior Golf Learning Center” to be in the best interests of the City and the public health, safety, morals, and welfare; now, therefore,

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

Section 1. That the Reeves Annex Building located in the Linwood neighborhood, depicted on the map attached hereto as Exhibit A and incorporated herein by reference, is hereby renamed the “Tony Yates Junior Golf Learning Center.”

Section 2. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance.

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

Passed: \_\_\_\_\_, 2021

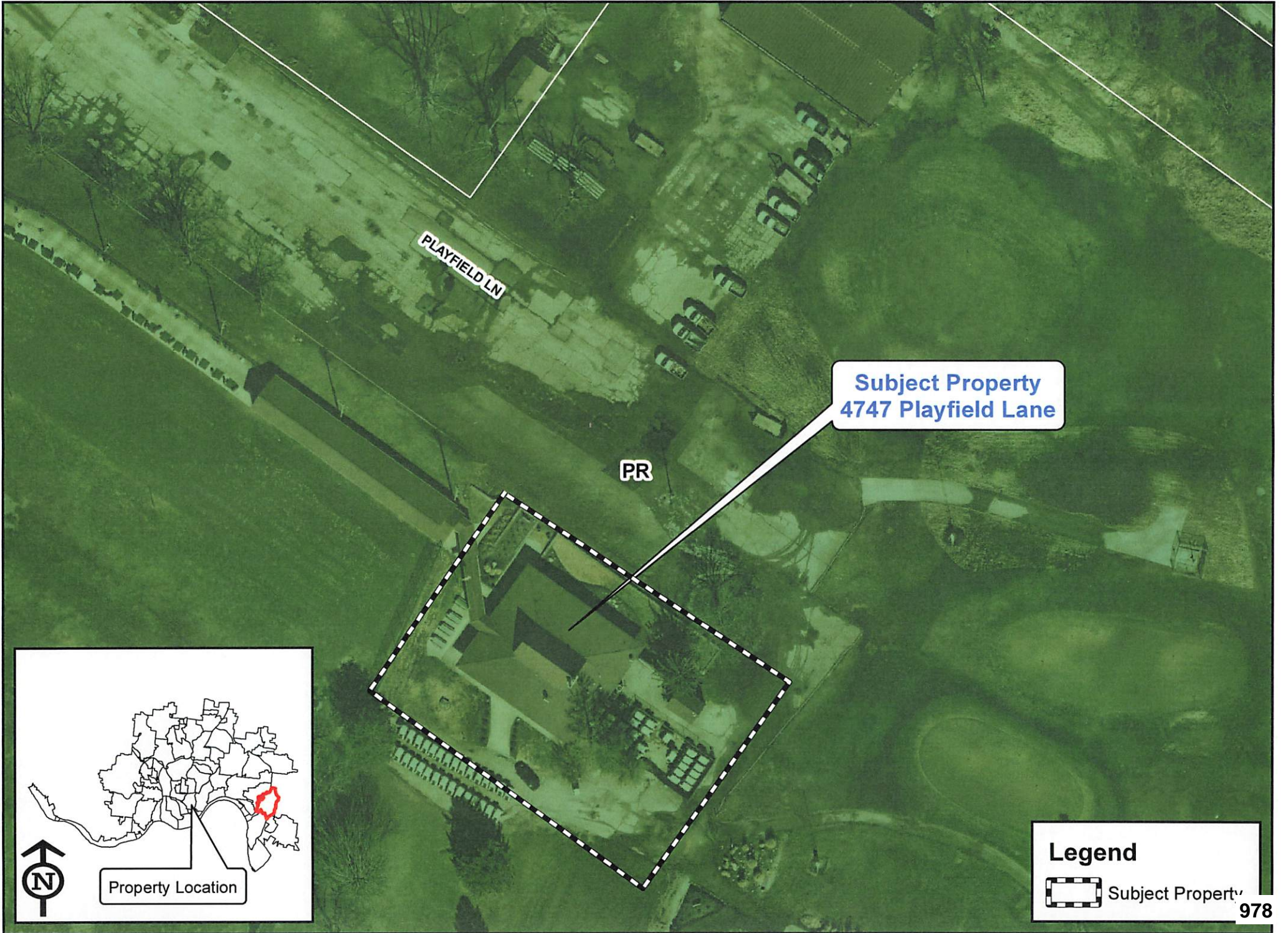
\_\_\_\_\_  
John Cranley, Mayor

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



**EXHIBIT A**

**Name Change -Reeves Annex Building to Tony Yates Junior Golf Learning Center in Linwood**





# Name Change -Reeves Annex Building to Tony Yates Junior Golf Learning Center in Linwood



**Honorable City Planning Commission  
Cincinnati, Ohio**

**June 4, 2021**

**SUBJECT:** A report and recommendation on the proposed changing of the name of the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center” in Linwood.

**GENERAL INFORMATION:**

Location: 4747 Playfield Lane  
Grantee: Cincinnati’s Recreation Commission (CRC)  
Grantee’s Address: 805 Central Avenue, 8<sup>th</sup> floor, Cincinnati, OH 45202

**ATTACHMENTS:**

- Exhibit A Location Map
- Exhibit B Photo of the Building
- Exhibit C Tony Yates Biography
- Exhibit D Letter of support

**BACKGROUND:**

The Department of City Planning received a request from the City’s Recreation Commission (CRC) to change the name of the Reeves Annex Building to the “Tony Yates Junior Golf Learning Center” at Lunken Playfield in Linwood.

The CRC owns all the surrounding property as the building sits within the Lunken Playfield and next to the Reeves Golf Course.

In accordance with the City of Cincinnati Committee of Names, Procedure for Processing Proposals for the naming or renaming of City Facilities and streets, as empowered by Resolution 16-2003, a request to rename the Reeves Annex Building to the “Tony Yates Junior Golf Learning Center” has been submitted for consideration: The renaming of the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center”.

**NOTIFICATION:**

Upon receiving the request, City Planning staff sent out a notice to the Linwood Community Council. See Exhibit D for a letter of support for the renaming from the Linwood Community Council.

**COMMITTEE OF NAMES:**

The Committee of Names met on May 20, 2021 and voted in favor of the renaming of the Reeves Annex Building.

The Committee decided that the name change is appropriate and meet the following criteria: As per Resolution 16-2003, these names meet Criteria V, B 1. “Names of persons should be considered only if it is determined to be in the public interest to honor the person or the person’s family for historical or commemorative reasons” and Criteria V, B 4. “Names usually will not be considered suitable unless the person was associated with or made a significant contribution to the facility (or street) or area in which the facility (or street) is located.” Also, The Reeves name will still

be preserved as it is the name of the golf course.

**ANALYSIS:**

The “Tony Yates Junior Golf Learning Center” is appropriate given Tony Yates contribution to golf for economically disadvantaged children of Cincinnati.

The Tony Yates Junior Golf Academy was founded in 1991 by Mr. Yates and PGA Golf Professional Zachary Fink. Since the late 1980s, the Tony Yates Caring for Kids Foundation has worked to provide inspiration and opportunity for economically disadvantaged children of Cincinnati. The academy teaches both golf and life-skills training. In the beginning, the academy served 60 students per day. Now the academy serves 200. The organization has provided over 20 scholarships to college over the years. See Exhibit C for Tony Yates’s biography.

The Committee of Names voted unanimously to recommend to the Director of City Planning to rename the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center”.

**PROCEDURE:**

Pursuant to Section III, E of the Committee of Names Procedure for Processing Proposals:

“The Director of City Planning shall consider the Committee of Names’ vote and recommendation and make a recommendation to the City Planning Commission. The Director is not bound by the Committee’s recommendation. The City Planning Commission shall consider the Director’s recommendation and pursuant to its advisory powers under Article VII Section 9 of the City Charter, make a recommendation to City Council, together with any necessary and appropriate legislation.”

**CONSISTENCY WITH PLAN CINCINNATI:**

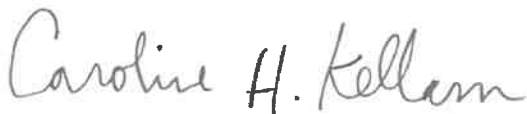
The proposed City Facility building name change is consistent with the Live initiative Area of the *Plan Cincinnati* (2012), “to build stronger communities by increasing civic engagement.” (page 153).

**RECOMMENDATION:**

The staff of the Department of City Planning, after considering all relevant correspondence and the Committee of Names vote, recommends that the City Planning Commission take the following action:

**APPROVE** the changing of the name of the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center” in Linwood.

Respectfully submitted:



Caroline Hardy Kellam, Senior City Planner  
Department of City Planning

Approved:



Katherine Keough-Jurs, AICP, Director  
Department of City Planning



**Name Change -Reeves Annex Building to Tony Yates Junior Golf Learning Center in Linwood**

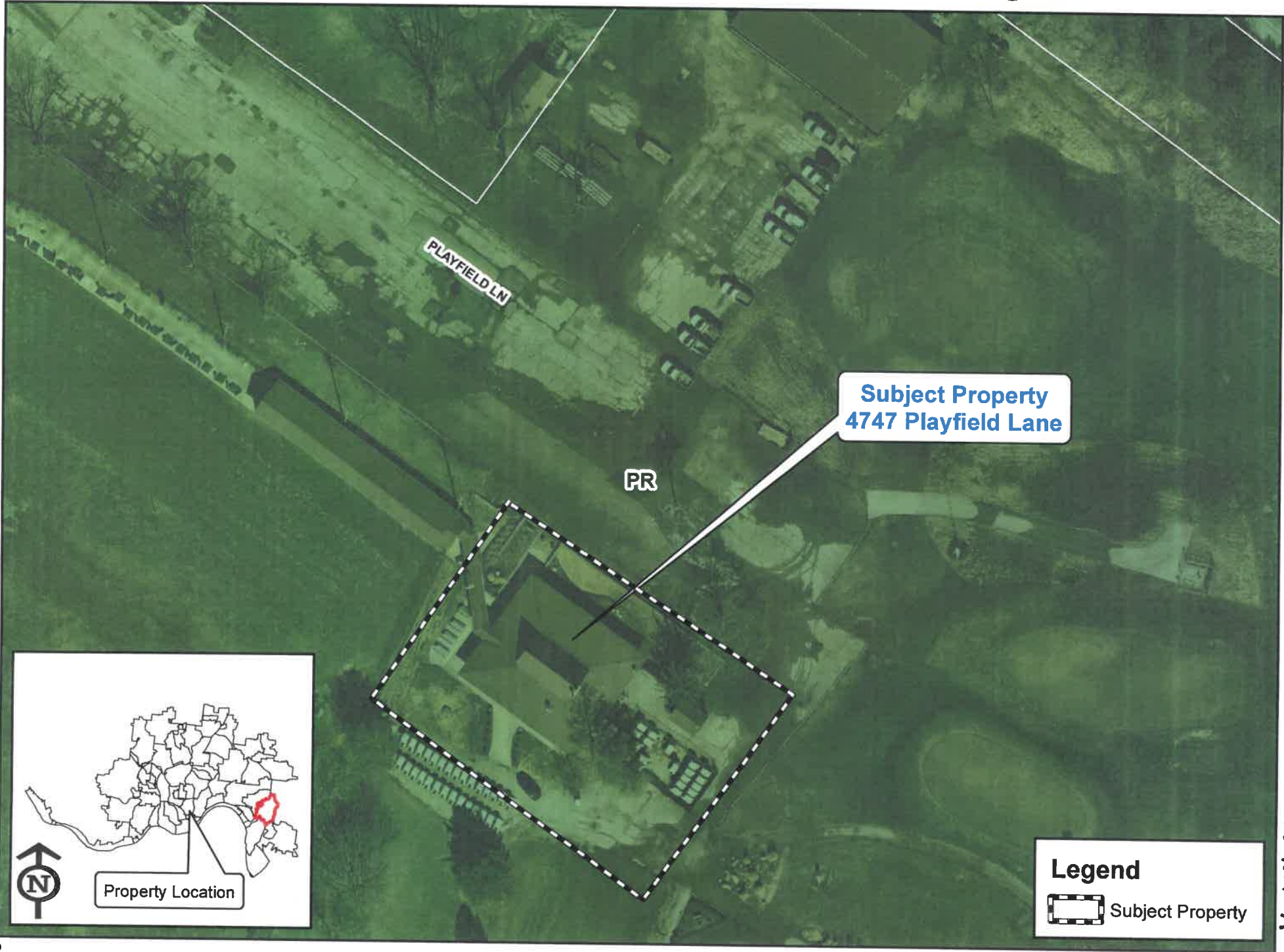


EXHIBIT A





### Facility Naming Proposal

The Cincinnati Recreation Commission (CRC) is proposing a building name change to honor the late Tony Yates. Mr. Yates was instrumental in the advancement of the Cincinnati Recreation Commission (CRC) mission through his life-long efforts to introduce golf to many Cincinnati area youth.

The building in consideration is located at Lunken Playfield as was formerly use for the Reeves Driving Range operations. The build was no longer needed after the relocation of the original front-nine and necessary to support the P&G hanger expansion at Lunken Airport. After the relocation, the building was renamed the Reeves Annex Building and used to support the needs of the Tony Yates Junior Golf Academy (TYJGA). The building is now shared with the Greater Cincinnati/Northern Kentucky First Tee program.

The proposed name change would change from Reeves Annex Building to the "Tony Yates Junior Golf Learning Center – *Home of the Greater Cincinnati/Northern Kentucky First Tee.*"

The Tony Yates Junior Golf Academy (TYJGA) was founded in 1991 by former University of Cincinnati basketball player and coach Tony Yates, and PGA Golf Professional Zachary Fink. Since the late 1980's, the Tony Yates Caring for Kids Foundation has worked to provide inspiration and opportunity for economically disadvantaged children of Cincinnati.

The mission of the Caring for Kids Foundation is to uplift, assist and train youth and their families by providing exposure and experiences that allow insight, growth, stimulate inner talents and intellect that lead to success.

The TYJGA was formed to meet several objectives to include, introduction and inclusion into a sport that traditionally many may not have experienced, provide access to a positive learning environment with caring adults, golf skills development and most importantly, providing youth with life-lessons through the game of golf.

The TYJGA provided hands-on instruction by PGA professionals and community volunteers. At the beginning of the program, the academy served approximately 60 students per day. The annual number of students grew between 1995-2010 to a point that a second session was added to accommodate an average of 200



participants per day. At one point, the number of students served during the two sessions was over 350 per day.

The growth was due to “word of mouth” in the community. The academy provided clubs, bags, shirt and hats. The goal was that every kid who walked into the academy walked out with everything needed to not only play golf but to feel like a golfer.

One of the principal components was the classroom time to focus on life skills education. The other half of the student instruction included time on the driving range to learn basic golf skills and on course play for the advanced returning students. Each day ends with a social exchange over lunch. This time allows students from throughout Cincinnati’s diverse communities to form lasting friendships. This combination of golf and life-skills training have shown a positive impact on our children. Our students have performed well in local golf tournaments, gained employment at local golf courses, and received golf scholarships to pursue higher education.

The TYJGA and the Tony Yates Care for Kids Foundation has hosted many programs/events to further enhance the children’s golf and life experiences to include:

- Golf Clinic hosted by Tiger Woods.
  - Tony was able to convince Tiger Woods to visit Cincinnati and provide a 3-day golf clinic in the area. (Tiger so impressed with the program he sent equipment and financial aid)
- Worked with Cincinnati Girl Scouts to sponsor a golf clinic with LPGA Professional Renee Powel
- Created Golf Buddy Mentor Program
  - Each child was matched with an adult who could assist with ongoing instruction after the seasonal conclusion of the program.
- Organized field trips to Cybercamp at the University of Cincinnati, Cincinnati Reds baseball games, attended clinic sponsored by the Kroger Senior Classic, Wilberforce African American Museum, Northern Kentucky/Greater Cincinnati International Airport and Toyota Plant in Georgetown, KY
- Arranged appearance of many national and local celebrities.

- Provided lunch for all participants from relationships with many local providers.
- Incorporated a spiritual component with appearances from several community ministers.
- Mr. Yates was dedicated to the youth and families of the Cincinnati's community. During the holiday season, the Foundation provided food baskets and gifts.
- Mr. Yates was a firm believer in education. A former basketball student approached Tony about establishing a scholarship fund for previous academy students attending college. This suggestion provided over 20 scholarships. With ongoing financial support from the community, the program continues.

Mr. Yates's contributions to not only this program but to our City warrants this consideration.

The naming change is in accordance with CRC policy. The CRC board approved this proposed name change at the March 16<sup>th</sup>, 2021 regular meeting.

To whom it may concern,

The Linwood Community Council has been made aware and approves of the name change to the Playfield facility.

As we continue to make use of the area for our monthly Community meetings and gatherings, we welcome the use and people that the building and Staff serve in our neighborhood, and we look forward to the continued relationship with the CRC.

Linwood Community Council President,

T.J. Russo

June 16, 2021

Cincinnati City Council  
 Council Chambers, City Hall  
 Cincinnati, Ohio 45202

Dear Members of Council:

We are transmitting herewith an Ordinance captioned as follows:

**RENAMING** the Reeves Annex Building in the Linwood neighborhood the “Tony Yates Junior Golf Learning Center.”

**Summary:**

In accordance with the City of Cincinnati Committee of Names, Procedure for Processing Proposals for the naming or renaming of City Facilities and streets, as empowered by Resolution 16-2003, a request to rename the Reeves Annex Building to the “Tony Yates Junior Golf Learning Center” has been submitted for consideration: The renaming of the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center”. The Committee of Names met on May 20, 2021 and unanimously voted in favor of the renaming of the Reeves Annex Building.

The Committee decided that the name change is appropriate and meet the following criteria:

As per Resolution 16-2003, these names meet Criteria V, B 1. “Names of persons should be considered only if it is determined to be in the public interest to honor the person or the person’s family for historical or commemorative reasons” and Criteria V, B 4. “Names usually will not be considered suitable unless the person was associated with or made a significant contribution to the facility (or street) or area in which the facility (or street) is located.” Also, The Reeves name will still be preserved as it is the name of the golf course.

The Tony Yates Junior Golf Academy was founded in 1991 by Mr. Yates and PGA Golf Professional Zachary Fink. Since the late 1980s, the Tony Yates Caring for Kids Foundation has worked to provide inspiration and opportunity for economically disadvantaged children of Cincinnati. The academy teaches both golf and life-skills training. In the beginning, the academy served 60 students per day. Now the academy serves 200. The organization has provided over 20 scholarships to college over the years.

The proposed renaming is consistent with Plan Cincinnati (2012) and the Linwood Community Council has also submitted a letter of support for the proposal.

The City Planning Commission recommended the following on June 4, 2021 to City Council:

**APPROVE** the changing of the name of the “Reeves Annex Building” to the “Tony Yates Junior Golf Learning Center” in Linwood.

Motion to Approve: Ms. Sesler

Ayes:

Mr. Juech  
 Ms. McKinney  
 Mr. Samad  
 Ms. Sesler  
 Mr. Smitherman  
 Mr. Eby  
 Mr. Stallworth

Seconded: Mr. Eby

THE CITY PLANNING COMMISSION



Katherine Keough-Jurs, AICP, Director  
 Department of City Planning and Engagement

May 26, 2021

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

202102032

**From:** Paula Boggs-Muething, City Manager

**Subject:** Resolution - **APPROVING** the *Mohawk Area Plan* as the planning guide for the Mohawk Area in Over-the-Rhine.

---

Transmitted is a Resolution captioned:

**APPROVING** the *Mohawk Area Plan* as the planning guide for the Mohawk Area in the Over-the-Rhine neighborhood.

Summary

The area of Mohawk in Over-the-Rhine neighborhood of approached the Department of City Planning in 2016 to request the creation of a plan for their area of Over-the-Rhine called Mohawk. After five years of community engagement, the *Mohawk Area Plan* has been created as an implementation of the *Brewery District Master Plan* (2013). The *Mohawk Area Plan* was unanimously approved by the Over-the-Rhine Community Council in February 2020 and by the City Planning Commission on May 7, 2021, to serve as the City's official planning guide for the Mohawk Area. The *Mohawk Area Plan* is consistent with the Compete, Live, and Collaborate Initiative Areas of *Plan Cincinnati* (2012).

The Administration recommends passage of this Resolution.

cc: Katherine Keough-Jurs, AICP, Director, Department of City Planning



DBS

AWB

RESOLUTION NO. \_\_\_\_\_ - 2021

**APPROVING** the *Mohawk Area Plan* as the planning guide for the Mohawk area in the Over-the-Rhine neighborhood.

WHEREAS, beginning in 2016, a group of community stakeholders interested in the improvement and beautification of the Mohawk area of the Over-the-Rhine neighborhood have collaborated with the City at a series of public meetings and workshops designed to identify neighborhood assets, redevelopment goals, challenges, and strategies to achieve desired neighborhood quality of life and to further supplement and inform the implementation of existing plans affecting the area, including *Plan Cincinnati* (2012), the *Over-the-Rhine Comprehensive Plan* (2002), and the *Brewery District Master Plan* (2013); and

WHEREAS, this community stakeholder engagement led to the creation of the *Mohawk Area Plan* ("Plan") to serve as the guiding instrument for the development and beautification of the Mohawk area in the Over-the-Rhine neighborhood; and

WHEREAS, the Mohawk area community stakeholders champion the Plan and desire for it to be approved by the Council so that it may serve as the City's official planning guide for the Mohawk area; and

WHEREAS, the Plan is consistent with the Strategies for all five Initiative Areas of *Plan Cincinnati* (2012), particularly, the Compete Initiative Area goal to "[f]oster a climate conducive to growth, investment, stability, and opportunity" (page 102), the Connect Initiative Area goal to "[e]xpand options for non-automotive travel" (page 130), the Live Initiative Area goal to "[d]evelop and maintain inviting and engaging public spaces to encourage social interaction between different types of people" (page 150), the Sustain Initiative Area goal to "[p]reserve our natural and built environment" (page 193), and the Collaborate Initiative Area goal to "[u]nite our communities" (page 210); and

WHEREAS, at its meeting on May 7, 2021, the City Planning Commission reviewed the Plan and recommended it for approval; and

WHEREAS, a committee of Council considered and approved the plan, finding it in the interest of the public's health, safety, morals, and general welfare; and

WHEREAS, Council considers the Plan to be in the best interests of the City and the public's health, safety, morals, and general welfare; now, therefore,

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

Section 1. That the *Mohawk Area Plan* is in furtherance of the goals, strategies, and visions of the City of Cincinnati and its comprehensive plan, *Plan Cincinnati* (2012).

Section 2. That the *Mohawk Area Plan*, attached hereto as Exhibit “A” and incorporated by reference herein, is hereby approved.

Section 3. That this resolution be spread upon the minutes of Council.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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



*The Over-the-Rhine Brewery District's*

# MOHAWK AREA PLAN



*Implementation of the  
2013 Brewery District Master Plan  
and the  
2002 Over-the-Rhine Comprehensive Plan*

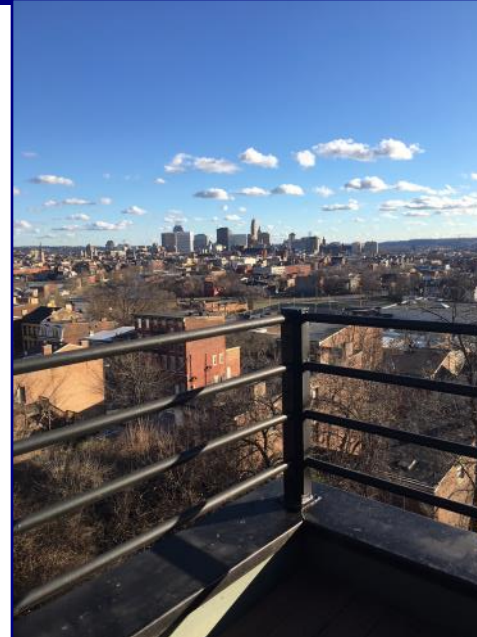
City Planning Commission passage: \_\_5/7/21\_\_  
City Council approval: \_\_\_\_\_



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Cover Photos: John Walter and Deb Kittner Johnson)

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Photos: John Walter

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# Acknowledgements

*Thank you to everyone who came together to work on this plan. From start to finish, this plan was made by the community, for the community.*

## Mayor of Cincinnati

John Cranley

## Cincinnati City Council

Christopher Smitherman, Vice Mayor

Chris Seelbach, President Pro Tem

Greg Landsman

David Mann

Betsy Sundermann

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Vice Mayor Christopher Smitherman

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Anne Sesler

Olivia McKinney

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Julie Fay, Owner—Imperial Theatre

Steven Hampton, Executive Director—BDCURC

Deb Kittner Johnson, Co-owner—Robin Imaging

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Plan Photos

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Philippus United Church of Christ  
City Planning Staff

*\*Participation in the process does not signify agreement with all elements of the plan.*

# Introduction

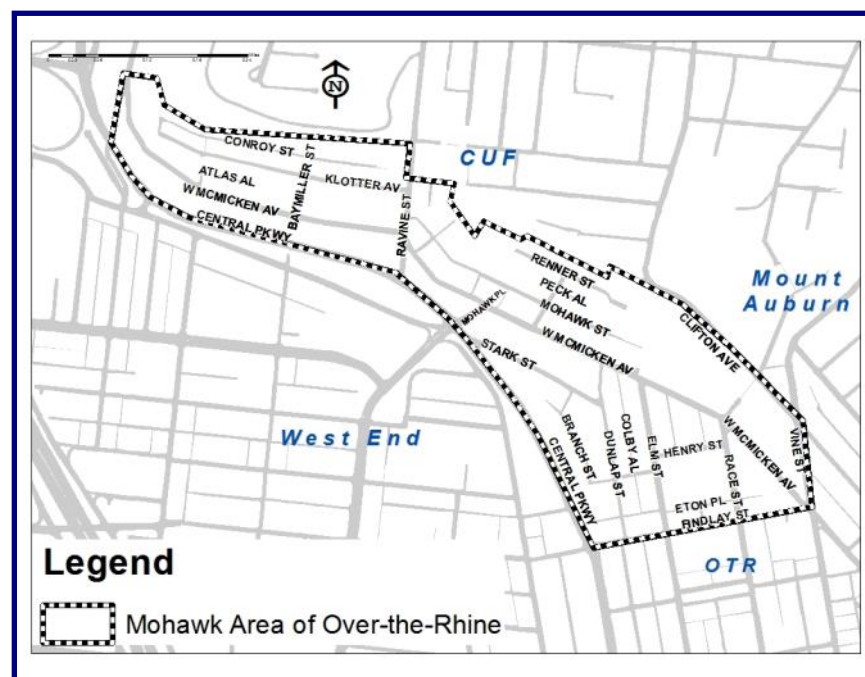
## History

The Over-the-Rhine (OTR) neighborhood is located in the heart of Cincinnati's urban core. Just north of the Central Business District, OTR is also bordered by West End to the West, Clifton Heights and Mt. Auburn to the North, and Mt. Adams to the East.

Within the OTR neighborhood is the historic Brewery District. The Brewery District boundaries lie roughly within northern OTR, and the district itself is bordered by Liberty Street to the South, Central Parkway to the West, McMicken Avenue to the Northeast, and the Clifton Heights hillside to the North. Furthermore, within the Brewery District lies the Mohawk area. The Mohawk area of the Over-the-Rhine neighborhood is a narrow corridor surrounding McMicken Avenue between Vine Street and McMillan Street. Mohawk Street runs parallel to McMicken Avenue, and Mohawk Place connects Central Parkway to McMicken.

Mohawk, once a village along Hamilton Road (now known as McMicken), was established in 1792 along a trail to Hamilton, Ohio. As the Miami & Erie Canal was constructed in the 1820's, Mohawk grew along the canal and became an important industrial center. Mohawk's businesses used the canal to transport goods north towards Toledo and Lake Erie, and south towards the Ohio River. Mohawk's industrial history included metalworking, blacksmithing, leather tanning, slaughterhouses, tin shops, bakeries, and brewing.

As a result of Mohawk's industrial history and German heritage, the majority of the existing structures in Mohawk were built in the mid- to late-1800's. Architectural styles found in Mohawk include: Greek Revival, Italianate, Second Empire, and Rundbogenstil, a type of Romanesque Revival.





## Background and Previous Plans

Since the beginning of the 21st century, the *Over-the-Rhine Comprehensive Plan* (2002) and the *Brewery District Master Plan* (2013) have outlined Cincinnati's dedication to revitalizing this historic neighborhood.



In 2002, Cincinnati City Council approved the *Over-the-Rhine Comprehensive Plan*. Within the plan, the Mohawk area was defined as the area north of Liberty along McMicken Avenue set at the base of the hillside. Mohawk was described as a Residential/Commercial Mixed-Use area with a mixture of one- and two-family units with some first floor commercial uses and some industrial uses. Throughout Mohawk there were vacant and underutilized parcels that were identified as potential new infill housing or redevelopment for other commercial or residential uses.

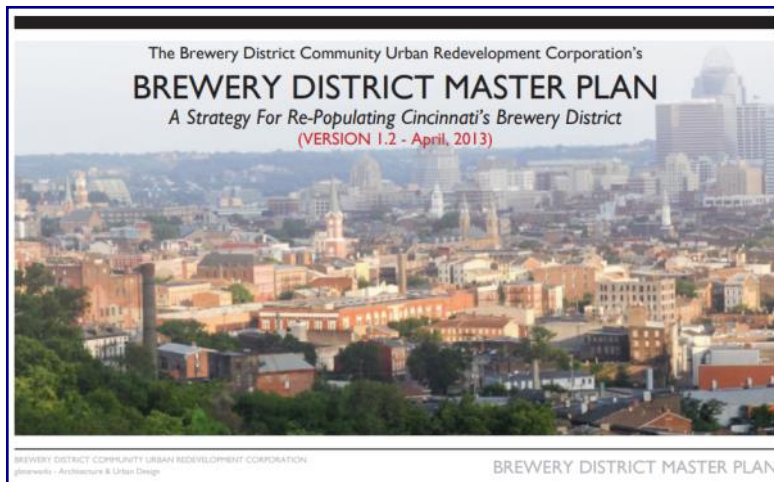
The *Over-the-Rhine Comprehensive Plan* recommended several priority goals in the Mohawk area. One of these goals was to designate a local historic district within the Mohawk Area, which was accomplished in 2018. (More details on these historic districts can be found on page 18.)

The plan also sought to rehabilitate or reconstruct multi-family rental units with a mixture of affordable and market rate. The Mohawk area was also identified as having potential for loft style housing and office uses, especially in the larger industrial buildings. For example, structures that once contained breweries and food processing plants could be adaptively reused for housing and commercial uses. The *Over-the-Rhine Comprehensive Plan* also encouraged improvements to the Hanna Recreation area and creation of an Over-the-Rhine gateway at the intersection of West Clifton, Vine, and Mulberry near West McMicken Avenue.

## Background and Previous Plans (contd.)

In 2013, the *Brewery District Master Plan*—created by the Brewery District Community Urban Redevelopment Corporation—was approved by Cincinnati City Council. The *Brewery District Master Plan* recommended several priority goals in the Mohawk area:

- Create an Urban Mix (UM) zoning district to encourage the commercial, light industrial and residential uses.
- Create a loan program to promote small-scale structure rehabilitation.
- Rehabilitate existing and vacant residential parcels for new construction of single-family housing with views of downtown.
- Add landscaping and trees to recreational and park sites while making them more kid- and adult-friendly.
- Maintain and stabilize the greenspace along the hillside.
- Repair and restore historic façades.
- Rehabilitate underutilized warehouse structures for adaptive use.
- Preserve public steps.
- Make Mohawk more pedestrian and bicyclist friendly.



## Neighborhood Associations and Organizations

It is important to note that Mohawk is not “starting from scratch.” The Mohawk Area of Over-the-Rhine is endowed with deeply-rooted community organizations and groups. These associations have been working, and will continue to work, on reviving Mohawk as a beautiful and thriving community.

The following organizations in particular have been instrumental in improving the Mohawk area:

- Over-the-Rhine Community Council (OTRCC)
- Brewery District Community Urban Redevelopment Corporation (BDCURC)
- Klotter/Conroy Residents Association
- West McMicken Improvement Association

Concurrent with the drafting of this plan, members of the Steering Committee have been working diligently on the creation of the Mohawk Neighborhood Business District (MNBD). The MNBD is intended to promote the identity of the Mohawk community, as well as engage in property acquisition for renovation and to create parking. Furthermore, the MNBD group will work on implementing many aspects of this plan, from dedicating a Mohawk Place gateway to organizing murals for the district.



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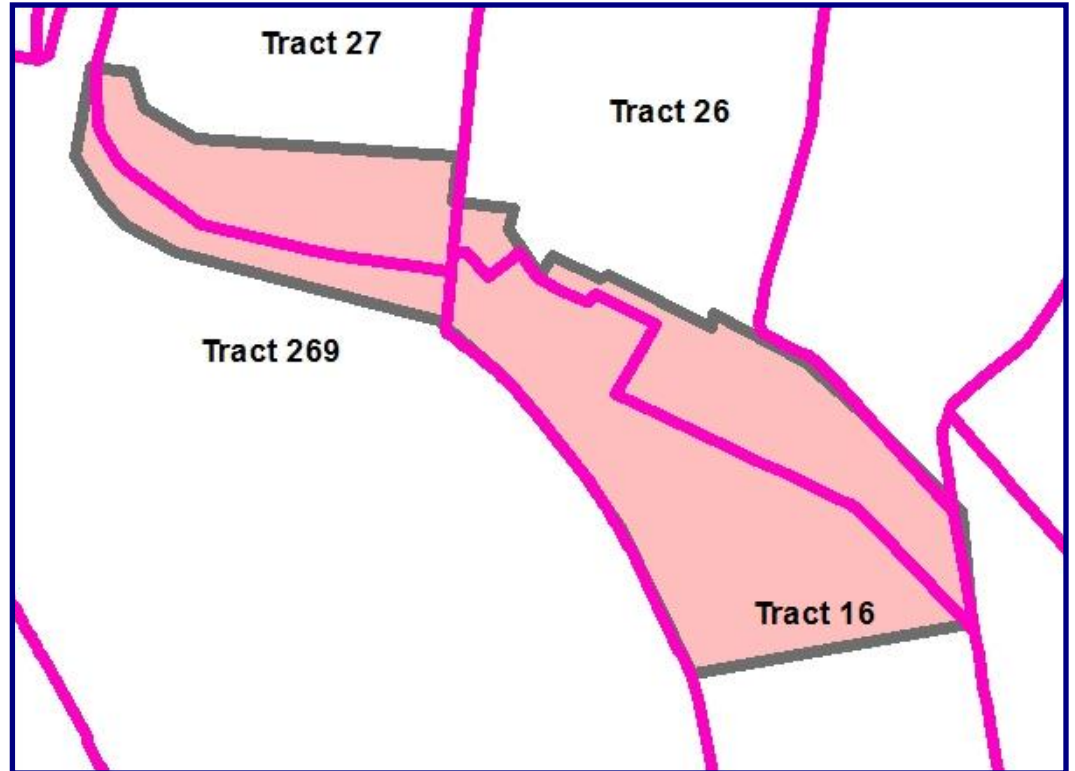
Photos: Deb Kittner Johnson

## Demographics

Roughly half of the Mohawk area of Over-the-Rhine lies within Census Tract 16, while the rest of Mohawk is split between Census Tracts 26, 27, and 269. Due to the small size of the Mohawk area, and the multiple Census Tracts it overlaps, accurate demographic data is difficult to obtain.

The 2013-2017 American Community Survey estimates the following demographic information for Census Tract 16:

<i>Population:</i>	997
<i>% Male</i>	49.6%
<i>% Female</i>	50.4%
<i>Median Age</i>	34.8
<i>% White</i>	22.6%
<i>% African American</i>	68.8%
<i>% Other</i>	8.6%
<i>% In Poverty</i>	49.6%
<i>% Unemployed</i>	65.4%





## Zoning

The Mohawk Area has a variety of zoning districts within its borders, predominantly: Residential Multi-family (RM-0.7, RM-1.2, and RM-2.0), Single-family Residential (SF-2), and Urban Mix (UM).

The general purposes of Residential Multi-family and Single-family Residential districts include:

- Maintaining and enhancing the multi-family neighborhoods and residential housing areas, respectively.
- Encouraging quality and variety in building and landscape design as well as compatibility in use and form.
- Allowing semi-public and non-residential uses, where appropriate.
- Establishing appropriate standards for reviewing proposals for new development and redevelopment.
- Ensuring the provision of public services and facilities needed to accommodate planned population densities.
- Maintaining and enhancing the availability and quality of life for owner-occupied housing units.

Urban Mix districts generally provide a balance of uses and amenities, including:

- Fostering a vital economic, livable and cultural area and enhance its urban, aesthetic qualities.
- Protecting and enhancing historic, cultural, economic and architectural resources.
- Preserving, creating, and enhancing pedestrian-oriented streets to encourage retail, entertainment, residential and office vitality and improve the quality of life for district residents, visitors and workers.
- Providing quality public spaces, such as urban street corridors, by maintaining the physical continuity of the street edge created by buildings.
- Bringing most daily activities within walking distance, giving the elderly, young and disabled increased independence of movement; reduce the number of automobile trips.

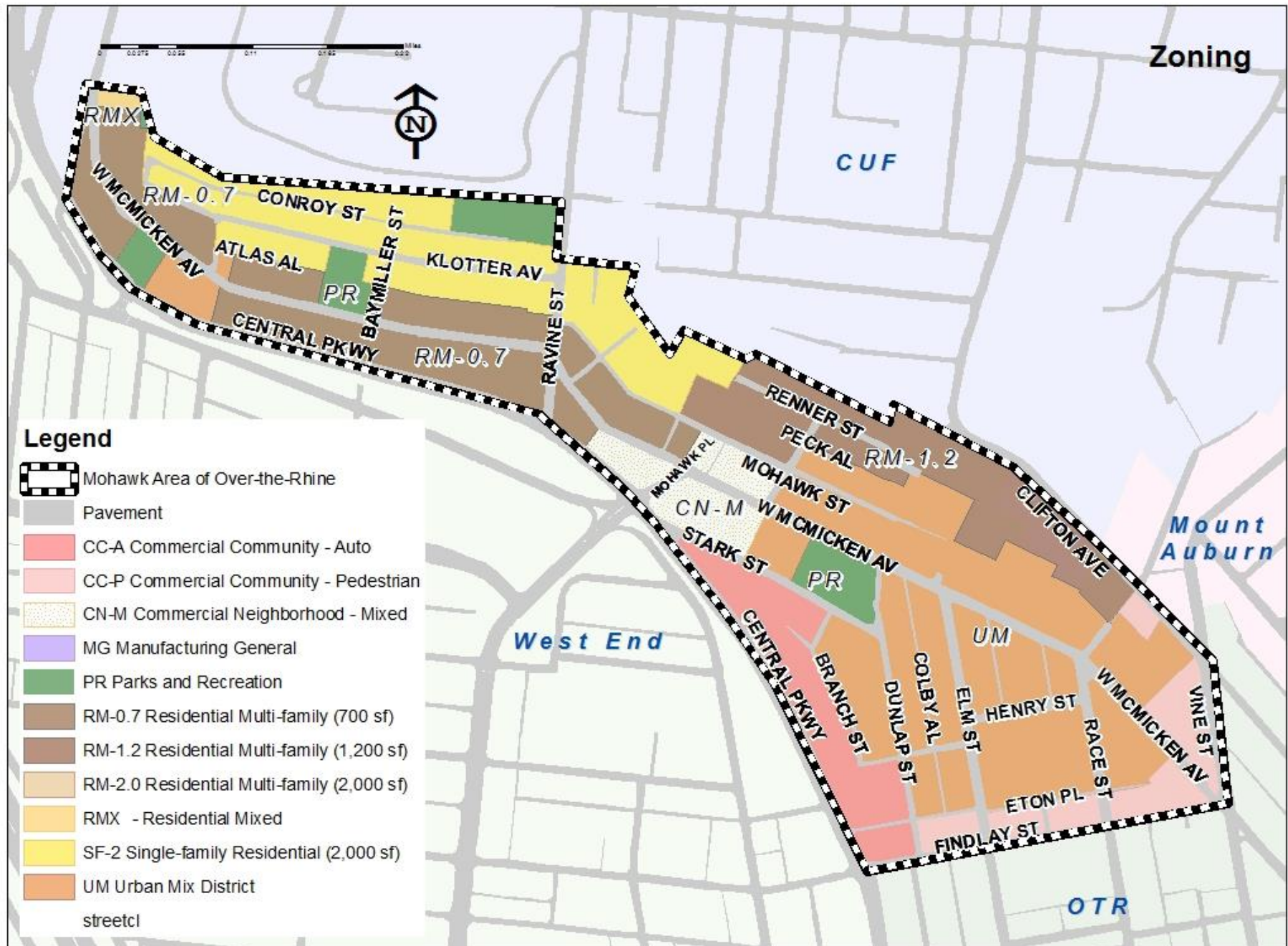
- Minimizing congestion, consumption of resources and air and noise pollution.

Mohawk also contains commercial districts: Commercial Community – Auto (CC-A), Commercial Community – Pedestrian (CC-P), and Commercial Neighborhood – Mixed (CN-M). The CC-A districts are more auto-oriented whereas the CC-P districts are more pedestrian-oriented. The variety of commercial districts generally encourage:

- Creating and enhancing new and existing commercial districts serving adjacent residential neighborhood areas.
- Creating neighborhood activity centers as focal points along transportation corridors.
- Quality and variety in building and landscape design as well as compatibility in use and form, where appropriate.
- Establishing appropriate standards for reviewing proposals for new development and redevelopment, where appropriate, in commercial areas.
- Allowing certain limited mixed commercial/residential uses, where appropriate.
- Maintaining and enhancing existing commercial districts, giving special consideration to type, scale, intensity and access.

(Please see Zoning map  
on opposite page for more information.)





## Land Use

The McMicken Avenue corridor contains some existing commercial and residential uses, while the streets running parallel to McMicken, such as Mohawk Street, Klotter Avenue, and Conroy Street, contain mostly residential uses. Worth noting is the high concentration of historic architecture, especially as displayed by the remaining brewery buildings. Most of the breweries along McMicken Avenue have access behind, and uphill, on Mohawk Street. When restored, these brewery buildings could be the center of an active and vibrant arts and entertainment district.

There are many vacant properties both along the commercial corridor as well as within the residential area. These vacant properties would be ideal locations for infill development that complements the surrounding properties.

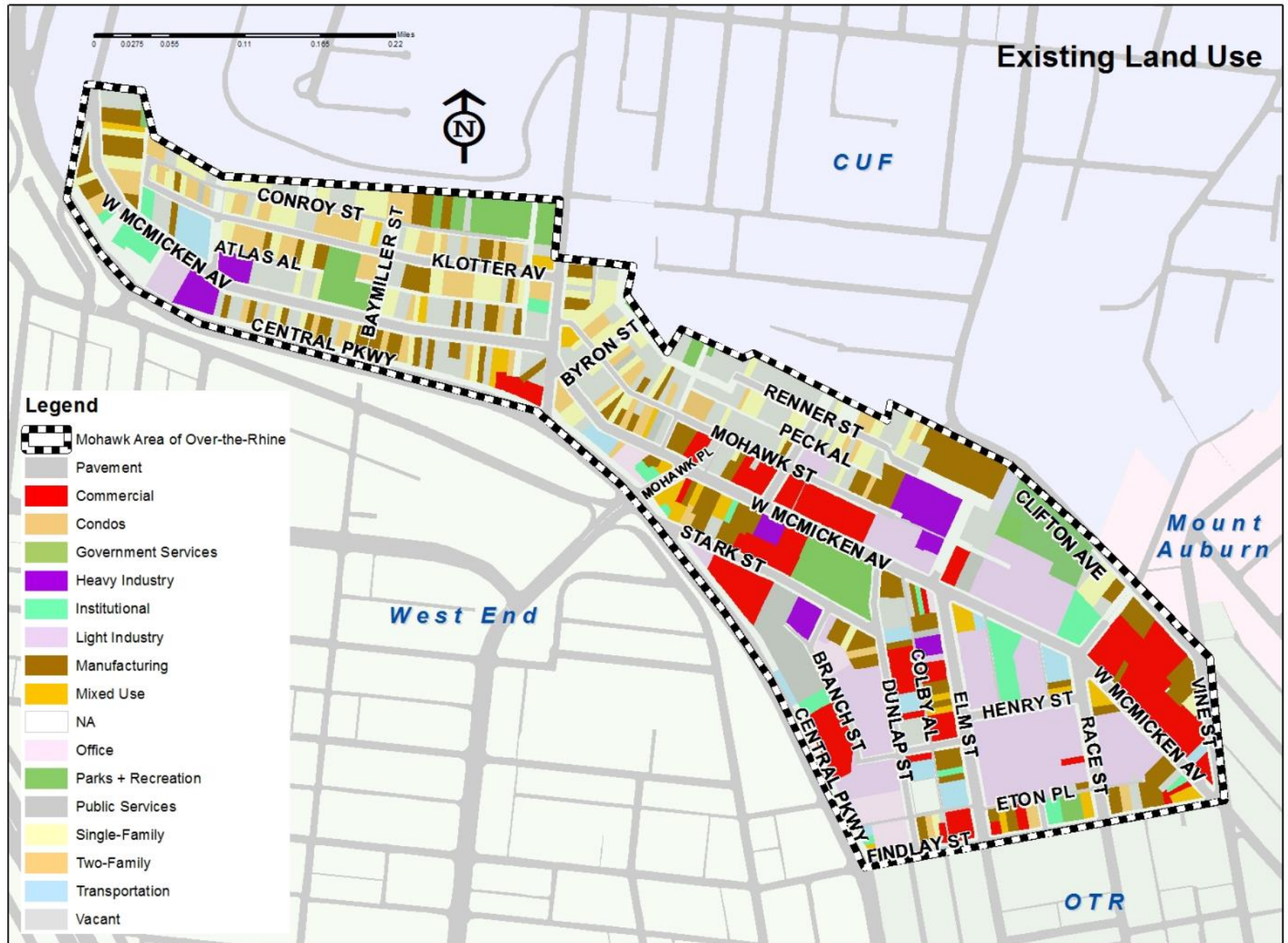
Furthermore, the McMicken Avenue commercial corridor is well-suited for first-floor commercial and upper-floor residential uses. Mohawk Street, Klotter Avenue, and Conroy Street contain vacant lots used as greenspaces and proximity to parks that will suit single- and multi-family infill. Renner Street has a high concentration of vacant properties which could further add to the single and multi-family housing stock with well-planned development.

To the right is a table showing the number of parcels and acres per land usage.

<i>Land Use</i>	<i># of Parcels</i>	<i># of Acres</i>
Commercial	116	8.3
Condos	4	0.2
Government	0	0
Heavy Industry	30	2.4
Institutional	35	2.3
Light Industry	115	10.7
Manufacturing	0	0
Mixed Use	35	1.8
Multi-family	154	8.9
N/A	6	0.5
Office	18	1.4
Parks and Rec.	59	5.6
Public Services	9	1.7
Single-family	131	6
Transportation	34	1.8
Two-family	103	4.9
Vacant	230	10.7
<i>Total</i>	<i>1079</i>	<i>67.2</i>

(Please see Land Use map  
on opposite page for more information.)







## ***Historic Districts***

The National Register acts as a stamp of approval from the federal government. This stamp does not impose restrictions on your property, unless using Federal Funds (such as Section 106 Review and Mitigation) but does qualify income producing properties for Historic Tax Credits. The National Register can be used as a planning or educational tool by recognizing historic properties and can heighten consideration in planning federal and federally assisted projects.

Furthermore, the National Register also qualifies some projects for federal and state tax benefits, as well as federal grant assistance. The National Register does not prevent owner from remodeling, repairing, altering, selling, or demolishing with other than federal funds. Furthermore, the National Register does not obligate property owners to make repairs or improvements to their properties.

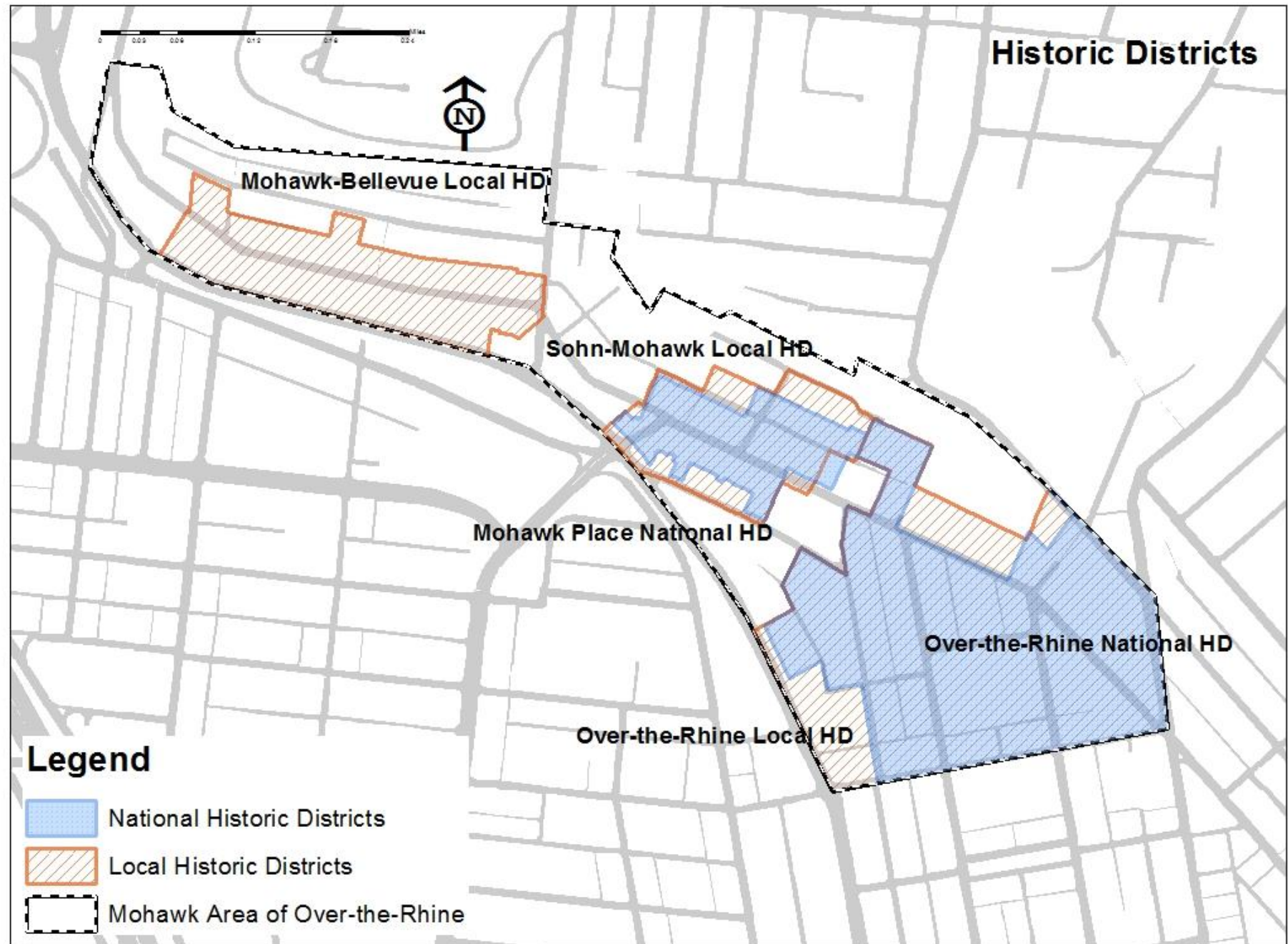
Cincinnati's Local Historic Districts authorize design guidelines for new development within historic districts and can be used as a tool to thoughtfully consider alternatives to demolition. Finally, these districts can stabilize declining neighborhoods, protect and enhance property values, and increase tourism and residency in protected historic districts.

Local Historic Districts first and foremost provide protection of historic properties. Cincinnati's historic district legislation establishes an objective process for designating historic properties and districts to protect the integrity of designated historic properties.

Local Historic Districts do not require property owners to improve, change, or restore their properties, nor do they require that historic properties be open for tours. Furthermore, Local Historic Districts restrict neither interior changes or alterations nor the sale of property. Finally, Cincinnati's Local historic Districts do not prevent new construction within historic areas,

nor require approval for ordinary repair or maintenance. The Local District ordinances require that prior to exterior material changes, major alterations, or demolition to a designated historic resource, the Historic Preservation Board or Staff must approve a Certificate of Appropriateness (COA).

(Please see Historic Districts map  
on opposite page for more information.)



## Hillside Districts

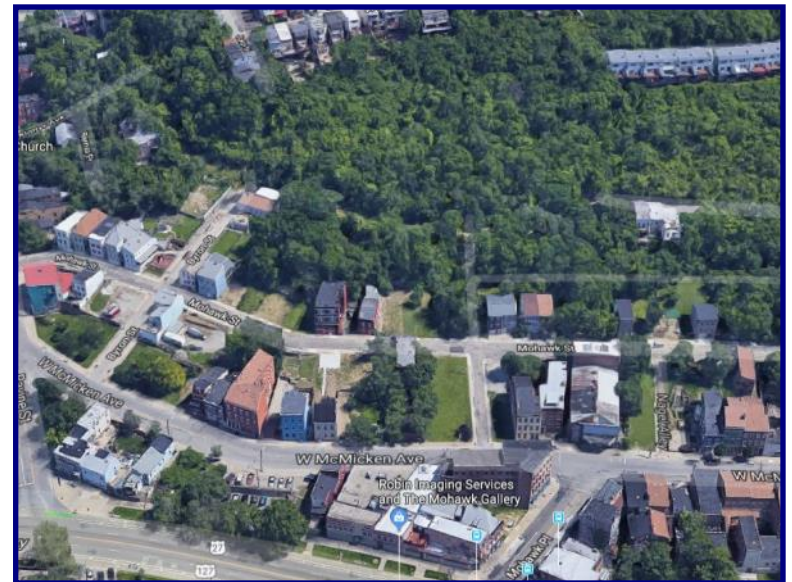
In hillside areas, with the potential for scenic city views offer attractive development opportunities. However, hillside development under conventional standards may create landslides or excessive soil erosion.

Hillside Overlay District regulations establish standards to assist in the development of land and structures in existing hillside areas. These regulations ensure that development will be compatible with the natural environment locations where the hillsides are of significant public value.

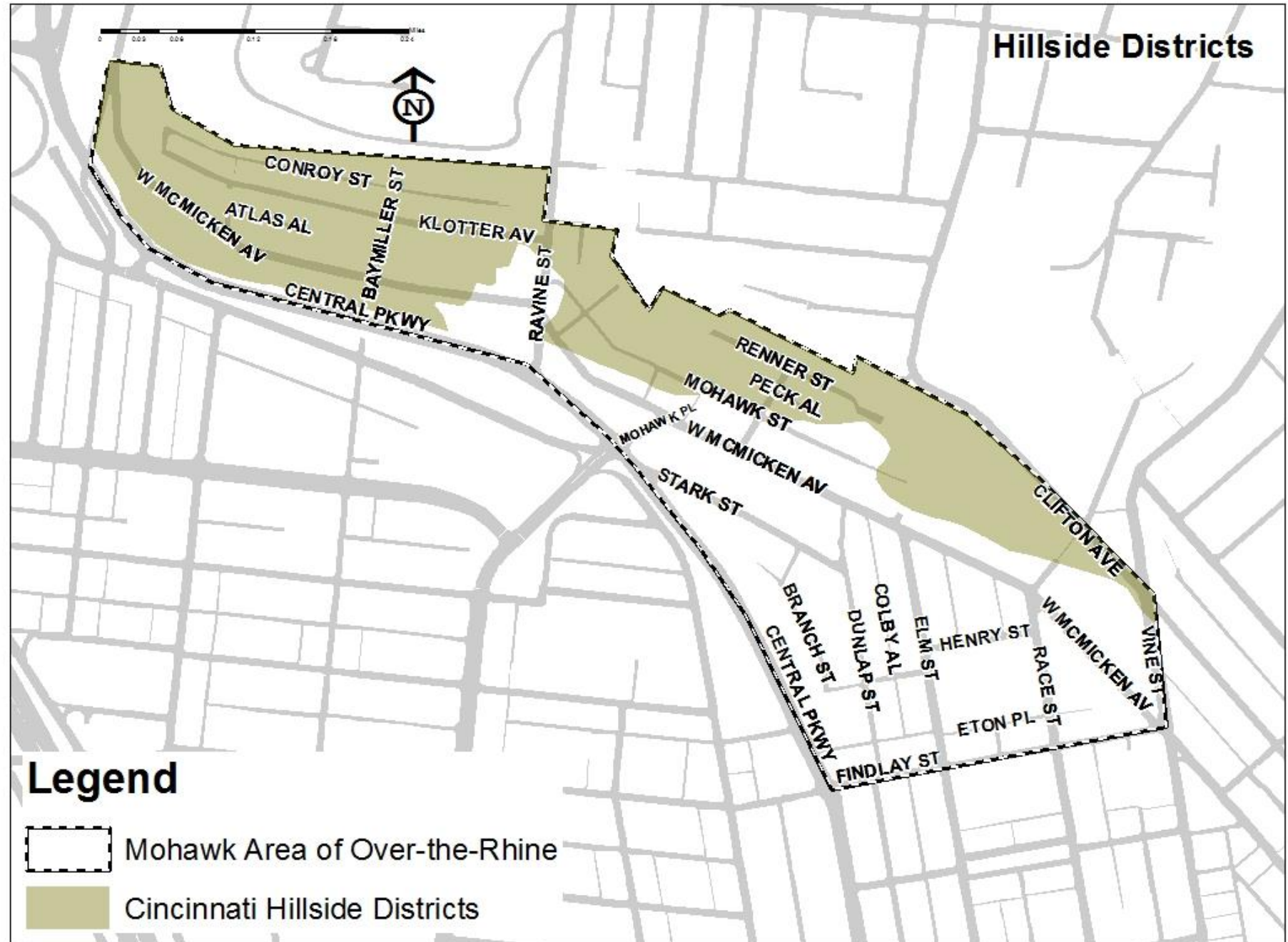
Examples of existing and ongoing hillside infill in Mohawk include Klotter Avenue and Conroy Street. Renner Street, which has a high number of vacant parcels, also sits within the hillside district and could perhaps support similar hillside development.

At the top right is a photo example of hillside infill development on the Klotter/Conroy streets. At the bottom right is a photo of Mohawk Street, where there is potential for infill development.

(Please see Hillside Districts map on opposite page for more information.)







## ***Transportation***

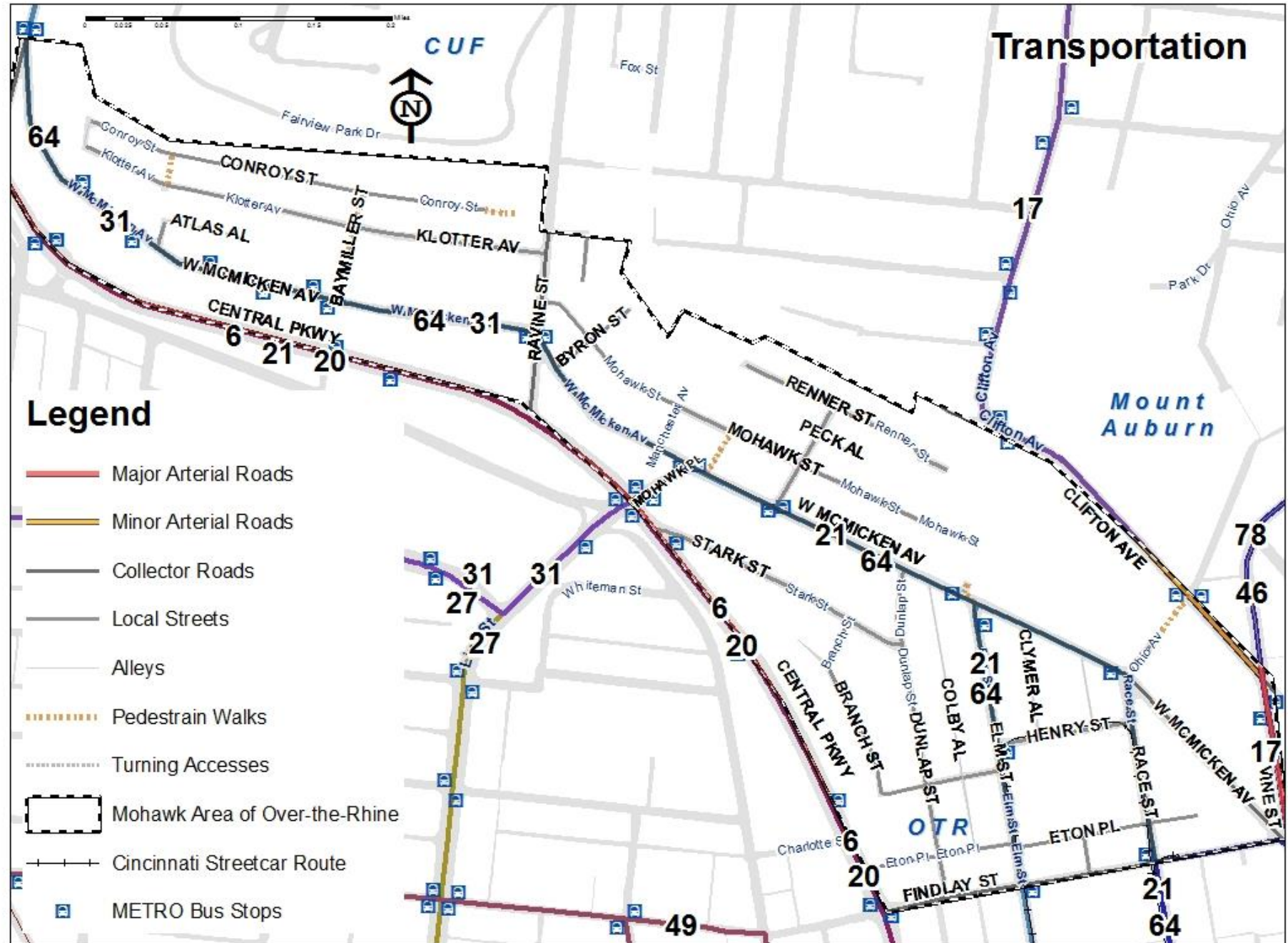
Mohawk is uniquely situated between the rest of Over-the-Rhine to the southeast, West End to the southwest, and CUF to the north. Mohawk also borders Central Parkway which connects to the west side of Cincinnati via the Western Hills Viaduct further north. In this unique position, Mohawk is in close proximity to many Metro bus routes, and directly serves routes 6, 17, 20, 21, 31, and 64.

Should the Brighton Bridge be removed, DOTE will plan for the safest pedestrian crossing at the previous location of the bridge contingent on funds being available and the support of adjacent communities.

In the southern part of the Mohawk area, the streetcar runs north on Elm Street and returns south on Race Street. The streetcar connects important employment centers, arts, entertainment and businesses in Over-the-Rhine, the Central Business District, and the Banks. Furthermore, bike lanes on Central Parkway and an existing Red Bike station nearby in the West End encourages bicycling while also supporting alternative modes of transportation.

Given the existing transportation infrastructure in and around Mohawk, the neighborhood has significant potential for accessibility. With improved infrastructure and planning, Mohawk could become a destination neighborhood with proximity to University of Cincinnati and many of downtown's job centers. In coordination with residential and economic development, Mohawk itself could become an attractive and well-connected neighborhood to students, workers, and families alike.

(Please see Transportation map  
on opposite page for more information.)



## ***Economic Incentives***

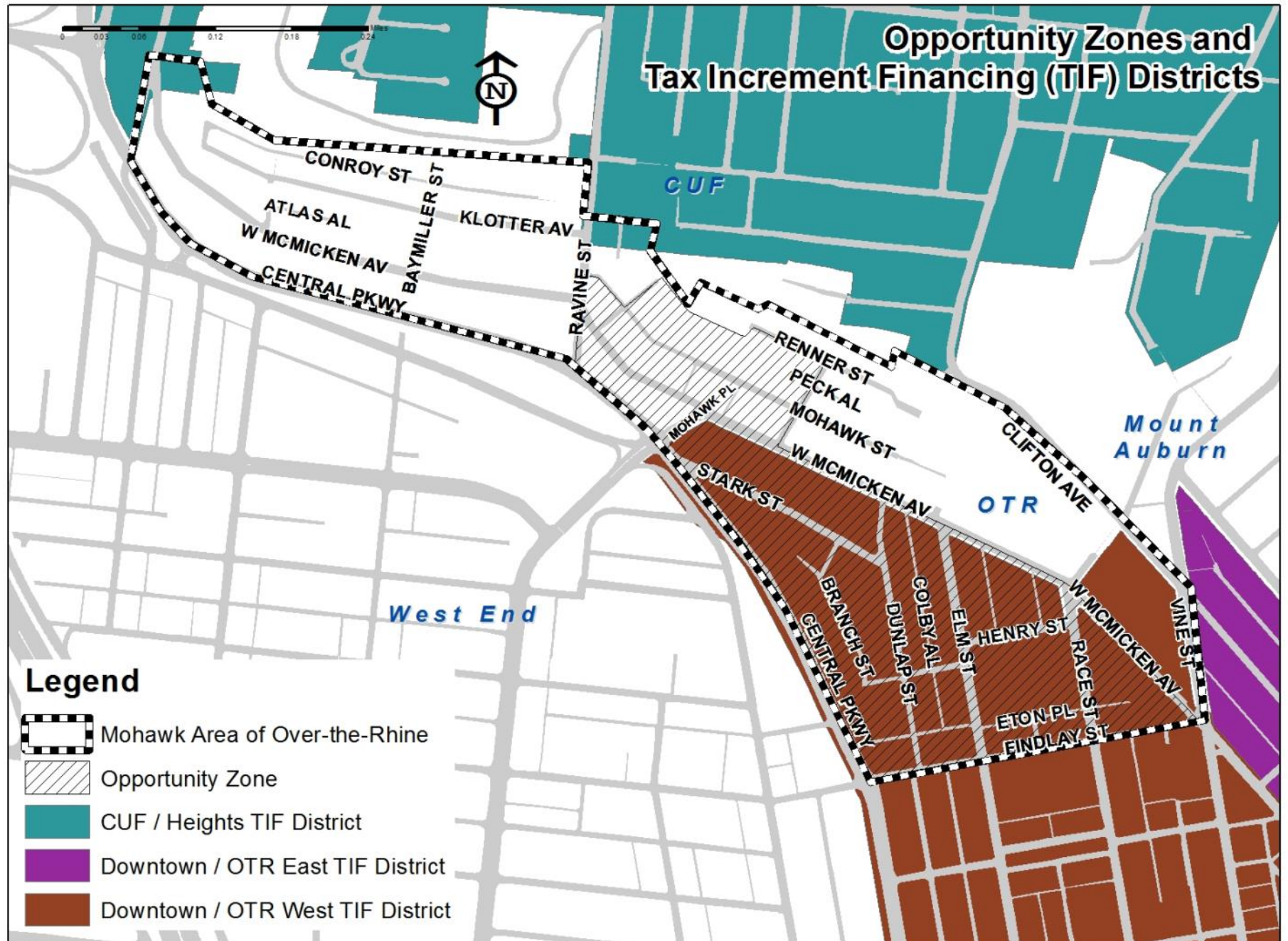
Opportunity Zones and Tax Increment Financing (TIF) Districts are two examples of development incentives that may help finance new commercial and residential projects in Mohawk. A TIF District represents an area where the City's Department of Community and Economic Development can review developer and community requests for public infrastructure improvements within that TIF District. While developers must still pay the property taxes on the value of the pre-investment property, the increment may be used for improvements. The Mohawk area in Over-the-Rhine contains two of these District TIFs: the CUF/Heights and Downtown/OTR West TIF Districts.

As a tool for funding public infrastructure improvements, TIF Districts can offer a wide variety of neighborhood benefits, such as roadway, lighting, sidewalk, and parking improvements. TIF Districts can also help leverage private funds for renovating and improving vacant buildings. These benefits can ultimately increase the amount of housing, residents, and retail within the TIF District.

Opportunity Zones were introduced in the 2017 Tax Cut and Jobs Act. Opportunity Zones operate by offering tax incentives for private investment in designated low-income Census Tracts. These tax incentives involve deferring capital gains taxes if those capital gains are reinvested in designated Opportunity Zones through "Opportunity Funds." Tax benefits increase based on how long those investments are held. In the Mohawk area, Census Tract 16 serves as the boundary for an Opportunity Zone. While the Department of Community and Economic Development does not administer Opportunity Zones, they are able to provide more information and resources.

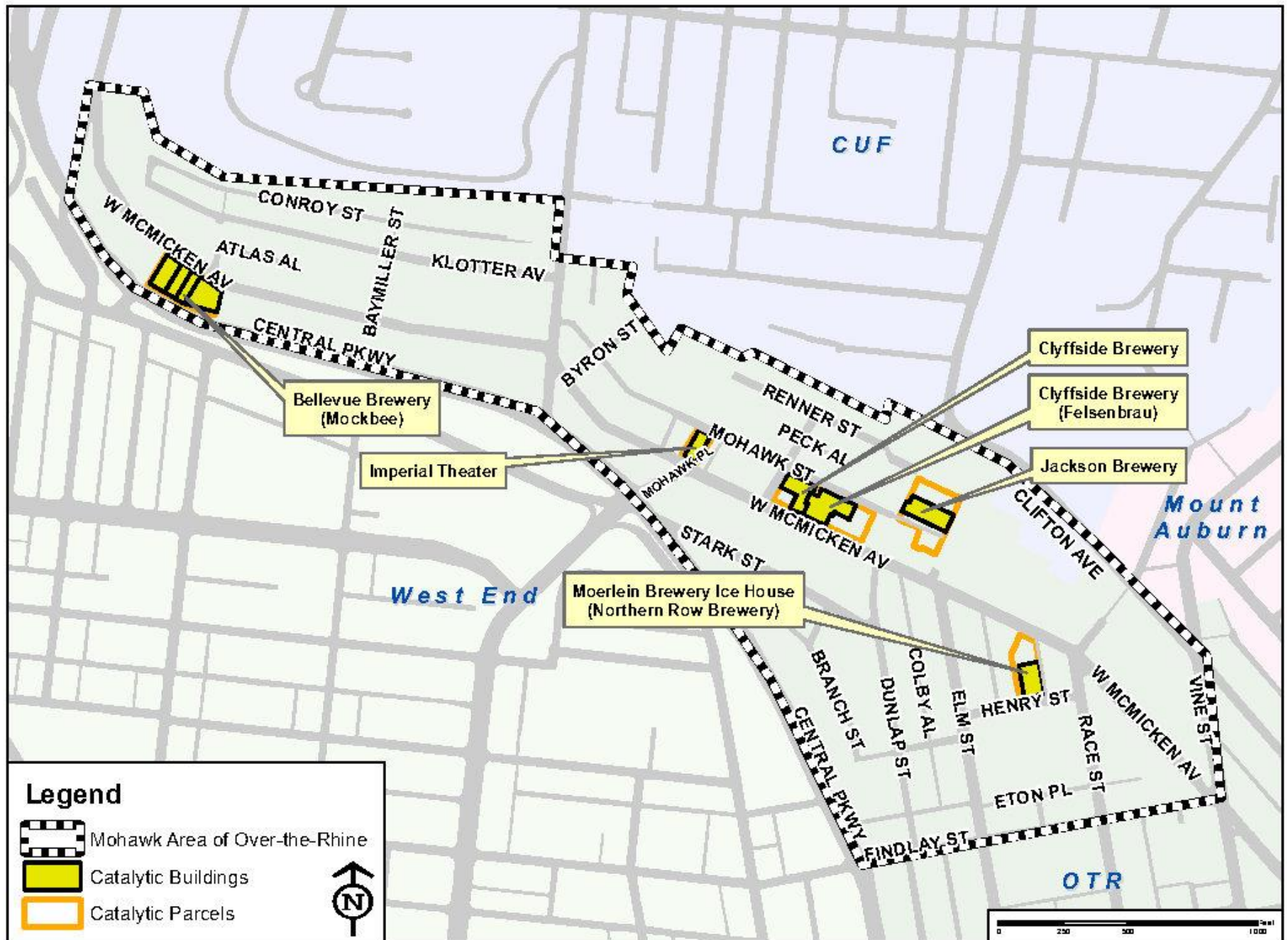
(Please see Opportunity Zones and Tax Increment Financing (TIF) Districts map on opposite page for more information.)

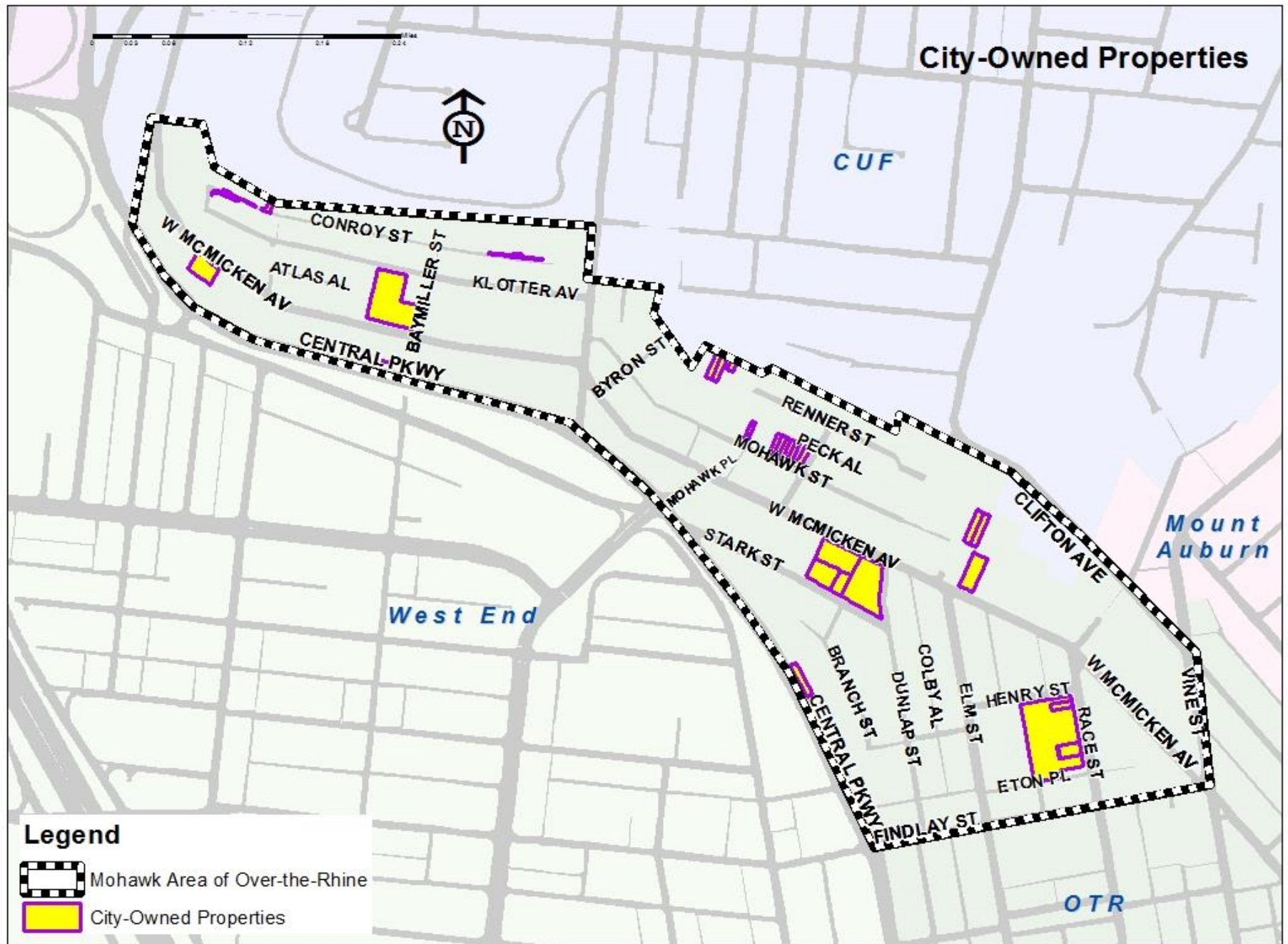






## Mohawk Catalytic Buildings







# Process: 2016—2019

## 2016

In July 2016, members of the Mohawk community gathered at Philippus United Church of Christ with a mission: to improve and beautify this historic neighborhood.

Steve Hampton from the Brewery District Community Urban Redevelopment Corporation and Denny Dellinger, a local architect and neighborhood theatre resident, formed a Steering Committee. The Steering Committee ultimately included Deb Johnson, co-owner of Robin Imaging, and Julie Fay, owner of the Imperial Theater.



July 27th, 2016 Community Meeting

After deliberation the group decided on five key Vision areas: Economic Development, Housing, General Improvements, Connectivity, and Big Ideas and Challenges. The Steering Committee approached the Department of City Planning to draft a Mohawk Area Plan with this Vision to supplement and further direct the implementation of previous plans: *Plan Cincinnati* (2012), the *Over-the-Rhine Comprehensive Plan* (2002) and the *Brewery District Master Plan* (2013).

In July and September of 2016, the Mohawk Steering Committee hosted community meetings to conduct mapping exercises, helping highlight several different components of Mohawk's existing conditions: "Areas in Need of Help," "Assets," "Opportunities," and "Where I Live."

## 2017

In 2017, the Mohawk Steering Committee hosted additional community input meetings, as well as meetings with other stakeholders. In January, the Steering Committee hosted a working session in the Department of City Planning. Later, in May, the Steering Committee hosted a community planning meeting at Philippus United Church of Christ. In September, the planning group met with Liz Blume at Xavier University's Community Building Institute, and later with Michael Moore from the Department of Transportation and Engineering, to discuss housing and transportation in the neighborhood.

## 2018

In August 2018, the Steering Committee reconvened to update the Vision goals and action steps, as well as review previously-made maps of the Mohawk area. Furthermore, the Steering Committee, in partnership with the Department of City Planning, finalized a timeline to have the plan drafted and approved by Spring 2021.



**2019** January 23rd, 2019 Community Meeting


In early January 2019, mailed notices and several email blasts were sent to the Mohawk community in notice of an upcoming meeting on January 23<sup>rd</sup>. At this meeting, about 50 members of the Mohawk community participated in a charrette workshop, where the community could review and prioritize the Mohawk Area Plan's ten Vision Strategies. The results of this charette can be found at the end of the Plan, wherein the "Priority Score" for each of the Strategies reflects the amount of "priority dots" given to each item from the January 23<sup>rd</sup>, 2019 meeting.

At this meeting, the community asked for more opportunities to give feedback, and so two more public events were scheduled.

On February 23<sup>rd</sup>, the Steering Committee hosted a Gallery Open House, where blank maps were attached to each of the ten Strategies, and community members were invited to "map out" how and where each Strategy could be implemented. The results from the Gallery Open House mapping exercise can be found in each of the Vision's sections, where "implementation maps" were drafted by the Steering Committee with City Planning staff. About 25 members of the community attended.

On March 12<sup>th</sup>, over 20 members of the community convened again for a Public Review of the Mohawk Area Plan draft to date. The Public Review was an opportunity for members of the community to gather and learn about the work that had been done not only in 2019, but over the previous three years. Furthermore, this meeting allowed the public to provide more feedback on plan's Vision and Prioritization.

After the meeting on March 12<sup>th</sup>, City Planning staff reviewed and refined the draft document prior to seeking Over-the-Rhine Community Council, Cincinnati City Planning Commission, and ultimately, the approval of Cincinnati City Council.

<h3>Mohawk Area Plan</h3> <h4>Gallery Open House</h4> <p><b>Saturday, February 23rd</b> <b>10:00 a.m. to 6:00 p.m.</b></p> <p><b>Philippus United Church of Christ</b> <b>106 W. McMicken Avenue</b></p> <p>Help drive positive change in your neighborhood by attending this gallery-style open house! The Mohawk Area Plan strategies will be on display and open for feedback at Philippus from 10:00 am to 6:00 pm. Meet your neighbors and let your voice be heard!</p>  <p><small>If you cannot attend, or have any questions or comments, please submit them to Guifford Guthrie at <a href="mailto:guifford.guthrie@cincinnati-oh.gov">guifford.guthrie@cincinnati-oh.gov</a>.</small></p>	<h3>Mohawk Neighborhood Plan</h3> <h4>Public Review</h4> <p><b>Tuesday, March 12th at 6:00 p.m.</b></p> <p><b>Philippus United Church of Christ</b> <b>106 W. McMicken Avenue</b> <b>Cincinnati, OH 45202</b></p> <p>You can help drive positive change in your neighborhood by attending this public meeting! We will review the community input received so far and gather final comments on the Mohawk Area Plan. Come let your voice be heard!</p> <p><small>If you cannot attend, or have any questions or comments, please submit them to Guifford Guthrie at <a href="mailto:guifford.guthrie@cincinnati-oh.gov">guifford.guthrie@cincinnati-oh.gov</a>.</small></p>
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Samples of public notice flyers

# The Future of Mohawk

## *Zoning*

Urban Mix (UM) and Commercial Neighborhood – Pedestrian (CN-P) offer the preferred mix of uses for Mohawk's historic buildings. Changing the zoning to reflect these neighborhood values would offer greater opportunity for first-floor commercial and upper-floor residential uses along West McMicken.

## *Land Use*

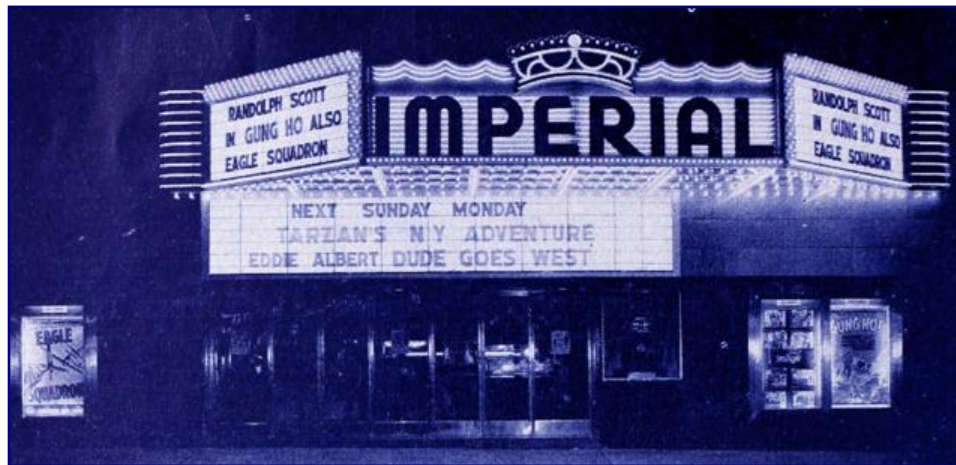
Opportunities for growth in Mohawk include vacant and underutilized buildings and properties. Increasing opportunities and incentives for reinvestment may assist existing and prospective property owners in improving the neighborhood, while also preserving historic architecture. The Mohawk neighborhood's hillside will also offer unique opportunities and challenges for new development.

## *Housing*

Mohawk's historic buildings provide opportunities for both above-commercial residential apartments as well as homes for families. These opportunities should reflect the creative nature of the neighborhood, and encourage multigenerational families, accessible housing, co-housing and student housing, short-term rental, and others.

## *Identity*

Mohawk's business district has a natural focus on arts and entertainment, from the Imperial Theater and Robin Imaging to Rebel Mettle Brewery and Clyffside Events Center. New restaurants, coffee shops, and bars will provide a variety of locations for residents and visitors to work, play, and live, while taking advantage of Mohawk's historic architecture and character.



*Photo: Imperial Theater Facebook page*



## ***Parking***

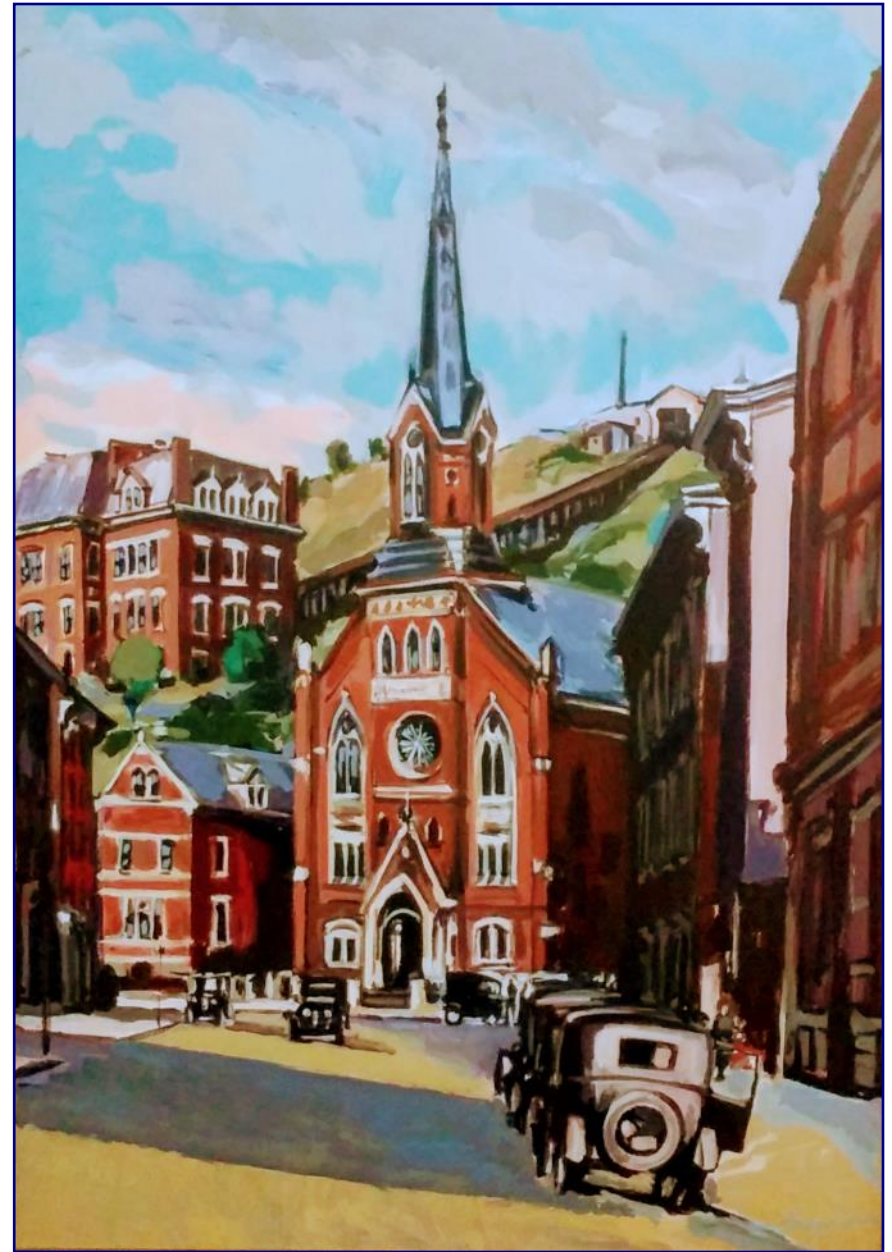
Parking in Mohawk will become a greater concern as the neighborhood and Over-the-Rhine continue to grow. Property owners are encouraged to collaborate in order to anticipate parking demands and strategically create parking supply, so that housing and businesses are easily accessible to residents and visitors alike. Community members have called for a comprehensive parking study for Mohawk as it lies within Over-the-Rhine.

## ***Nexus of Neighborhoods***

The Mohawk neighborhood is nestled between West End, CUF, and Over-the-Rhine, and acts as a crossroads for these communities. Mohawk's future will greatly benefit as populations rise in these neighborhoods, and Mohawk is uniquely situated to be a centrally located arts and entertainment district that serves multiple communities.

## ***Community***

New organizations will be created by the Mohawk community, and for the Mohawk community. The public engagement process used to write this plan will continue to be reflected by residential organizations, business associations, property owner groups, and the Mohawk Neighborhood Business District. These organizations will work together collaboratively to promote the MNBD through events, generate new assets for the neighborhood through joint incentive applications, and renovate Mohawk's historic buildings from a shared goal of preservation. Together, Mohawk's residents, businesses, and property owners will encourage and welcome creative ideas to expand and improve this historic neighborhood.



*Photo: Philippus United Church of Christ*

# Vision

*The vision of the Mohawk Area Plan is to make Mohawk a beautiful, connected, diverse, and welcoming community in which to live, work, and play.*

## **Connectivity .....33**

Goal: Develop Mohawk into a well-connected neighborhood that is safe and accessible for all modes of travel.

## **Economic Development.....35**

Goal: Create a thriving business district in Mohawk with neighborhood specific development that highlights the history of the area.

## **General Improvements .....37**

Goal: Create a safe and aesthetically pleasing Mohawk district that is attractive for residents, businesses, and visitors.

## **Housing.....39**

Goal: Develop Mohawk to be a diverse and inclusive district that contains neighborhood-specific housing for all income levels.

## **Big Ideas and Challenges.....41**

Goal: Develop Mohawk as an innovative and creative district that addresses challenges and implements big ideas.



Photos: John Walter

## Connectivity

Goal: Develop Mohawk into a well-connected neighborhood that is safe and accessible for all modes of travel.

Strategy 1: Develop a walkable neighborhood business district/entertainment district.

- Change CN-M (Commercial Neighborhood Mixed) and RM-0.7 (Residential Multi-family) zoning where appropriate west of Ravine Street to CN-P (Commercial Neighborhood Pedestrian) or UM (Urban Mix), with a focus on McMicken Avenue, to enhance Mohawk's pedestrian-friendliness.
- Minimize curb cuts.
- Locate new buildings and structures with zero or minimal setbacks, where frontage is on or near sidewalks.
- Plant more street trees and streetscaping along main thoroughfares.
- Re-evaluate bus stop locations to maximize connectivity to the neighborhood.
- Maintain good sidewalk and historic stairway conditions including reporting needs for repairs and improvements.
- Increase sidewalk signs and ensure that crosswalks and crosswalk signs are clear and visible.
- Improve traffic calming along West McMicken.
- Improve pedestrian connectivity and safety by increasing crosswalk frequency and signage at key intersections such as Central Parkway/Mohawk Place/Linn Street, Ravine Street/McMicken Avenue, and Stonewall Street/McMicken Avenue.
- Connect the different areas of the neighborhood in a cohesive manner, including West End across Central Parkway and CUF at West McMicken Avenue.
- Should the Brighton Bridge be removed, DOTE will plan for the safest pedestrian crossing at the previous location of the bridge contingent on funds being available and the support of adjacent communities.

Strategy 2: Diversify available transit options to include walking, bussing, driving, and bicycling.

- Update and improve bus routes and stop locations with shelters and benches.
- Make neighborhood destinations and amenities more accessible by coordinating with Red Bike, Cincinnati Bell Connector, e-scooters, ride share, and Metro.
- Create new parking availability for businesses and residents, as well as in conjunction with multi-use building redevelopment and near access to transit.

Strategy 3: Enhance the biking experience in the neighborhood business district.

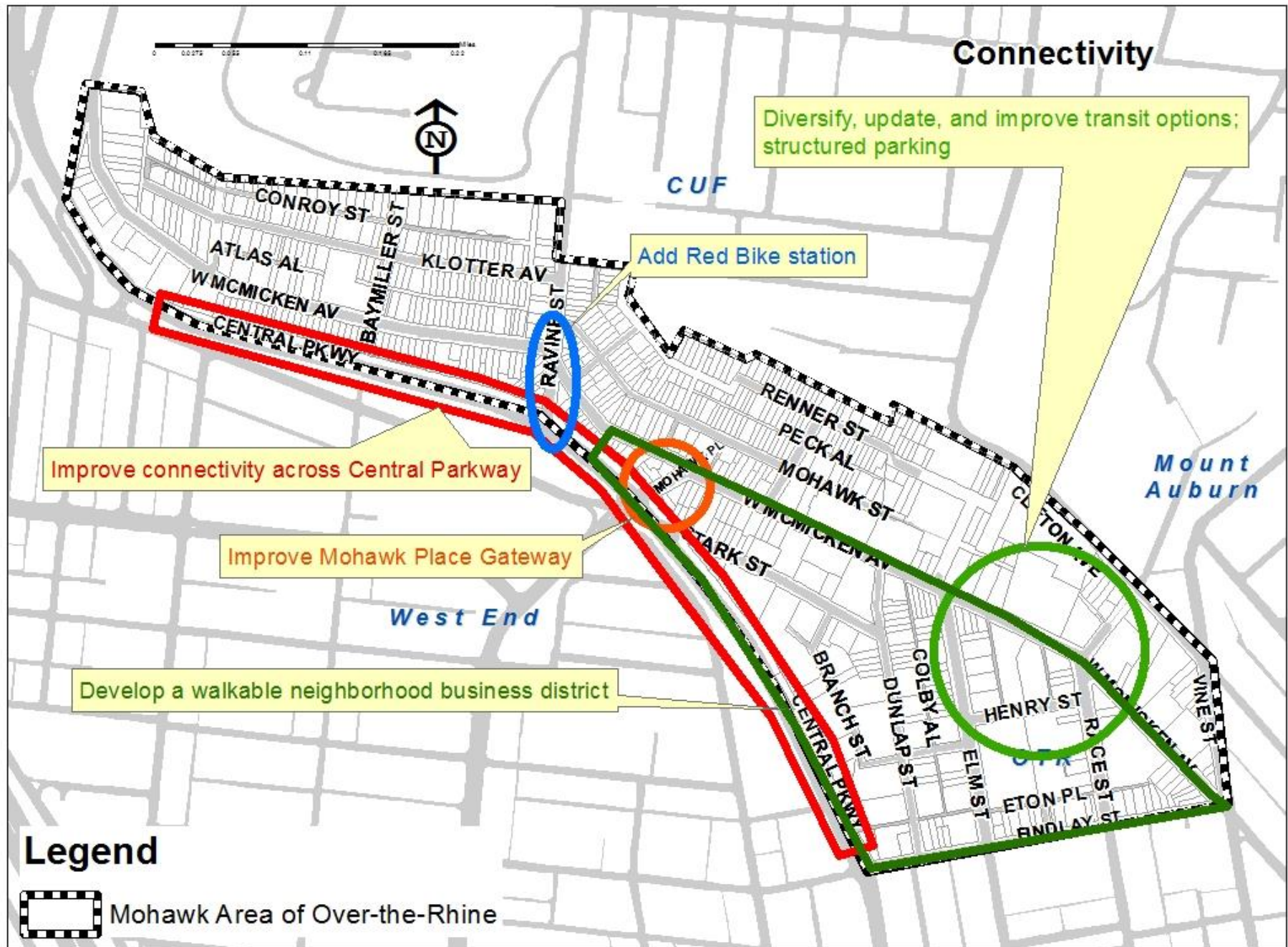
- Evaluate existing bike lanes and create new bike infrastructure to maximize efficiency and connectivity to the neighborhood.
- Implement wayfinding tools such as biking signs to direct bike riders.

Strategy 4: Redesign the Mohawk area's gateway

- Transform the Central Parkway/Mohawk Place/West McMicken Avenue neighborhood entrance into a walkable plaza surrounded by businesses and residential uses that would be closed to vehicle traffic for special events.

(Please see Connectivity "Implementation Map" on opposite page for more information.)





## ***Economic Development***

Goal: Create a thriving business district in Mohawk with neighborhood specific development that highlights the history of the area.

Strategy 1: Develop the business district.

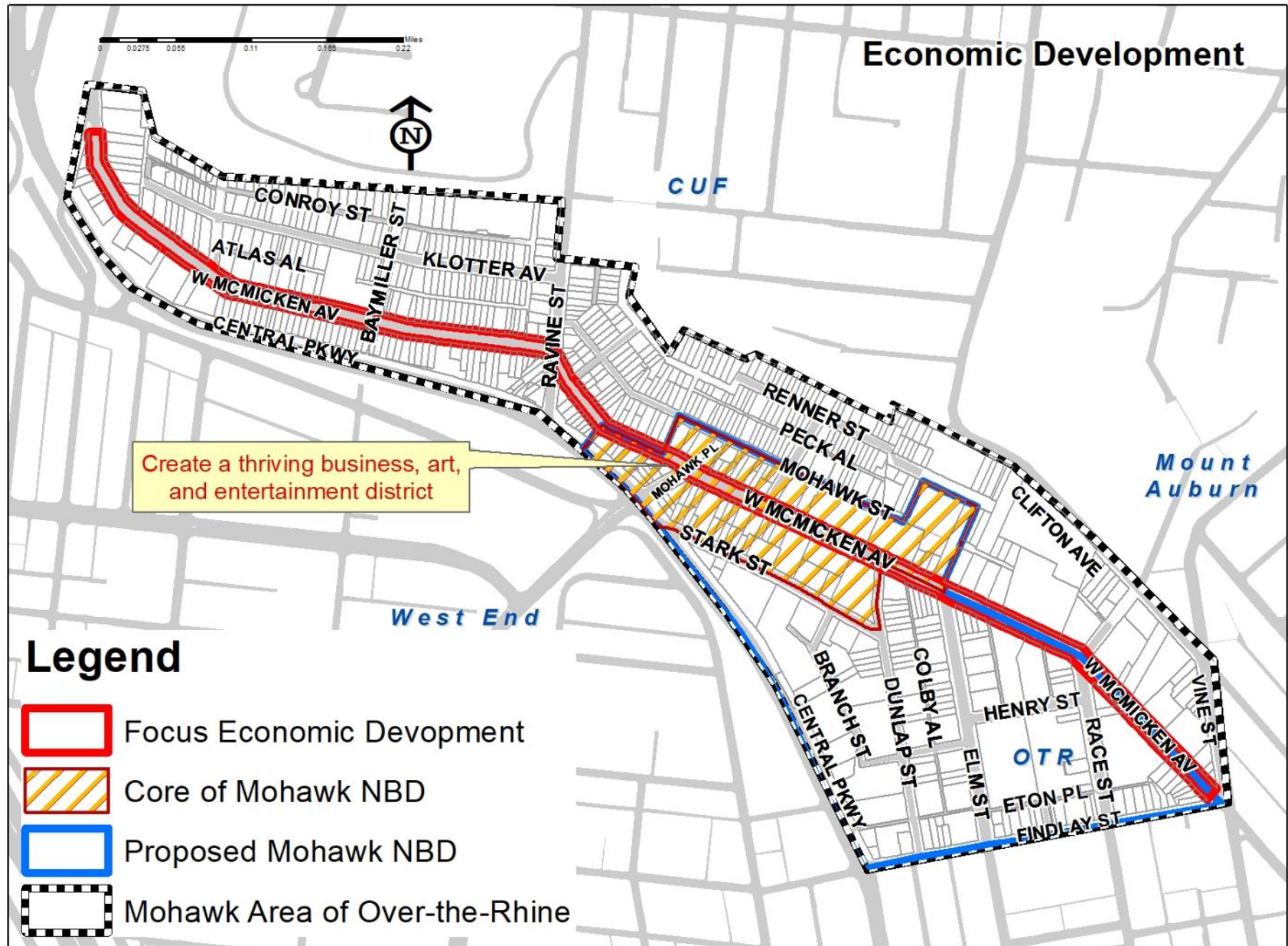
- Coordinate with the Brewing Heritage Trail to celebrate the unique history of Mohawk, which includes brewing, the Miami & Erie Canal, packing houses, leather tanning, metalworking, and other cultural, social, and economic activities.
- Explore additional sources of funding (Federal or State Historic Tax Credits, TIF, New Market Tax Credits) to restore historic structures, such as the Imperial Theater, the Jackson Brewery, the Felsenbrau buildings, and the Sohn/Clyffside Brewery, as catalysts for future investment.
- Coordinate with property owners to learn more about the benefits and responsibilities of owning historic property in the Mohawk Historic District.
- Assist property owners on the processes and requirements of obtaining building permits, and work with property owners to ensure that proper permit procedures are followed.
- Establish a Mohawk business association and create a business district recognized by Cincinnati Neighborhood Business District United (CNBDU).
- Explore interest in implementing a façade program, streetscape improvements and additional parking options.

Strategy 2: Promote neighborhood-specific infill.

- Encourage future developers to rehabilitate Mohawk's historic architecture and promote opportunities for new business growth.
- Educate property owners on property maintenance best practices and collaborate with the Department of Buildings and Inspections to ensure adequate property maintenance.
- Establish neighborhood associations to help residents easily communicate with one another as well as assemble funding for certain projects.
- Incentivize building and property owners to activate properties and participate in the revitalization of the neighborhood.

(Please see Economic Development "Implementation Map" on opposite page for more information.)





## ***General Improvements***

Goal: Create a safe and aesthetically pleasing Mohawk district that is attractive for residents, businesses, and visitors.

Strategy 1: Improve the built environment.

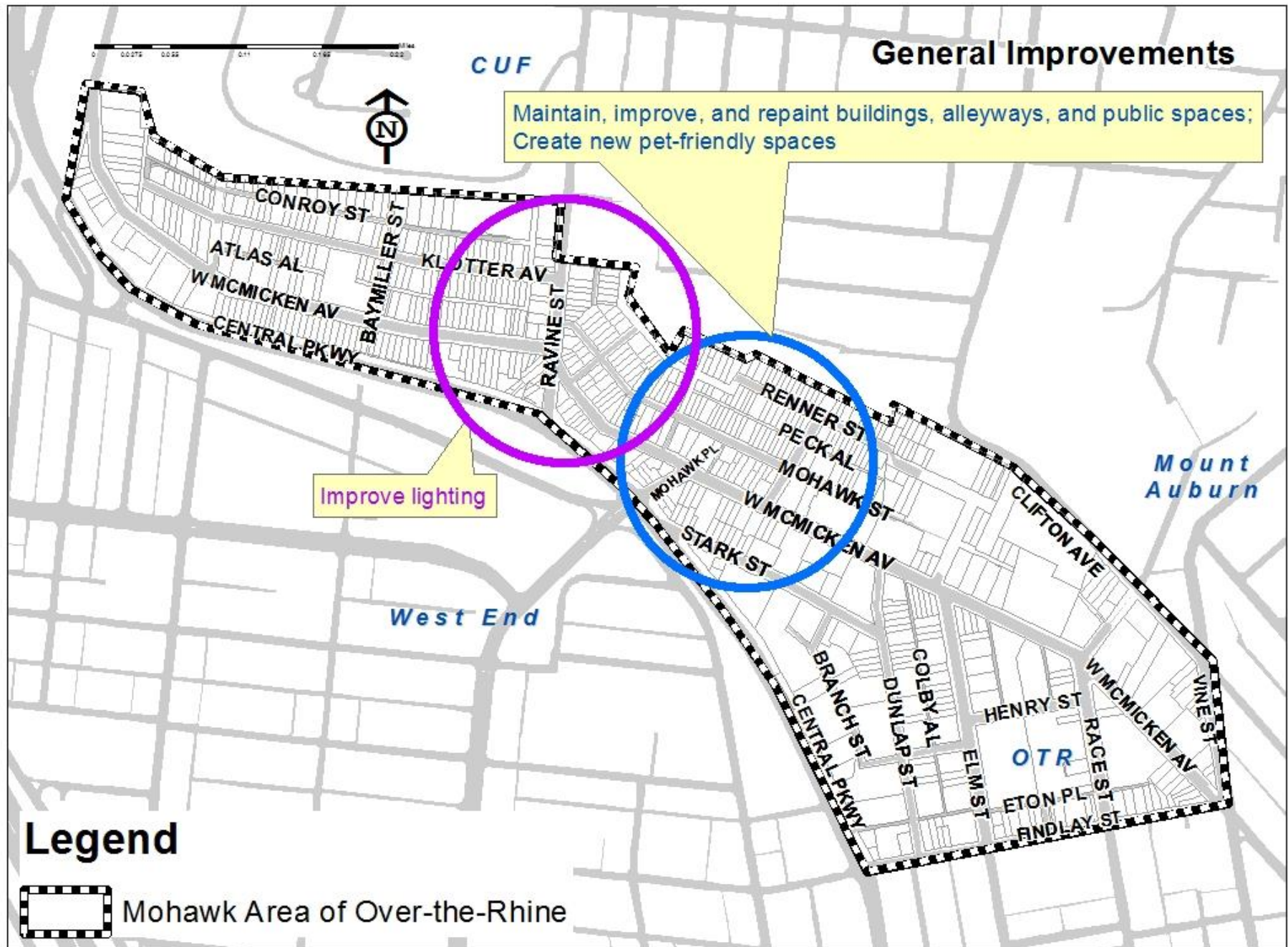
- Increase maintenance of alleyways and public spaces.
- Improve lighting in the Mohawk neighborhood.
- Inspire and encourage residents and businesses to participate in Mohawk's beautification by maintaining and repainting their buildings, as well as improving vacant properties.
- Increase amount of waste and recycling bins at regular intervals along walkways.

Strategy 2: Improve the experience of visitors, residents, and business owners.

- Expand Mohawk's welcoming aesthetic and replace graffiti through visible landscaping, art, architectural features, and murals near walkways.
- Establish a Neighborhood Block Watch to collaborate with community officers and improve public safety.
- Encourage community stakeholders, such as residents, business owners, and property owners, to report crime.
- Transform public green spaces, such as Hanna Park, into beautiful and welcoming locations for families, children, and visitors to the neighborhood.
- Create new pet-friendly spaces, which should include waste bins, bags, and water bowls, for owners, residents, and guests to exercise their pets.
- Create neighborhood associations to build community through events such as picnics, games, concerts, and art shows.

(Please see General Improvements "Implementation Map" on opposite page for more information.)





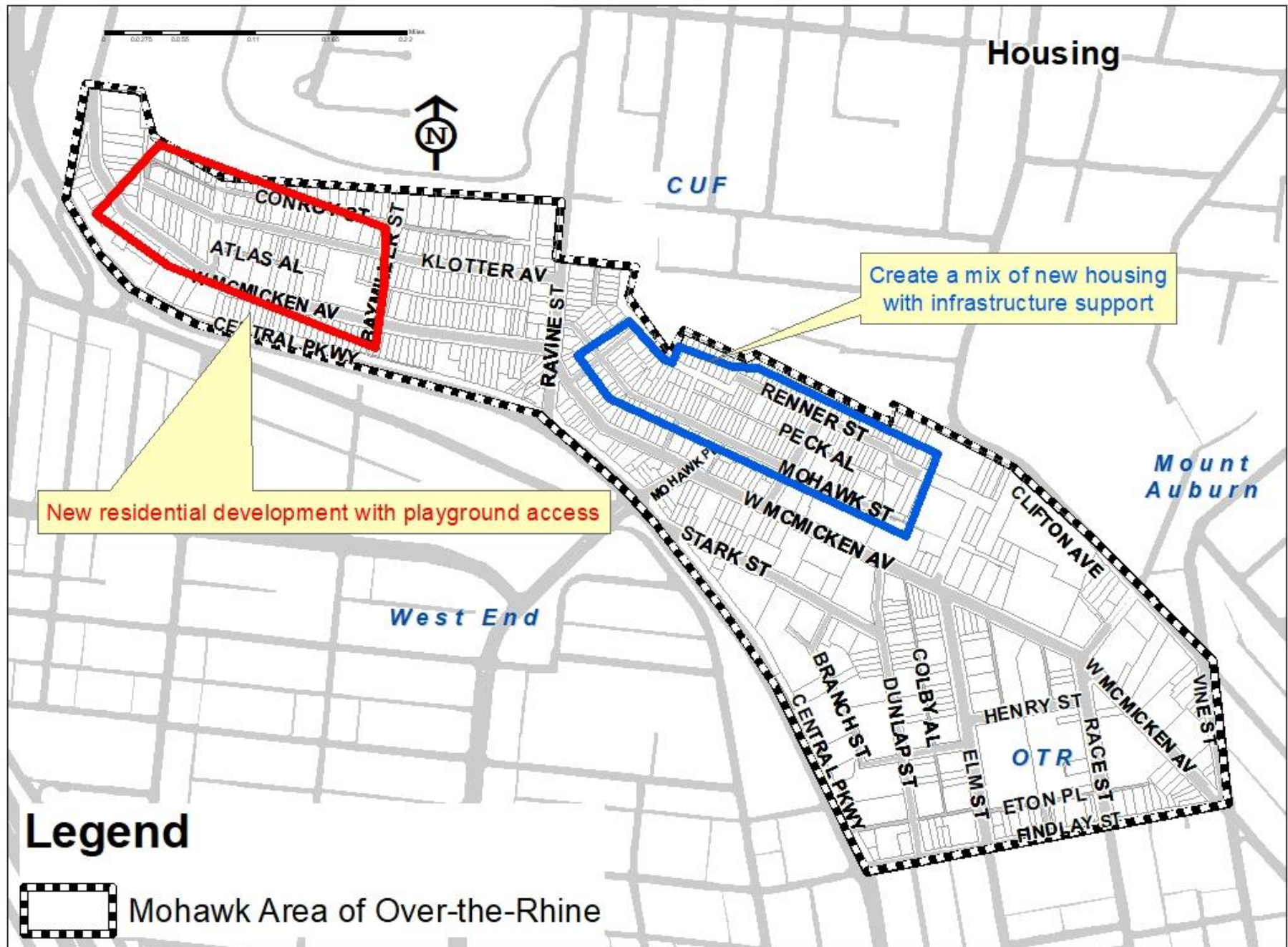
## ***Housing***

Goal: Develop Mohawk to be a diverse and inclusive district that contains neighborhood-specific housing for all income levels.

Strategy 1: Promote architecturally compatible and consistent housing infill.

- Encourage property owners to activate vacant units and prioritize filling residential units above street-level commercial spaces.
- Unify residential and business organizations to promote productive communication and apply for project funding.
- Require that residential infill, including but not limited to single - and multi-family structures, remain consistent with the architectural and pedestrian-friendly character and density of Mohawk within and surrounding the Sohn-Mohawk Historic District.
- The development of new market-rate housing will not happen at the detriment of low-income residents.
- Encourage and welcome new development at all levels of the housing market and ensure long-term sustainability of enough affordable housing to house current residents.

(Please see Housing “Implementation Map”  
on opposite page for more information.)





## ***Big Ideas and Challenges***

Goal: Develop Mohawk as an innovative and creative district that addresses challenges and implements big ideas.

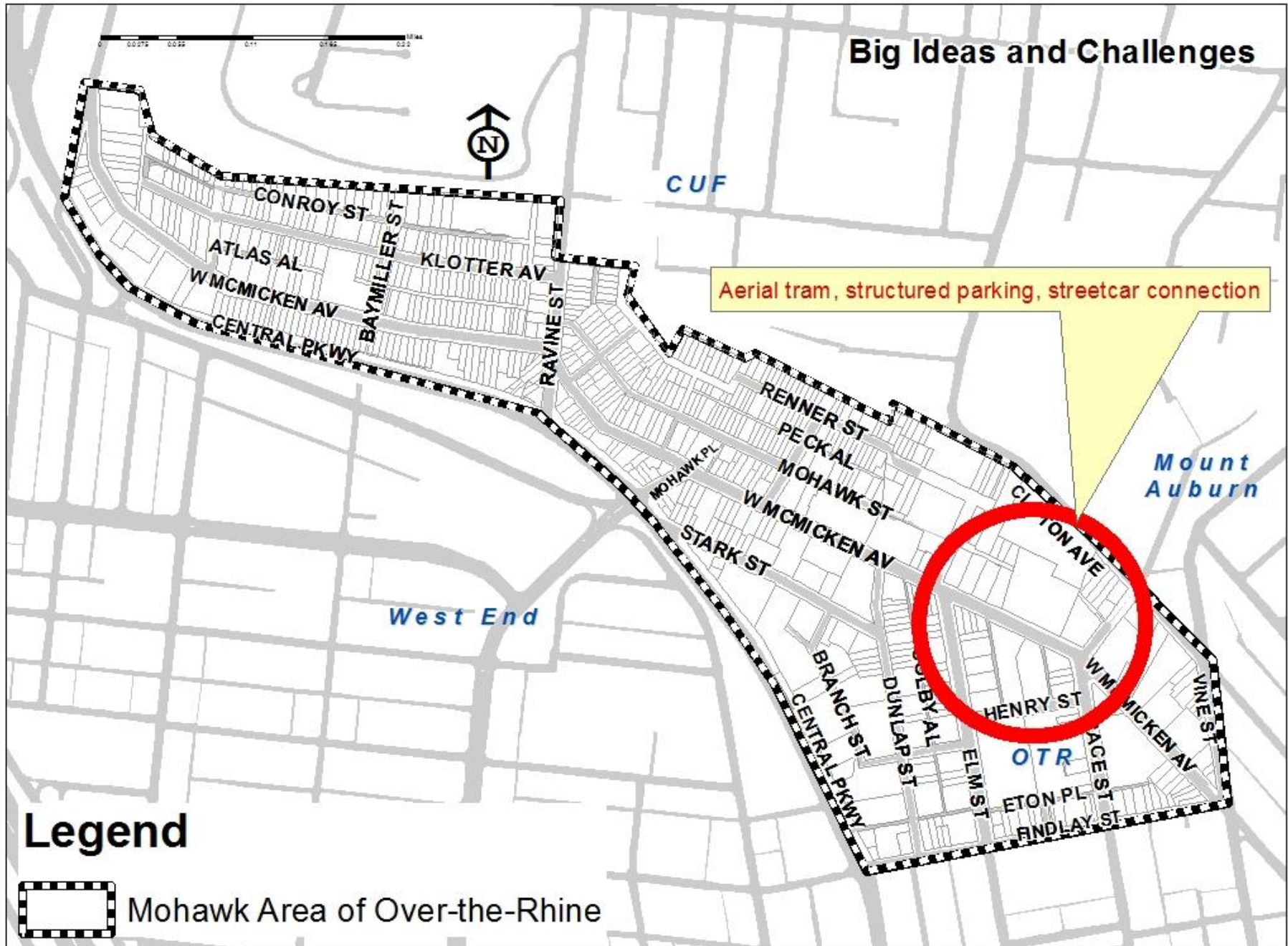
Strategy 1: Establish an aerial tram/incline up to Bellevue Park and include a bar or restaurant to symbolize Cincinnati's rich history of inclines while also serving as an innovative transportation option.

- Collaborate with the Department of Transportation and Engineering and the Parks Department to devise a plan for the aerial tram implementation.

(Please see Big Ideas and Challenges "Implementation Map" on opposite page for more information.)



## Big Ideas and Challenges



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# Prioritization

## Notes

On Wednesday, January 23rd 2019, members of the Mohawk community participated in a public input session to prioritize the ten Vision strategies. The following table represents the results of that meeting, and the ten Vision strategies are organized in descending order based on their “priority score.” The “priority score” reflects the number of dots that the strategies received at that charette workshop.

The ten Strategies also contain action items, which are ordered by their suggested “Level of Difficulty,” as determined by city staff. As a reference, potential partners for completing those action items, as well as their theoretical timelines, are provided.

While the Prioritization Table reflects the community’s priorities and suggested timelines, the potential partners and timelines themselves are non-binding. The purpose of the priority table is designed to help coordinate community action, but the community may choose to complete action items in any order. Furthermore, it is important to note that these changes are driven by the community and for the community, in partnership with non-profits, non-governmental organizations, and the City of Cincinnati.

## Key

In order to condense information in the table, the names of some organizations and city departments are abbreviated and shortened. Below is a key to those abbreviations:

- “Mohawk” = Mohawk residents, business owners, property owners, and all other members of the community
- “MNBD” = Mohawk Neighborhood Business District
- “OTRCC” = Over-the-Rhine Community Council
- “CNBDU” = Cincinnati Neighborhood Business Districts United
- “BDCURC” = Brewery District Community Urban Redevelopment Corporation
- “OTRCH” = Over-the-Rhine Community Housing
- “Model” = Model Group
- “CMHA” = Cincinnati Metropolitan Housing Authority
- “Planning” = City of Cincinnati Department of City Planning
- “DCED” = City of Cincinnati Department of Community and Economic Development
- “B&I” = City of Cincinnati Department of Buildings and Inspections
- “DOTE” = City of Cincinnati Department of Transportation and Engineering
- “SORTA” = Southwest Ohio Regional Transit Authority
- “Public Services” = City of Cincinnati Department of Public Services
- “Historic” = City of Cincinnati Historic Conservation Office
- “Parks” = City of Cincinnati Parks Department
- “CPD” = City of Cincinnati Police Department
- “City Council” = City of Cincinnati City Council
- “OTR CoC” = OTR Chamber of Commerce
- “MNCDC” = Mohawk Neighborhood Community Development Corporation

Vision	Strategy	Priority Score	Action Step	Partners	Level of Difficulty	Timeline
Economic Development	Develop the business district.	61	Coordinate with the Brewing Heritage Trail to celebrate the unique history of Mohawk, which includes brewing, the Miami & Erie Canal, packing houses, metalworking, and other cultural, social, and economic activities.	BDCURC; OTRCC; MNBD	Low	0-3 Years
			Coordinate with property owners to learn more about the benefits and responsibilities of owning historic property in the Mohawk Historic District.	Mohawk; MNBD; B&I; OTRCC; DCED; Historic	Low	0-3 Years
			Assist property owners on the processes and requirements of obtaining building permits, and work with property owners to ensure that proper permit procedures are followed.	Mohawk; MNBD; B&I	Low	0-3 Years
			Explore additional sources of funding (Federal or State Historic Tax Credits, TIF, New Market Tax Credits) to restore historic structures, such as the Imperial Theater, the Jackson Brewery, the Felsenbrau buildings, and the Sohn/Clyffside Brewery, as catalysts for future investment.	MNBD; BDCURC; DCED; City Council	Low	0-3 Years
			Establish a Mohawk business association and create a business district recognized by Cincinnati Neighborhood Business District United (CNBDU).	Mohawk; MNBD; OTRCC; DCED; CNBDU; Planning	Medium	0-3 Years
			Explore interest in implementing a façade program, streetscape improvements and additional parking options.	MNBD; BDCURC; DCED; City Council	Medium	3-5 Years
Economic Development	Promote neighborhood-specific infill.	61	Encourage future developers to rehabilitate Mohawk's historic architecture and promote opportunities for new business growth.	Mohawk; MNBD; B&I; DCED	Low	Ongoing
			Educate property owners on property maintenance best practices and collaborate with the Department of Buildings and Inspections to ensure adequate property maintenance.	Mohawk; MNBD; B&I; OTRCC	Low	0-3 Years
			Establish neighborhood associations to help residents easily communicate with one another as well as assemble funding for certain projects.	Mohawk; MNBD; OTRCC; BOCURC	Low	0-3 Years
			Incentivize building and property owners to activate properties and participate in the revitalization of the neighborhood.	Mohawk; MNBD; DCED; City Council; OTRCC; BOCURC	Medium	0-3 Years

Vision	Strategy	Priority Score	Action Step	Partners	Level of Difficulty	Timeline
General Improvements	Improve the built environment.	57	Increase maintenance of alleyways and public spaces.	B&I; Public Services	Low	Ongoing
			Improve lighting in the Mohawk neighborhood.	DOTe; Public Services; MNBD	Low	0-3 Years
			Increase amount of waste and recycling bins at regular intervals along walkways.	Public Services	Low	0-3 Years
			Inspire and encourage residents and businesses to participate in Mohawk's beautification by maintaining and repainting their buildings, as well as improving vacant properties.	Mohawk; MNBD; B&I; DCED; OTRCC	Medium	0-3 Years
Big Ideas and Challenges	Establish an aerial tram/incline up to Bellevue Park and include a bar or restaurant to symbolize Cincinnati's rich history of inclines while also serving as an innovative transportation option.	55	Collaborate with the Department of Transportation and Engineering and the Parks Department to devise a plan for the aerial tram implementation.	Mohawk; City Council; OTRCC; BDCURC; DOTe; Parks; DCED, MNBD	High	5+ Years

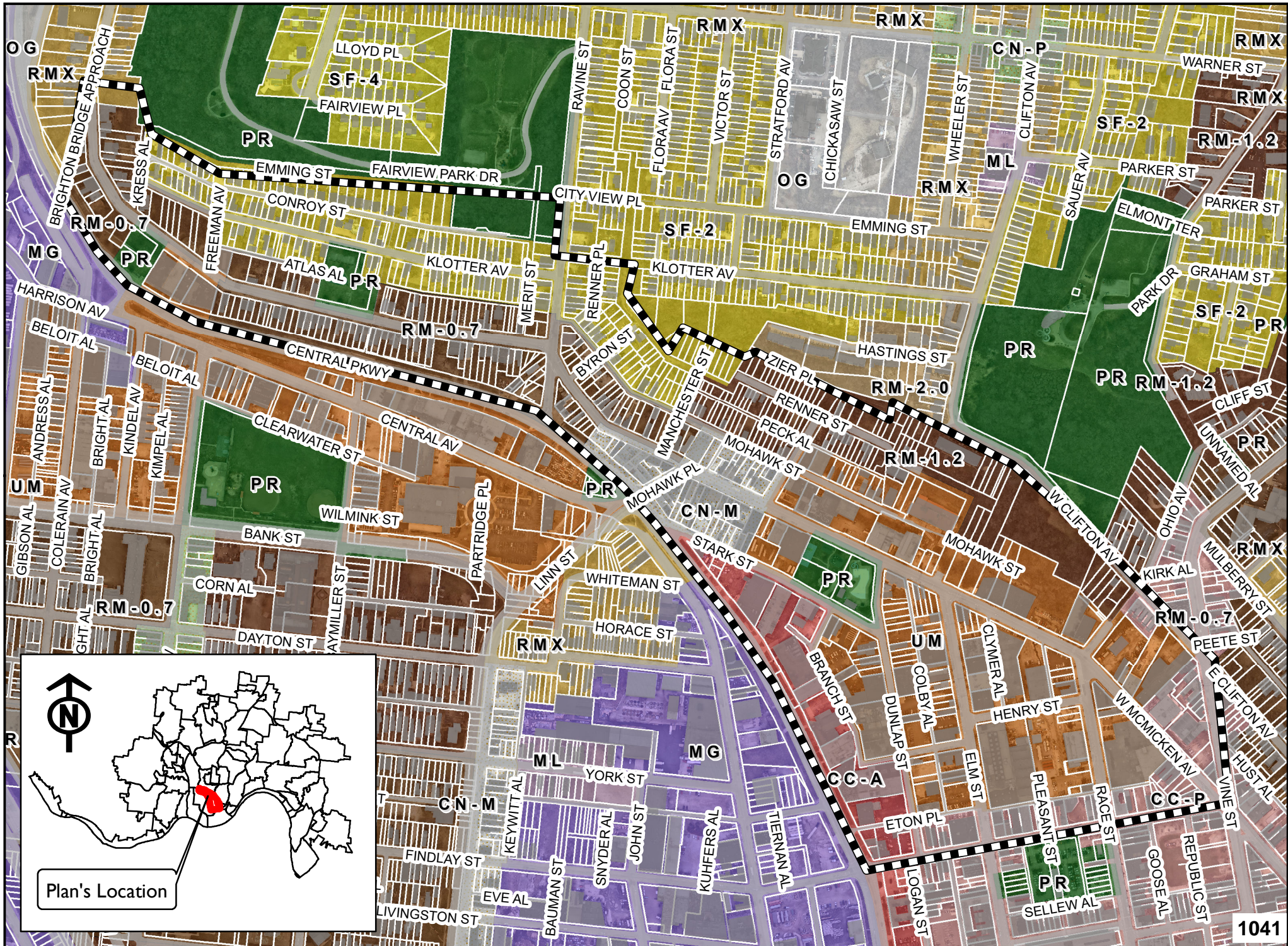
Vision	Strategy	Priority Score	Action Step	Partners	Level of Difficulty	Timeline
Connectivity	Develop a walkable neighborhood business district/entertainment district.	52	Minimize curb cuts.	DOTe	Low	Ongoing
			Locate new buildings and structures with zero or minimal set-backs, where frontage is on or near sidewalks.	Planning; DCED	Low	Ongoing
			Maintain good sidewalk and historic stairway conditions including reporting needs for repairs and improvements.	DOTe; Public Services	Low	Ongoing
			Change CN-M (Commercial Neighborhood Mixed) zoning to CN-P (Commercial Neighborhood Pedestrian) or UM (Urban Mix), with a focus on McMicken Avenue, to enhance Mohawk's pedestrian-friendliness.	Planning; OTRCC; City Council	Low	0-3 Years
			Plant more street trees and streetscaping along main thoroughfares.	Parks	Low	0-3 Years
			Increase sidewalk signs and ensure that crosswalks and crosswalk signs are clear and visible.	DOTe; Public Services	Low	0-3 Years
			Re-evaluate bus stop locations to maximize connectivity to the neighborhood.	SORTA; OTRCC; DOTe	Medium	3-5 Years
			Improve traffic calming along West McMicken.	DOTe; Public Services	Medium	3-5 Years
			Improve pedestrian connectivity by increasing crosswalk frequency and signage at key intersections such as Central Parkway/Mohawk Place/Linn Street, Ravine Street/McMicken Avenue, and Stonewall Street/McMicken Avenue.	DOTe	Medium	3-5 Years
			Connect the different areas of the neighborhood in a cohesive manner, including West End across Central Parkway and CUF at West McMicken Avenue.	DOTe	Medium	3-5 Years
			Should the Brighton Bridge be removed, DOTe will plan for the safest pedestrian crossing at the previous location of the bridge contingent on funds being available and the support of adjacent communities.	DOTe	Medium	3-5 Years

Vision	Strategy	Priority Score	Action Step	Partners	Level of Difficulty	Timeline
Connectivity	Diversify available transit options to include walking, bussing, driving, and bicycling.	46	Make neighborhood destinations and amenities more accessible by coordinating with Red Bike, Cincinnati Bell Connector, e-scooters, ride share, and Metro.	SORTA; DOTE; Red Bike	Medium	0-3 Years
			Update and improve bus routes and stop locations with shelters and benches.	SORTA; DOTE	Medium	3-5 Years
			Create new parking availability for businesses and residents, as well as in conjunction with multi-use building redevelopment and near access to transit.	DCED; DOTE; MNBD	Medium	3-5 Years
General Improvements	Improve the experience of visitors, residents, and business owners	35	Encourage community stakeholders, such as residents, business owners, and property owners, to report crime.	Mohawk; OTRCC; CPD; MNBD	Low	Ongoing
			Create neighborhood associations to build community through events such as picnics, games, concerts, and art shows.	Mohawk; MNBD; OTRCC; BDCURC	Low	Ongoing
			Expand Mohawk's welcoming aesthetic and replace graffiti through visible landscaping, art, architectural features, and murals near walkways.	Mohawk; Public Services; Cincinnati Art-Works; MNBD; BDCURC	Low	0-3 Years
			Establish a Neighborhood Block Watch to collaborate with community officers and improve public safety.	Mohawk; OTRCC; CPD	Low	0-3 Years
			Transform public green spaces, such as Hanna Park, into beautiful and welcoming locations for families, children, and visitors to the neighborhood.	OTRCC; Parks; Public Services	Medium	3-5 Years
			Create new pet-friendly spaces, which should include waste bins, bags, and water bowls, for owners, residents, and guests to exercise their pets.	OTRCC; Parks	Medium	3-5 Years

Vision	Strategy	Priority Score	Action Step	Partners	Level of Difficulty	Timeline
Housing	Promote architecturally compatible and consistent infill	31	Unify residential and business organizations to promote productive communication and apply for project funding.	Mohawk; MNBD; Planning; DCED; B&I; Historic	Low	Ongoing
			Require that residential infill, including but not limited to single- and multi-family structures, remain consistent with the architectural and pedestrian-friendly character and density of Mohawk within and surrounding the Sohn-Mohawk Historic District.	Mohawk; Historic ; MNBD; OTRCC	Medium	Ongoing
			Encourage property owners to activate vacant units and prioritize filling residential units above street-level commercial spaces.	Mohawk; Model; OTRCH; CMHA; B&I	Medium	3-5 Years
Connectivity	Redesign the Mohawk area's gateway	26	Transform the Central Parkway/Mohawk Place/West McMicken Avenue neighborhood entrance into a walkable plaza surrounded by businesses and residential uses that would be closed to vehicle traffic for special events.	OTRCC: DOTE	High	5+ Years
Connectivity	Enhance the biking experience in the neighborhood business district.	20	Implement wayfinding tools such as biking signs to direct bike riders.	DOTE; Public Services	Low	0-3 Years
			Evaluate existing bike lanes and create new bike infrastructure to maximize efficiency and connectivity to the neighborhood.	OTRCC: DOTE; Red Bike	Medium	3-5 Years



# Mohawk Area Plan





**SUBJECT:** A report and recommendation on a proposed *Mohawk Area Plan* as the area's guiding comprehensive plan document in Over-the-Rhine.

**BACKGROUND:**

A small committee of Mohawk area residents approached the City in 2016 to create a plan that implements the *Brewery District Master Plan* (2013). Over two dozen public meetings were held from 2016 through 2019. Staff from the Department of City Planning, Department of Community and Economic Development, Department of Transportation and Engineering, Department of Health, Department of Buildings and Inspections (including the Historic Conservation Office) and numerous property owners and renters were all involved in creating the Mohawk Area Plan.

The *Over-the-Rhine Comprehensive Plan* (2002) is the most recent Plan for the entire community of Over-the-Rhine. The *Brewery District Master Plan* was approved in 2013. This *Mohawk Area Plan* is intended to assist in implementing the *Brewery District Master Plan* for the northern section of Over-the-Rhine. The boundaries of the Plan are roughly described as Central Parkway to the west, Conroy Street to the north, Clifton Avenue to the east and Findlay Street to the south. The draft *Mohawk Area Plan* was presented to the Over-the-Rhine Community Council in February 2020 and they voted to support the plan.

**PLANNING PROCESS:**

The planning process for the Mohawk Area Plan occurred from 2016-2019.

In July 2016, members of the Mohawk community gathered at Philipppus United Church of Christ with a mission: to improve and beautify this historic neighborhood. A Steering Committee was formed and after deliberation the group decided on five key Vision areas: Economic Development, Housing, General Improvements, Connectivity, and Big Ideas and Challenges. The Steering Committee approached the Department of City Planning to draft a Mohawk Area Plan with this Vision to supplement and further direct the implementation of previous plans: Plan Cincinnati (2012), the Over-the-Rhine Comprehensive Plan (2002) and the Brewery District Master Plan (2013). In July and September of 2016, the Mohawk Steering Committee hosted community meetings to conduct mapping exercises, helping highlight several different components of Mohawk's existing conditions: "Areas in Need of Help," "Assets," "Opportunities," and "Where I Live."

In 2017, the Mohawk Steering Committee hosted additional community input meetings, as well as meetings with other stakeholders. In January, the Steering Committee hosted a working session in the Department of City Planning. Later, in May, the Steering Committee hosted a community planning meeting at Philipppus United Church of Christ. In September, the planning group met with Xavier University's Community Building Institute, and later with the Department of Transportation and Engineering, to discuss housing and transportation in the neighborhood.

In August 2018, the Steering Committee reconvened to update the Vision goals and action steps, as well as review previously made maps of the Mohawk area. Furthermore, the Steering Committee, in partnership with the Department of City Planning, finalized a timeline to have the plan drafted and approved by Spring 2021.

In early January 2019, mailed notices and several email blasts were sent to the Mohawk community in notice of an upcoming meeting on January 23rd. At this meeting, about 50 members of the Mohawk community participated in a charrette workshop, where the community could review and prioritize the Mohawk Area Plan's ten Vision Strategies. The results of this charette can be found at the end of the Plan, wherein the "Priority Score" for each of the Strategies reflects the amount of "priority dots" given to each item from the January 23rd, 2019 meeting. At this meeting, the community asked for more opportunities to give feedback, and so two more public events were scheduled.

In February 2019, the Steering Committee hosted a Gallery Open House, where blank maps were attached to each of the ten Strategies, and community members were invited to "map out" how and where each Strategy could be implemented. The results from the Gallery Open House mapping exercise can be found in each of the Vision's sections, where "implementation maps" were drafted by the Steering Committee with City Planning staff. About 25 members of the community attended.

In March 2019, over 20 members of the community convened again for a Public Review of the Mohawk Area Plan draft to date. The Public Review was an opportunity for members of the community to gather and learn about the work that had been done not only in 2019, but over the previous three years. Furthermore, this meeting allowed the public to provide more feedback on plan's Vision and Prioritization.

After the meeting in March 2019, City Planning staff reviewed and refined the draft document prior to seeking Over-the-Rhine Community Council, Cincinnati City Planning Commission, and ultimately, the approval of Cincinnati City Council.

## **PLAN OVERVIEW:**

### ***Existing Conditions and Demographics:***

According to the 2013-2017 American Community Survey estimates that Census Tract 16, the population of the Mohawk Area of Over-the-Rhine is 997 people. More detailed information can be found on page 12 in the Plan document.

### ***Parks***

There are a few small playgrounds and pocket parks within the plan area. More detailed information can be found on page 13 in the Plan document.

### ***Zoning***

The existing zoning is a mixture of multi-family residential, Urban Mix, some commercial and manufacturing mixed in the neighborhood. More detailed information can be found on pages 14-15 in the Plan document.

### ***Land Use***

Like many older neighborhoods in the City, the existing land use is relatively similar to existing zoning throughout Over-the-Rhine. More detailed information can be found on pages 16-17 in the Plan document.

### ***Historic Districts***

There is an existing Mohawk-Bellevue Local Historic District, the Over-the-Rhine Local Historic District, and the newly created Sohn-Mohawk Local Historic District. More detailed information can be found on pages 18-19 in the Plan document.

### ***Hillside District***

The northern portions of the Plan area are also in a Hillside District. More detailed information can be found on pages 20-21 in the Plan document.

### ***Transportation***

There are both Major Arterial and Minor Arterial Roads, Collector Roads and Local Streets within the Plan area. Also, the streetcar ends within the area of the Plan and there are several Metro Bus Stops in the Mohawk area. More detailed information can be found on pages 22-23 in the Plan document.

### ***Economic Incentives***

There are both Opportunity Zones and a Tax Increment Financing (TIF District). More detailed information can be found on pages 24-25 in the Plan document.

### ***Catalytic Buildings***

Buildings like the Bellevue Brewery (Mockbee), the Imperial Theatre, the Moerlein Brewery Ice House, the Cliffside Brewery, and the Jackson Brewery are the major catalytic Buildings in the Mohawk Area. More detailed information can be found on page 26 in the Plan document.

### ***City-owned Properties***

There are a few small City-owned properties within the Plan area. More detailed information can be found on page 27 in the Plan document.

## **THE FUTURE OF MOHAWK**

The Urban Mixed and the Commercial Neighborhood - Pedestrian Zoning offer a preferred mix of uses. The Land Use included vacant sites and underutilized buildings offering development opportunities. The numerous breweries and Imperial Theater are part of the identity of the Mohawk Area. More detailed information can be found on pages 30-43 in the Plan document.

## **VISION**

The community developed a vision for the future of Mohawk, which guides the goals and strategies throughout the rest of the Plan. That statement is “The vision of the Mohawk Area Plan is to make Mohawk a beautiful, connected, diverse, and welcoming community in which to live, work, and play.”

## **GOALS AND STRATEGIES**

Each of these goals and strategies are mapped throughout this document.

### ***Connectivity***

Goal: Mohawk is a well-connected business district that is safe and accessible for all modes of travel.

Strategy 1: Develop a walkable neighborhood business district/entertainment district.

- A1. Implement way finding tools such as walking signs to direct pedestrians.
- A2. Maintain good sidewalk conditions.
- A3. Ensure that crosswalks and crosswalk signage are clear and visible.
- A4. Re-establish Baymiller Bridge to improve pedestrian connectivity.
- A5. Connect the different areas of the neighborhood in a cohesive manner.

Strategy 2: Increase the use of available public transit.

- A1. Create a “park and ride” concept by locating a parking structure near access to transit.
- A2. Consider Red Bike, streetcar, and bus stop access-coordinate accessibility of these

with neighborhood destinations and amenities.

Strategy 3: Enhance the biking experience in the neighborhood business district.

A1. Implement designated bike lanes where possible and provide bike racks.

A2. Implement way finding tools such as biking signs to direct bike riders.

### ***Economic Development***

Goal: Mohawk is a thriving business district that promotes neighborhood specific development that highlights the history of the area.

Strategy 1: Brand the business district.

A1. Establish the Brewers Boulevard.

A2. Restore the Imperial Theater as a catalyst for future investment.

A3. Ensure that the historic district is contiguous.

A4. Improve gateways that highlight neighborhood assets and incorporate greenspace.

Strategy 2: Promote neighborhood specific infill.

A1. Address topographic issues on hillside development.

A2. Establish a neighborhood or homeowners association to help residents easily communicate with one another as well as assemble funding for certain projects.

A3. Change zoning, if needed, to make NBD more pedestrian and mixed friendly.

### ***General Improvements***

Goal: Mohawk is a safe and aesthetically pleasing district that is attractive for both residents and visitors.

Strategy 1: Improve the built environment.

A1. Maintain the alleyways and public spaces.

A2. Improve the lighting in the business district.

A3. Coordinate with vacant property owners to be held responsible for conditions of their buildings.

A4. Work with property owners to repaint their buildings.

Strategy 2: Improve the experience of visitors, residents, and business owners.

A1. Better policing and reporting of drugs, crime, and prostitution.

A2. Make greenspaces destinations.

### ***Housing***

Goal: Mohawk is a diverse and inclusive district that contains neighborhood specific housing for all income levels.

Strategy 1: Promote neighborhood specific housing infill.

A1. Establish a neighborhood or homeowners association to help residents easily communicate with one another as well as assemble funding for certain projects.

A2. Residential infill should remain consistent with the content of each residential area of the neighborhood.

### ***Big Ideas and Challenges***

Goal: Mohawk is an innovative and creative district that addresses challenges and implements big ideas.

Strategy 1: Define a method to save the Brighton Approach as a possible historic landmark.

Strategy 2: Establish the aerial tram/incline as well as a bar/restaurant to reflect on the history.

### **PLAN IMPLEMENTATION AND PRIORITIZATION:**

A meeting was held in January 2019 and members of the community prioritized the ten vision strategies in descending order based on the “priority score” These strategies also contain action items and are organized

by their Level of Difficulty” as determined by City Staff. More detailed information can be found on pages 44-49 in the Plan document.

### **ADMINISTRATIVE AND NEIGHBORHOOD REVIEW:**

The draft *Mohawk Area Plan* has been posted on the Department of City Planning’s website since 2019 with revisions to the draft being updated regularly. The draft Mohawk Area Plan was presented to the Over-the-Rhine Community Council in February 2020 where they voted to support the Plan. Work on all neighborhoods was temporarily put on hold during the COVID-19 pandemic in 2020.

The draft *Mohawk Area Plan* was sent to all City Departments for review and feedback. An internal City staff meeting was held on March 12, 2019. Attendees included representatives from the Department of Community and Economic Development (DCED), and the Department of Transportation and Engineering (DOTE). There were no major concerns identified at the meeting and all in attendance supported the goals and strategies proposed.

### **CONSISTENCY WITH PLAN CINCINNATI AND NEIGHBORHOOD PLANS:**

The Mohawk Area Plan is consistent with all five Initiative Areas of *Plan Cincinnati* (2012), specifically in the following areas:

**Compete Initiative Area:** Goal to “foster a climate conducive to growth, investment, stability, and opportunity” (page 103) and the Strategy to “target investment to geographic areas where there is already economic activity” (page 115).

**Connect Initiative Area:** Strategies to “expand options for non-automotive travel” (page 130) and “support regional and intercity transportation initiatives (page 144).

**Live Initiative Area:** Goals to “build a robust public life” (page 149) and “create a more livable community” (page 156) and the Strategies to “develop and maintain inviting and engaging public spaces to encourage social interaction between different types of people” (page 150), to “become more walkable” (page 157), and to “support and stabilize our neighborhoods” (page 160).

**Sustain Initiative Area:** Goals to “become a healthier Cincinnati” (page 181) and to “preserve our natural and built environment” (page 193) and with the Strategies to “protect our natural resources” (page 194) and “preserve our built history” (page 197).

**Collaborate Initiative Area:** Strategy to “unite our communities” (page 210).

Also, this Plan is consistent with the *Over-the-Rhine Comprehensive Plan* (2002) in numerous areas of the Plan. A few examples include creating a Mohawk Neighborhood Business District (page 32), promoting single-family infill (page 48), and create a Mohawk Local Historic District (page 58).

In addition, this Plan furthers the ideas from the *Brewery District Master Plan* (2013) by implementing these goals and strategies to further the revitalization of the Mohawk Area and its brewery heritage.

**RECOMMENDATION:**

The staff of the Department of City Planning recommends that the City Planning Commission take the following action:

**APPROVE** the *Mohawk Area Plan* as the area's guiding comprehensive plan document.

Respectfully submitted:

Handwritten signature of Caroline H. Kellam in black ink.

Caroline Hardy Kellam, Senior City Planner  
Department of City Planning

Approved:

Handwritten signature of Katherine Keough-Jurs in black ink.

Katherine Keough-Jurs, AICP, Director  
Department of City Planning

May 26, 2021

Cincinnati City Council  
Council Chambers, City Hall  
Cincinnati, Ohio 45202

Dear Members of Council:

We are transmitting herewith a Resolution captioned as follows:

**APPROVING the *Mohawk Area Plan* as the planning guide for the Mohawk area in the Over-the-Rhine neighborhood.**

**Summary:**

The area of Mohawk in the Over-the-Rhine neighborhood approached the Department of City Planning in 2016 to request the creation of a plan for their area of Over-the-Rhine called Mohawk. After five years of community engagement, the *Mohawk Area Plan* has been created as an implementation of *Brewery District Master Plan* (2013). The *Mohawk Area Plan* was unanimously approved by the Over-the-Rhine Community Council in February 2020 and by the City Planning Commission on May 7, 2021, to serve as the City's official planning guide for the Mohawk Area. The *Mohawk Area Plan* is consistent with the Compete, Live, and Collaborate Initiative Areas of *Plan Cincinnati* (2012).

The City Planning Commission unanimously approved this item at their May 7, 2021, meeting.

Motion to Approve:	Mr. Samad	Ayes:	Mr. Smitherman Ms. McKinney Mr. Juech Mr. Samad Mr. Stallworth
Seconded:	Mr. Smitherman		

THE CITY PLANNING COMMISSION

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Katherine Keough-Jurs, AICP, Director  
Department of City Planning



June 9, 2021

**To:** Mayor and Members of City Council 202102135

**From:** Paula Boggs Muething, City Manager

**Subject:** Emergency Ordinance – Notwithstanding Ordinance Authorizing Use of 2215 Fulton Avenue as Offices and Waiving Parking Requirements for First Step Home

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Transmitted is an Emergency Ordinance captioned:

**AUTHORIZING** the existing building located at 2215 Fulton Avenue in the Walnut Hills neighborhood to be renovated and used as an office NOTWITHSTANDING the provisions of Section 1405-05, “Land Use Regulations,” of Chapter 1405, “Residential Multi-Family,” and Section 1425-19-A, “Off-Street Parking and Loading Requirements,” of Chapter 1425, “Parking and Loading Regulations,” of the Cincinnati Zoning Code and any other applicable provisions of the Cincinnati Zoning Code and the Cincinnati Municipal Code.

The City Planning Commission recommended approval of the amendments at its June 4, 2021 meeting.

Summary

First Step Home requested a Notwithstanding Ordinance to permit an office use in a Residential Mixed (RMX) zoning district at 2215 Fulton Avenue and waive all associated parking requirements. Approval of the requested Notwithstanding Ordinance will allow First Step Home to respond to the increased demand for their services in the community and expand their offerings of treatment services while preserving an existing building.

First Step Home proposes using 2215 Fulton Avenue as the Family Unity Center that will house the new Child Resiliency Program as well as administrative personnel, group treatment facilities, and admissions staff. First Step Home also seeks relief from any associated parking requirements for the office use. Most of the women receiving treatment at First Step Home do not have a car and often utilize public transportation, rideshare companies, or are dropped off by family or friends. First Step Home does have several parking spaces among their properties located on Fulton Avenue and has a long-standing relationship with the church across the street which allows access to four parking spaces for staff and/or clients. Additionally, on-street parking exists along Fulton Avenue.

The requested relief through the Notwithstanding Ordinance has been found to be reasonable considering the use of Notwithstanding Ordinances for First Step Home on this block and the parking arrangements that have already been made. The proposed Notwithstanding Ordinance is consistent with portions of the *Walnut Hills Reinvestment Plan* (2017) and *Plan Cincinnati* (2012).

The Department of City Planning has consistently taken the position to not support any Notwithstanding Ordinances for land use decisions because they do not comply with the zoning laws that the department is charged with developing and enforcing.

The City Planning Commission recommended the following on June 4, 2021 to City Council:

**APPROVE** the Notwithstanding Ordinance to permit an office use in the Residential Mixed (RMX) zoning district at 2215 Fulton Avenue in Walnut Hills with the following conditions:

- 1) The renovations at 2215 Fulton Avenue must substantially conform to the project specifications outlined in this report and the applicant will provide all required items for building permit review.
- 2) The Notwithstanding Ordinance does not provide a variance from any other laws of the City of Cincinnati, and the properties shall remain subject to all other provisions of the Cincinnati Municipal Code, RMX, "Residential Mixed," zoning district.
- 3) The use of the property should not be considered a nonconforming use.

cc: Katherine Keough-Jurs, AICP, Director, Department of City Planning and Engagement



## EMERGENCY

City of Cincinnati

DBS

*AWB*

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

- 2021

**AUTHORIZING** the existing building located at 2215 Fulton Avenue in the Walnut Hills neighborhood to be renovated and used as an office NOTWITHSTANDING the provisions of Section 1405-05, "Land Use Regulations," of Chapter 1405, "Residential Multi-Family," and Section 1425-19-A, "Off-Street Parking and Loading Requirements," of Chapter 1425, "Parking and Loading Regulations," of the Cincinnati Zoning Code and any other applicable provisions of the Cincinnati Zoning Code and the Cincinnati Municipal Code.

WHEREAS, First Step Home ("Petitioner") owns the real property located at 2215 Fulton Avenue in the Walnut Hills neighborhood ("Property"), which property is presently zoned RMX, "Residential Mixed," and consists of one parcel containing an existing residential structure; and

WHEREAS, the Petitioner has operated the First Step Home on the nearby property at 2203 Fulton Avenue for over 20 years as a non-profit organization that helps women break the cycle of addiction and abuse and become self-sufficient by providing individual and group counseling, access to medical services, mental health assessments, life skills training, financial assistance, on-site childcare, and connections to job readiness programs; and

WHEREAS, the Petitioner now wishes to renovate the existing building on the Property for use as an office that will house the administrative personnel, group treatment facilities, and admissions staff that are necessary to accommodate its growth and to facilitate the creation of additional treatment programs and jobs ("Project"); and

WHEREAS, the Petitioner has requested authorization to complete the Project notwithstanding certain zoning code provisions that would otherwise prevent the Property's use as an office; and

WHEREAS, reasonable deviations from zoning code provisions that would otherwise prevent the Property's use as an office will provide substantial public benefits in the form of expanded treatment services for women seeking to break the cycles of addiction and abuse as well as additional enhanced services for those participants; and

WHEREAS, the City Planning Commission, at its regularly scheduled meeting on June 4, 2021, upon considering the factors set forth in Cincinnati Municipal Code ("CMC") Section 111-5, recommended the adoption of a notwithstanding ordinance authorizing the Project subject to certain conditions; and

WHEREAS, a committee of Council held a public hearing on this ordinance following due and proper notice pursuant to CMC Section 111-5, and upon considering the factors in CMC Section 111-5 and the recommendation of the City Planning Commission, the committee approved the ordinance, finding that authorizing the Project notwithstanding the zoning code provisions that

would otherwise restrict it will not have an adverse effect on the character of the area or the public health, safety, and welfare, and further finding that permitting the Project to proceed is consistent with the purposes of the CMC and the zoning district in which it is located; and

WHEREAS, a legislative variance authorizing the Project is consistent with the *Walnut Hills Reinvestment Plan (2017)* and the Action Item to “[i]nvest in people, places, and homes” (page 42); and

WHEREAS, a legislative variance authorizing the Project is further consistent with *Plan Cincinnati* (2012) in the Sustain Initiative Area, specifically the goal to “[b]ecome a healthier Cincinnati” (page 81); and

WHEREAS, the Council finds that the Project will preserve the quality and character of the neighborhood by improving and rehabilitating an existing building that will fit within the context of Fulton Avenue and the Walnut Hills community; and

WHEREAS, the Council additionally finds that permitting the Project will not have an adverse effect on the character of the area or the public health, safety, and welfare because, among other things, it provides for a reasonable expansion of treatment services that have long operated on the street, the program expansion will facilitate the delivery of enhanced services and programming to program participants that further serves to mitigate any potential negative impacts associated with the program, if any; and

WHEREAS, the Council additionally finds that a legislative variance from applicable zoning code provisions related to use and parking to authorize the Project will not have an adverse effect on the character of the area or the public health, safety, and welfare, and it is in the best interests of the City and the public's health, safety, morals, and general welfare; now, therefore,

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

Section 1. That, after its own independent review and consideration, the City Council incorporates the foregoing recitals as if fully rewritten herein, and it hereby confirms that the legislative variance criteria set forth in Section 111-5 of the Cincinnati Municipal Code are satisfied in all respects.

Section 2. That the Council specifically finds that a legislative variance authorizing the renovation of the existing building located at 2215 Fulton Avenue in the Walnut Hills neighborhood for use as an office (“Project”), which property is depicted on the map attached hereto as Exhibit A and incorporated herein by reference, will not have an adverse effect on the

character of the surrounding area or the public's health, safety, and general welfare and that it is consistent with the purposes of the Cincinnati Municipal Code and the zoning district within which the property is located.

Section 3. That the Council authorizes the construction of the Project and its use as an office, subject to the terms and conditions set forth in this ordinance. This authorization is granted notwithstanding (i) the use limitations contained in Chapter 1405, "Residential Multi-Family," of the Cincinnati Municipal Code; and (ii) the parking limitations contained in Chapter 1425, "Parking and Loading Regulations," of the Cincinnati Municipal Code, and any other applicable zoning regulations that would restrict the construction of the Project and its use as an office.

Section 4. That the Council authorizes the construction of the Project and its use as an office subject to the following conditions:

- a. That the renovations at 2215 Fulton Avenue must substantially conform to the project specifications outlined in the Department of City Planning staff report, and the property owner must provide all required items for building permit review.
- b. That this ordinance does not provide a variance from any other laws of the City of Cincinnati, and the property shall remain subject to all other provisions of the Cincinnati Municipal Code and the RMX, "Residential Mixed," zoning district.
- c. That the use of the property shall not be considered a nonconforming use of land by virtue of this ordinance.

Section 5. That the City Manager and the appropriate City officials are authorized to take all necessary and proper actions to implement this ordinance, including by issuing building permits and related approvals, provided they conform to applicable building codes, housing codes, accessibility laws, or other laws, rules, or regulations.

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 for the property owner to obtain building permits to complete the Project so the City may benefit from the Project at the earliest possible time.

Passed: \_\_\_\_\_, 2021

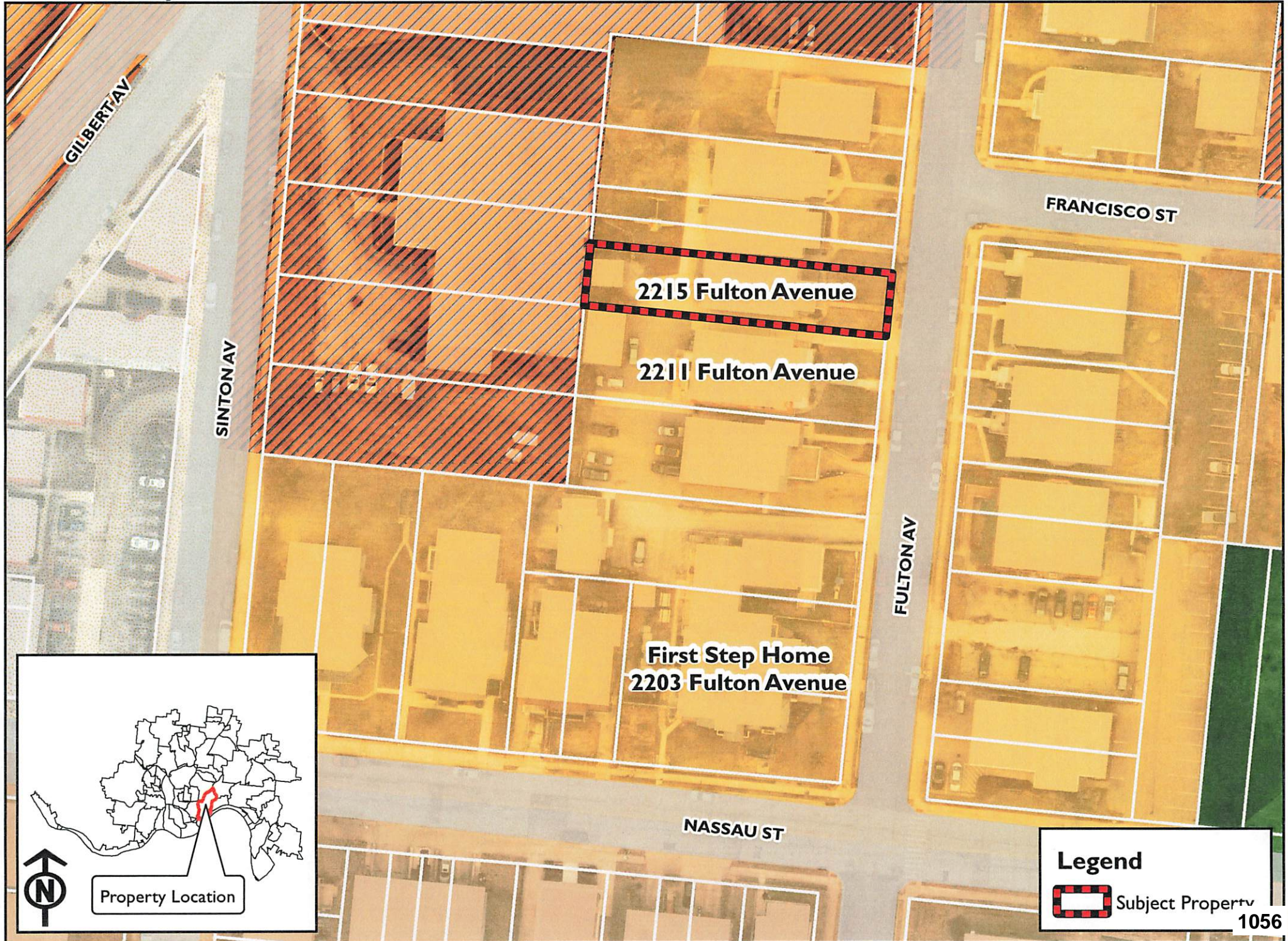
\_\_\_\_\_  
John Cranley, Mayor

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

**EXHIBIT A**

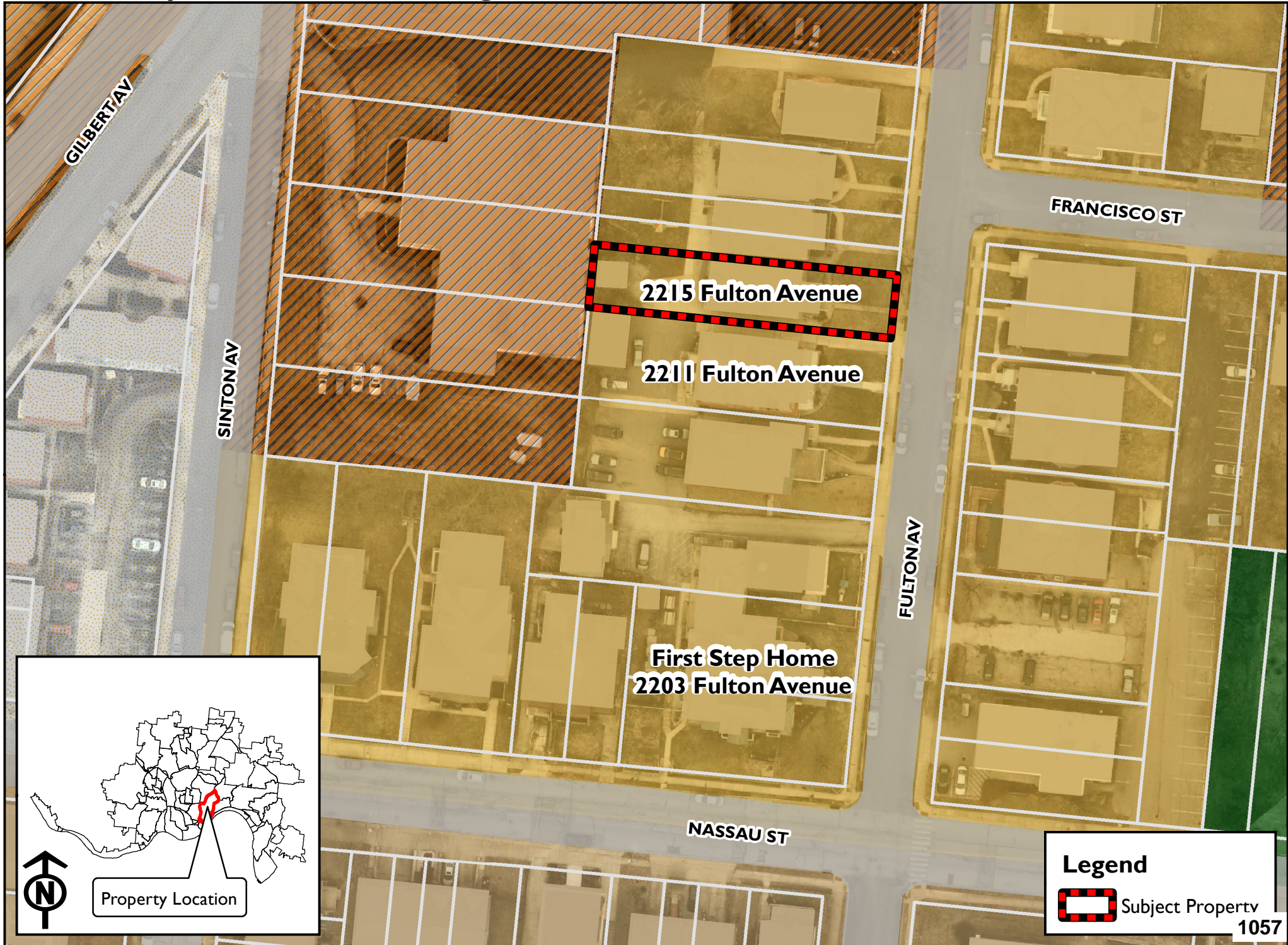


# Proposed Notwithstanding Ordinance at 2215 Fulton Avenue in Walnut Hills





# Proposed Notwithstanding Ordinance at 2215 Fulton Avenue in Walnut Hills



**June 4, 2021**

**Honorable City Planning Commission  
Cincinnati, Ohio**

**SUBJECT:** A report and recommendation on a proposed Notwithstanding Ordinance to permit an office use with no parking requirements in a Residential Mixed (RMX) zoning district at 2215 Fulton Avenue in Walnut Hills.

**GENERAL INFORMATION:**

**Location:** 2215 Fulton Avenue  
Cincinnati OH 45206

**Petitioner:** First Step Home Inc.  
2203 Fulton Avenue  
Cincinnati, OH 45206

**EXHIBITS:**

Provided in addition to this report are the following exhibits:

- Exhibit A Location Map
- Exhibit B Application
- Exhibit C Letter of Support

**BACKGROUND:**

The applicant, First Step Home, requests a Notwithstanding Ordinance to permit the rehabilitation of an existing residential structure at 2215 Fulton Avenue into office space in Walnut Hills. The subject property is located on Fulton Avenue, approximately 150-feet north of First Step Home's main administrative building at 2203 Fulton Avenue. The subject property is zoned Residential Mixed (RMX).

First Step Home is a non-profit organization that helps women break the cycle of addiction and abuse and become self-sufficient. The agency provides individual and group counseling, access to medical services, mental health assessments, life skills training, financial assistance, on-site childcare, and connections to job readiness programs. In addition, First Step Home offers a comprehensive child and family development program. Through the programs offered at First Step Home, women learn self-sufficiency and gain the ability to live drug-free with their children.

In 1999, First Step Home purchased the property at 2203 Fulton Avenue for use as a residential treatment facility. The property provided residential services to women and their children with some additional outpatient services. In 2010, First Step Home applied for a Notwithstanding Ordinance to allow the nonconforming use (transitional housing) to continue and to convert the existing carriage house into program space at 2203 Fulton Avenue. City Council granted the Notwithstanding Ordinance (Ordinance No. 2010-00222). This took place before the City Planning Commission reviewed Notwithstanding Ordinances for land use matters.

First Step Home applied for an additional Notwithstanding Ordinance in 2013 for their property located at 2211 Fulton Avenue. At that time, they proposed using the building exclusively for offices and meeting space to support the transitional housing property at 2203 Fulton Avenue. The City Planning Commission recommended approval of the Notwithstanding Ordinance, which City Council granted (Ordinance No. 2013-00098).



### **PROPOSED NOTWITHSTANDING ORDINANCE:**

First Step Home is requesting a third Notwithstanding Ordinance to permit an office use in an RMX zoning district at 2215 Fulton Avenue and to waive any associated parking requirements. First Step Home proposes using 2215 Fulton Avenue as the Family Unity Center that will house the new Child Resiliency Program as well as administrative personnel, group treatment facilities, and admissions staff. The Family Unity Center is a place for holistic services which will include treatment to enhance the bonding between women and their children. There is a focus on treatment for the whole family, including significant others, as First Step Home recognizes success in recovery requires the support of those close to the client and their children.

As part of their Notwithstanding Ordinance application, First Step Home also seeks relief from any associated parking requirements for the office use. Most of the women receiving treatment at First Step Home do not have a car and often utilize public transportation, rideshare companies, or are dropped off by family or friends. First Step Home does have several parking spaces among their properties located on Fulton Avenue and has a long-standing relationship with the church across the street which allows access to four parking spaces for staff and/or clients. Additionally, on-street parking exists along Fulton Avenue.

Approval of the requested Notwithstanding Ordinance will allow First Step Home to enhance and continue its services at 2215 Fulton Avenue.

#### *Rehabilitation of 2215 Fulton Avenue*

The rehabilitation will convert the existing residential building from housing to become the Family Unity Center offices where family outpatient programs take place. The first, second, and third floors will be included in the rehabilitation. Improvements to the first floor will make it ADA compliant. The first floor will have office spaces for a speech pathologist and child therapist, a child activity area, reception area and bathroom. The second floor will house treatment and administrative offices in addition to a bathroom. The third floor will be prepared for group offices for administration and programming, in addition to a bathroom and a small storage area.

The applicant is requesting relief through the Notwithstanding Ordinance for the following:

#### **Use (Sec. 1405-05)**

The proposed office use is not permitted in the RMX zoning district per Sec. 1405-05 of the Cincinnati Zoning Code. The proposed Notwithstanding Ordinance would formalize permission to use the property for offices.

#### **Parking (Sec. 1425-19-A)**

Per Sec. 1425-19-A of the Cincinnati Zoning Code, office uses require parking at a ratio of one space per 400 square feet. Based on the 3,552 square feet of gross floor area, nine parking spaces would be required for 2215 Fulton Avenue. The applicant is proposing zero off-street parking spaces.

### **PUBLIC COMMENT AND NOTIFICATION:**

The Department of City Planning held a virtual public staff conference on this proposed Notwithstanding Ordinance on May 17, 2021. Notices were sent to property owners within a 400-foot radius of the subject property and the Walnut Hills Area Council. There were four members of the petitioner's team present,

in addition to Department of City Planning staff members. No members of the public requested access to the meeting.

All property owners within a 400-foot radius of the subject property and the Walnut Hills Area Council were notified of the City Planning Commission meeting on May 20, 2021. The Walnut Hills Area Council submitted a letter of support for the proposed Notwithstanding Ordinance (Exhibit C). The letter highlights the importance of First Step Home's work and their history of being a good neighbor. Staff has not received any additional correspondence to-date.

### **ANALYSIS:**

The Department of City Planning has consistently taken a position to not support any Notwithstanding Ordinances because they do not comply with the Cincinnati Zoning Code that the department is charged with developing and enforcing. However, Cincinnati Municipal Code Section 111-5 establishes a list of factors by which a City Council committee may consider a notwithstanding ordinance application. As such, the City Planning Commission shall consider the following when making a recommendation on notwithstanding ordinances to City Council:

- 1) Whether the proposed application will not have an adverse effect on the character of the area or the public health, safety and welfare;

*The proposed use and rehabilitation of the building at 2215 Fulton Avenue will not have an adverse effect on the area. The rehabilitation and use of the building will provide much needed services and keep the older building in use.*

- 2) Whether the proposed application is consistent with the purposes of this code and the zoning district where the subject property is located including but not limited to:

- (a) Providing a guide for the physical development of the city.

*Not applicable to this application.*

- (b) Preserving the character and quality of residential neighborhoods.

*The proposed Notwithstanding Ordinance would permit the rehabilitation of an existing residential structure at 2215 Fulton Avenue into office space. By using the existing building, the character of the neighborhood is preserved, and the quality of the building will be improved as it undergoes a rehabilitation.*

- (c) Fostering convenient, harmonious and workable relationships among land uses.

*The predominant land use surrounding the subject property is transitional and multi-family housing which is compatible with the area. While the proposed use of 2215 Fulton Avenue is for offices, it will retain its appearance and blend seamlessly with the rest of the street.*

*First Step Home owns the properties along the west side of Fulton Avenue on this block. Several adjacent properties have apartments for women going through treatment. The addition of services allows First Step Home to provide a safe, effective campus for the women they serve.*

- (d) Achieving the arrangement of land uses described in the comprehensive plan for the development of the city as may have been adopted by council.

*The proposed Notwithstanding Ordinance is consistent with Plan Cincinnati (2012) (see "Consistency with Plans" for further analysis).*

- (e) Promoting the economic stability of existing land uses and protecting them from intrusions by inharmonious or harmful land uses.

*First Step Home has operated on Fulton Avenue for over 20 years. The proposed Notwithstanding Ordinance will permit them to expand their operations in a building designed to meet the needs of their programs.*

- (f) Providing opportunities for economic development and new housing for all segments of the community.

*Not applicable to this application.*

- (g) Creating pedestrian-friendly environments to reduce reliance on the automobile for travel.

*The subject property is located within 0.10 miles walking distance of Gilbert Avenue and 0.20 miles of the E. McMillan Street and Gilbert Avenue intersection. The location provides staff and clients of First Step Home with access to twelve bus stops along four bus lines (SORTA Routes 1, 4, 11, and 31), all within a five-minute walk.*

- (h) Preventing excessive population densities and overcrowding of land or buildings.

*The proposed Notwithstanding Ordinance would permit an office use in a building currently being used in a residential capacity; no additional density or overcrowding is anticipated.*

- (i) Ensuring the provision of adequate open space for light, air and fire safety.

*The proposed Notwithstanding Ordinance does not provide a variance from any other laws of the City of Cincinnati. The owner would need to abide by the building code and fire regulations outlined in the Cincinnati Municipal Code.*

- (j) Ensuring that development is compatible with the environment, particularly on the hillsides and along the riverfront.

*Not applicable to this application.*

- (k) Promoting the conservation, protection, restoration and enhancement of the historic resources of the city.

*The subject property is not located within a historic district. The proposed Notwithstanding Ordinance would permit the rehabilitation of an existing buildings, preserving the built character on the street.*

- (l) Lessening congestion in the public streets by providing for off-street parking and loading areas for commercial vehicles.

*According to Sec. 1425-19-A of the Cincinnati Zoning Code, a total of nine parking spaces are required for the offices at 2215 Fulton Avenue. The proposal*

*does not provide any off-street parking, and thus seeks relief through the Notwithstanding Ordinance. As previously stated, many of the women receiving treatment at First Step Home do not have a car and often utilize public transportation, rideshare companies, or are dropped off by family or friends. There is parking provided among their properties and at the church across the street, in addition to on-street parking.*

- (m) Providing effective signage that is compatible with the surrounding urban environment.

*Proposed signage for the building was not submitted as part of the application. However, a condition of the proposed Notwithstanding Ordinance is that the property shall remain subject to all other provisions of the Cincinnati Municipal Code, including the RMX, "Residential Mixed," zoning district. This would include any signage regulations.*

- (n) Setting standards by which a nonconforming use may continue to function and to provide for the adaptive reuse of nonconforming buildings.

*One of the recommended conditions, should the City Planning Commission approve the proposed Notwithstanding Ordinance, is that the use of the property should not be considered a nonconforming use.*

### **CONSISTENCY WITH PLANS:**

#### *Plan Cincinnati (2012)*

The proposed Notwithstanding Ordinance is consistent with *Plan Cincinnati* (2012) in the Sustain Initiative Area, specifically the Goal to "Become a healthier Cincinnati" (page 81). First Step Home empowers women to overcome substance abuse disorders and mental health related issues. The proposed Notwithstanding Ordinance would permit First Step Home to expand their existing social services.

#### *Walnut Hills Reinvestment Plan (2017)*

The proposed Notwithstanding Ordinance and this specific area of the neighborhood are not addressed in the *Walnut Hills Reinvestment Plan* (2017). The Plan does have an *Action Item* to "Invest in People, Places, and Homes" (page 42). First Step Home's mission to "help women achieve self-sufficiency and provide a safe and nurturing environment for their children" speaks directly to investing in people.

### **CONCLUSIONS:**

The proposed Notwithstanding Ordinance would permit an office use in an RMX zoning district at 2215 Fulton Avenue and waive all associated parking requirements. Approval of the requested Notwithstanding Ordinance will allow First Step Home to respond to the increased demand for their services in the community and expand their offerings of treatment services while preserving an existing building. The requested relief through the Notwithstanding Ordinance has been found to be reasonable considering the use of Notwithstanding Ordinances for First Step Home on this block and the parking arrangements that have already been made. The proposed Notwithstanding Ordinance is consistent with portions of the *Walnut Hills Reinvestment Plan* (2017) and *Plan Cincinnati* (2012).

The Department of City Planning has consistently taken the position to not support any Notwithstanding Ordinances for land use decisions because they do not comply with the zoning laws that the department is charged with developing and enforcing.

**RECOMMENDATION:**

The staff of the Department of City Planning recommends that the City Planning Commission take the following action:

**DENY** the Notwithstanding Ordinance to permit an office use in the Residential Mixed (RMX) zoning district at 2215 Fulton Avenue in Walnut Hills.

- 1) The Department of City Planning cannot support any Notwithstanding Ordinances for land use decisions because the ordinances do not comply with the zoning laws that the Department of City Planning is charged with developing and enforcing.

If the City Planning Commission decides to recommend approval of the Notwithstanding Ordinance, the City Planning Commission should consider the following conditions:

- 1) The renovations at 2215 Fulton Avenue must substantially conform to the project specifications outlined in this report and the applicant will provide all required items for building permit review.
- 2) The Notwithstanding Ordinance does not provide a variance from any other laws of the City of Cincinnati, and the properties shall remain subject to all other provisions of the Cincinnati Municipal Code, RMX, "Residential Mixed," zoning district.
- 3) The use of the property should not be considered a nonconforming use.

Respectfully submitted:



Stacey Hoffman, Senior City Planner  
Department of City Planning

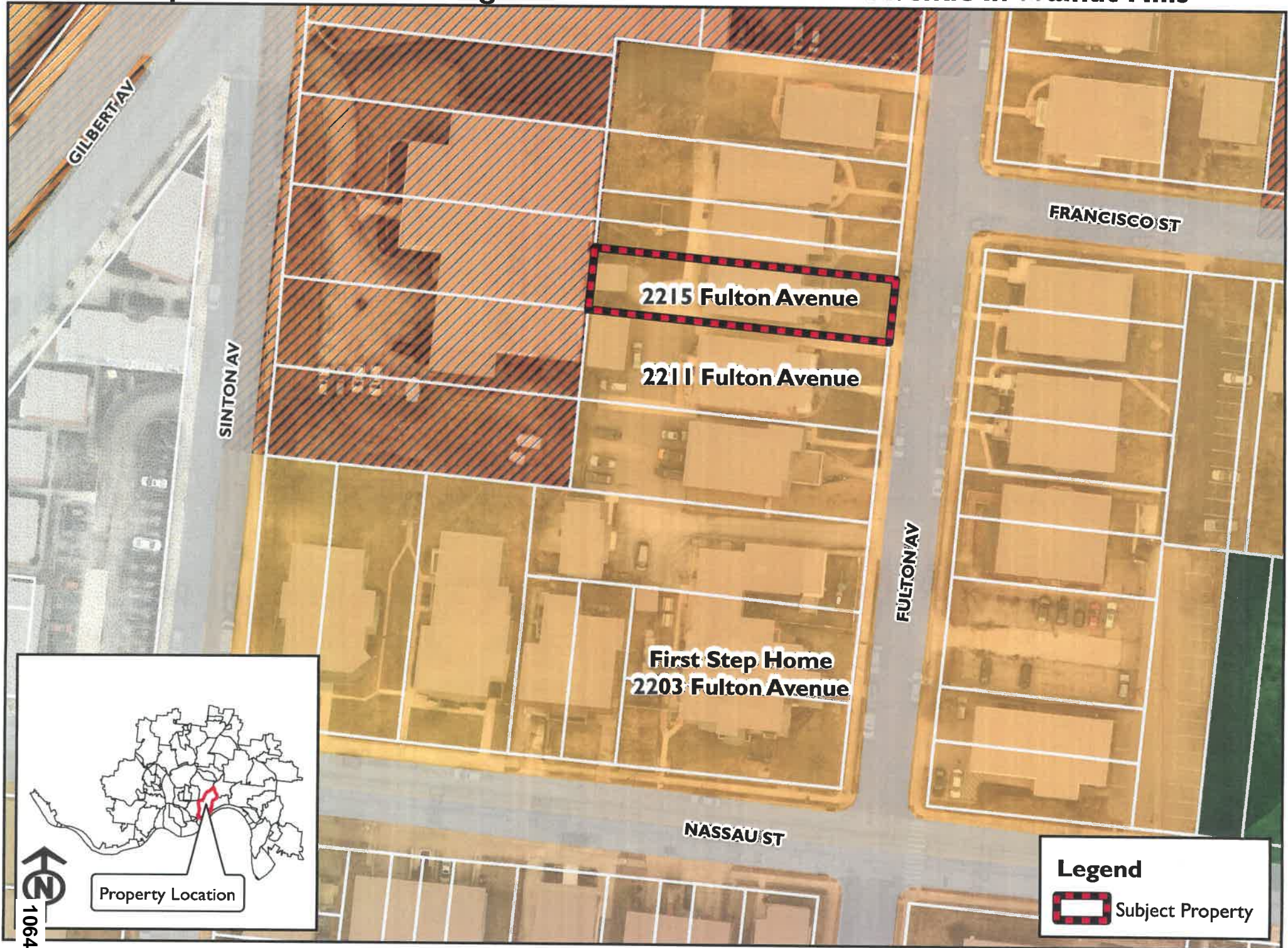
Approved:



Katherine Keough-Jurs, AICP, Director  
Department of City Planning



# Proposed Notwithstanding Ordinance at 2215 Fulton Avenue in Walnut Hills





# Exhibit B



805 CENTRAL AVE, SUITE 720  
CINCINNATI OHIO 45202  
P 513 352 3271  
F 513 352 2579  
WWW.CINCINNATI-OH.GOV  
CAGIS.HAMILTON-CO.ORG

**Notwithstanding  
Ordinance Application**

INITIALIZED BY

## Part A - Identification

Subject Property Address (Please print in blue or black ink only) 2215 Fulton Ave.		
Applicant - Name (Print) First Step Home, Margo Spence, President & CEO	Phone No 513.961.4663 ext. 106	E-mail Address margo.spence@firststephome.org
Street Number & Name 2211 Fulton Ave.	City / State / Zip Code Cincinnati, OH 45206	Phone No / Fax No 513.961.4663
Relationship of Applicant to Owner: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Lessee <input type="checkbox"/> Attorney		
Property Owner - Name (Print) First Step Home, Margo Spence, President & CEO	Phone No 513.961.4663 ext. 106	E-mail Address margo.spence@firststephome.org
Street Number & Name 2211 Fulton Ave.	City / State / Zip Code Cincinnati, OH 45206	Phone No / Fax No 513.961.4663

## Part B - Submission Requirements (Please provide the following for a complete application)

1. A copy of the zoning map showing the subject property. A copy may be obtained through the Zoning Administration by emailing [zoninginfo@cincinnati-oh.gov](mailto:zoninginfo@cincinnati-oh.gov) or by calling (513) 352-2430.
2. A written statement outlining all of the practical difficulties created by following existing legislative and administrative procedures.
3. Submit one (1) paper copy and one (1) digital copy of the application to the Director of City Planning at 805 Central Avenue, Suite 720, Cincinnati, Ohio 45202. Payment must be included with the application. (Payable to the City of Cincinnati)

## Part C - Authorization

The applicant or agent undersigned does hereby certify that the information and statements given on the application, drawings, and inspections are to the best of their knowledge, true and correct. The undersigned further certifies their authorization to grant consent to the inspection by employees of the City of Cincinnati of the described premises at any time when work on those premises is ongoing and hereby grants their consent.

Applicant's Signature Margo Spence  Date 3-24-2021

## FOR OFFICE USE ONLY

Reviewed By:  Processing Fee \$1000 PD BY ✓ # 58884  
City Planning Staff 4/23/2021 Date Application Complete

## **Notwithstanding Ordinance Application**

### **General Information:**

Location: 2215 Fulton Ave, Cincinnati, Ohio 45206

Petitioner: First Step Home Inc.

Petitioner's Address: 2203 Fulton Ave, Cincinnati, Ohio 45206

**Attachment:** Zoning Map

### **Background:**

First Step Home Inc. ("FSH") is the owner of 2215 Fulton Ave, Cincinnati, Ohio 45206.

First Step Home is requesting a notwithstanding ordinance for 2215 Fulton Ave. to continue to better serve the women and their children receiving treatment and living on its campus. FSH's mission is to empower women to overcome substance abuse disorders so that they can achieve self-sufficiency and provide a safe and nurturing environment for their children.

Currently, 2215 Fulton Ave. is zoned RMX (Residential Mixed) which prohibits office use. The existing two-family residential facility currently contains approximately 3,940 square foot of residential space.

FSH is requesting a notwithstanding ordinance which will allow the property to be used for offices, therefore, allow us to provide a safe, effective campus for the women FSH serves. Increased demand for services in our community necessitates FSH's expansion of treatment services. The current RMX zoning does not allow FSH to appropriately respond to that demand. FSH's main administrative building is located at 2203 Fulton with additional offices at 2211 Fulton. Both properties have received notwithstanding ordinances, in 2010 and 2013 respectively. Several adjoining properties have apartments for the women going through treatment. The City has provided notwithstanding ordinances in the past to support FSH's treatment of women and their children in our community. The NWO has been the most effective and efficient mechanism for the City to respond in a timely fashion as other methods are not readily available.

The rehabilitation will include first, second and third story rehab and construction:

- Rehabilitation of 2215 Fulton Ave from housing to become the Family Unity Center offices and family outpatient programs
- Electrical and HVAC work in basement
- Making the first floor ADA accessible with a ramp and wheelchair accessible bathroom
- Making the first floor ready for a Child Resiliency Program office, 'play-room' for the children in treatment, including therapist room, waiting/greeting area in the front hall, kitchenette, and rehabbed bath.
- Making the second floor ready for treatment and administrative offices and bathroom
- Making a new staircase from the second floor to the third floor
- Making the third floor ready for group offices for administration and programming

The Family Unity Center will house the new Child Resiliency Program as well as administrative personnel, group treatment facilities and admissions staff. The Family Unity Center is a place for holistic services which will include treatment to enhance the bonding between women and their babies and children. There will be a strong emphasis on trauma and other mental health related issues, with a focus on

treatment for the whole family, including significant others, as FSH recognizes success in recovery requires the support of those close to the client and their children.

The first floor will have office spaces for a speech pathologist and child therapist, a child activity area, reception area and bathroom. The second floor will have offices for the associate accountant, an assistant accountant, and a development associate, a bathroom and a small storage area. The third floor will have offices for two Intensive Outpatient Therapists, project manager, and other personnel. Rehabbing the third floor allows us room for growth as an agency and frees up space in our main treatment facility, bringing staff over to create more room for beds for clients and their children in residential treatment.

FSH also respectfully requests that any associated parking requirement for office use at the property also be waived or included in the notwithstanding ordinance. Most of the women receiving treatment at FSH do not have a car. They utilize public transportation, rideshare companies like Uber/Lyft or are dropped off by friends or family. FSH does have a number of parking spaces "on campus" and has a long-standing relationship with the church across the street which allows access to 4 parking spaces for staff and/or clients. On any given day, there is adequate availability of parking in the general vicinity of the property including on-street parking.

2236 GILBERT LLC  
7395 DRAKE RD  
CINCINNATI, OH 45243

ADVANCE LINKS LLC  
3745 HARVARD ACRES  
CINCINNATI, OH 45227

ATAMAN, CLAIRE NEMIDE  
2158 SINTON AVE  
CINCINNATI, OH 45206

BERGER, KIMBERLY  
2160 SINTON AVE  
CINCINNATI, OH 45206

BINFORD PROPERTIES LLC  
2471 LEGENDS WAY  
FT MITCHELL, KY 41017-3480

BROWN, TIANNA  
927 NASSAU ST  
CINCINNATI, OH 45206

BYES, KENNETH  
919 NASSAU ST  
CINCINNATI, OH 45206

CABLE HOUSE PROPERTIES LLC  
2245 GILBERT AVE  
CINCINNATI, OH 45206

CARGILE, OBIE L @11  
2225 ST JAMES AVE  
CINCINNATI, OH 45206

CINCINNATI CHURCH OF THE  
BRETHREN  
950 NASSAU ST  
CINCINNATI, OH 45206

CINCINNATI METROPOLITAN  
HOUSING AUTHORITY  
1635 WESTERN AVE  
CINCINNATI, OH 45214

FIRST STEP HOME HOLDINGS LLC  
2211 FULTON AVE  
CINCINNATI, OH 45206

THE FIRST STEP HOME INC  
2118 ST MICHAEL ST  
CINCINNATI, OH 45204

THE FIRST STEP HOME INC  
2203 FULTON AVE  
CINCINNATI, OH 45206

FULTON CHATEAU LTD  
7778 E KEMPER RD  
CINCINNATI, OH 45249

FULTON HOTEL INC  
2208 FULTON AVE  
CINCINNATI, OH 45206

GILBERT AVENUE  
DEVELOPMENT 2020 LLC  
2550 WOODBURN AVE  
CINCINNATI, OH 45206

GONZALEZ, JULIO  
4159 ALLENDALE DR APT  
CINCINNATI, OH 45209

GOODMAN, FREDERICK  
2221 SAINT JAMES AVE  
CINCINNATI, OH 45206-2614

HAJJAR, MAJED  
906 NASSAU ST  
CINCINNATI, OH 45206

HAMILTON COUNTY LAND  
REUTILIZATION CORPORATION  
3 EAST FOURTH STREET  
CINCINNATI, OH 45202

HOME STAY I LLC  
3608 EASTERN AVE  
CINCINNATI, OH 45226

HYDE PARK REALTY INVESTMENTS  
4960 RIDGE AVE  
CINCINNATI, OH 45209

IIKUBO, TOMO  
3081 PROMENADE CIR  
ANN ARBOR, MI 48108

JACKSON, KATRINA & JOHN  
929 NASSAU STREET  
CINCINNATI, OH 45206

KRAMER, STEVEN  
917 NASSAU ST  
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LEY, DANIEL  
2164 SINTON AVE  
CINCINNATI, OH 45206

OHAIR, JANET  
2217 SAINT JAMES AVE  
CINCINNATI, OH 45206-2614

POINDEXTER, DAVID & BRENDA  
800 STANTON AVE  
TERRACE PARK, OH 45174

RICHARD, LISA &  
STEVEN WESLEY CROUT  
957 NASSAU ST  
CINCINNATI, OH 45206-2624

ROTH, DAVID  
c/o RAW PROPERTY MGMT  
5535 COLERAIN AVE  
CINCINNATI, OH 45239

RUFFIN, MYKEA  
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SECOND TRINITY BAPTIST CHURCH  
911 NASSAU ST  
CINCINNATI, OH 45206

SMITH, SUNGIA  
921 NASSAU ST  
CINCINNATI, OH 45206

SPIEGEL, ROGER & MARY  
2150 UNION CHAPEL RD  
BATAVIA, OH 45103

STRADTMAN, DANA & ROBERT  
959 FRANCISCO ST  
CINCINNATI, OH 45206

TEMPLETON, GARY  
955 FRANCISCO ST  
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VINSON, LYNNETTE  
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963 FRANCISCO ST  
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YOUNGBLOOD, DORENE  
961 FRANCISCO  
CINCINNATI, OH 45206

WALNUT HILLS AREA COUNCIL  
2640 KEMPER LANE  
CINCINNATI, OH 45206



area  
council

2640 kemper lane  
cincinnati ohio 45206

[www.wearewalnuthills.org](http://www.wearewalnuthills.org)

August 28, 2020

Honorable Mayor John Cranley  
City Council Members  
801 Plum Street  
Cincinnati, Ohio 45202

Delightful Day:

The Walnut Hills Area Council (WHAC) supports First Step Home's ongoing efforts to enhance their services to children through the Child Resiliency Program. The WHAC has been a supporter of First Step Home since they first joined the fabric of our community over twenty-years ago. The ability of First Step Home to recognize the importance of the mothers' role, in breaking the cycle of addiction and returning to society as productive mothers and citizens - without separating parent & child has been an innovation that the WHAC has fully supported. The Child Resiliency Program which enhances mental health, speech and medical services for children in their care is First Step Home's next innovation.

Launched in 2019 the Child Resiliency Program has been a success during its first year. It does require additional and coordinated space to provide specialized services for the children of their clients and First Step Home has identified one of the homes that they currently own as the Family Unity Center. The house is located at 2215 Fulton Avenue. The building will provide them a reasonable investment level compared with buying a new building or using a building that would need extensive additions. First Step Home shared with the WHAC they anticipate treating about 150 children, women, and families in the Family Unity Center next year.

As, I stated earlier, the WHAC has been a supporter of First Step Home since they first joined the fabric of our community over twenty-years ago; we are impressed with the work they do and the resources they rally around women who are in need of services and housing.

Share your joy,

A handwritten signature in black ink that reads 'K. Gardette'.

Kathryne Gardette  
President, Walnut Hills Area Council

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CINCINNATI, OH 45243

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961 FRANCISCO  
CINCINNATI, OH 45206

WALNUT HILLS AREA COUNCIL  
2640 KEMPER LANE  
CINCINNATI, OH 45206



June 9, 2021

Cincinnati City Council  
Council Chambers, City Hall  
Cincinnati, Ohio 45202

Dear Members of Council:

We are transmitting hereith an Emergency Ordinance captioned as follows:

**AUTHORIZING** the existing building located at 2215 Fulton Avenue in the Walnut Hills neighborhood to be renovated and used as an office NOTWITHSTANDING the provisions of Section 1405-05, "Land Use Regulations," of Chapter 1405, "Residential Multi-Family," and Section 1425-19-A, "Off-Street Parking and Loading Requirements," of Chapter 1425, "Parking and Loading Regulations," of the Cincinnati Zoning Code and any other applicable provisions of the Cincinnati Zoning Code and the Cincinnati Municipal Code.

**Summary:**

First Step Home requested a Notwithstanding Ordinance to permit an office use in a Residential Mixed (RMX) zoning district at 2215 Fulton Avenue and waive all associated parking requirements. Approval of the requested Notwithstanding Ordinance will allow First Step Home to respond to the increased demand for their services in the community and expand their offerings of treatment services while preserving an existing building.

First Step Home proposes using 2215 Fulton Avenue as the Family Unity Center that will house the new Child Resiliency Program as well as administrative personnel, group treatment facilities, and admissions staff. First Step Home also seeks relief from any associated parking requirements for the office use. Most of the women receiving treatment at First Step Home do not have a car and often utilize public transportation, rideshare companies, or are dropped off by family or friends. First Step Home does have several parking spaces among their properties located on Fulton Avenue and has a long-standing relationship with the church across the street which allows access to four parking spaces for staff and/or clients. Additionally, on-street parking exists along Fulton Avenue.

The requested relief through the Notwithstanding Ordinance has been found to be reasonable considering the use of Notwithstanding Ordinances for First Step Home on this block and the parking arrangements that have already been made. The proposed Notwithstanding Ordinance is consistent with portions of the *Walnut Hills Reinvestment Plan* (2017) and *Plan Cincinnati* (2012).

The Department of City Planning has consistently taken the position to not support any Notwithstanding Ordinances for land use decisions because they do not comply with the zoning laws that the department is charged with developing and enforcing.

The City Planning Commission recommended the following on June 4, 2021 to City Council:

**APPROVE** the Notwithstanding Ordinance to permit an office use in the Residential Mixed (RMX) zoning district at 2215 Fulton Avenue in Walnut Hills with the following conditions:

- 1) The renovations at 2215 Fulton Avenue must substantially conform to the project specifications outlined in this report and the applicant will provide all required items for building permit review.

- 2) The Notwithstanding Ordinance does not provide a variance from any other laws of the City of Cincinnati, and the properties shall remain subject to all other provisions of the Cincinnati Municipal Code, RMX, "Residential Mixed," zoning district.
- 3) The use of the property should not be considered a nonconforming use.

Motion to Approve: Mr. Samad

Ayes:

Mr. Juech  
Ms. McKinney  
Mr. Samad  
Mr. Smitherman  
Mr. Stallworth

Seconded: Mr. Smitherman

#### THE CITY PLANNING COMMISSION



Katherine Keough-Jurs, AICP, Director  
Department of City Planning and Engagement

June 9, 2021

To: Sheila Andrews, Office of the Clerk of Council

From: Katherine Keough-Jurs, AICP, Director *KKJ*  
Department of City Planning and Engagement

Copies to: Stacey Hoffman, Senior City Planner

Subject: Emergency Ordinance – Notwithstanding Ordinance Authorizing Use of 2215  
Fulton Avenue as Offices and Waiving Parking Requirements for First Step  
Home

---

The above referenced emergency ordinance is ready to be scheduled for Committee. We are requesting that this item be scheduled for the next available meeting of the Economic Growth & Zoning Committee. This item requires a public hearing following a required 14-day notification period by mail and in the City Bulletin.

Included in this submission are the following items:

- 1) The transmittal letter to the Economic Growth & Zoning Committee;
- 2) A copy of the City Planning Commission staff report dated June 4, 2021;
- 3) The Emergency Ordinance **AUTHORIZING** the existing building located at 2215 Fulton Avenue in the Walnut Hills neighborhood to be renovated and used as an office **NOTWITHSTANDING** the provisions of Section 1405-05, "Land Use Regulations," of Chapter 1405, "Residential Multi-Family," and Section 1425-19-A, "Off-Street Parking and Loading Requirements," of Chapter 1425, "Parking and Loading Regulations," of the Cincinnati Zoning Code and any other applicable provisions of the Cincinnati Zoning Code and the Cincinnati Municipal Code;
- 4) The mailing labels for notification of all property owners within the 400-feet of the subject property and the Walnut Hills Area Council; and
- 5) A copy of the mailing labels for your records

June 9, 2021  
202102149

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

**From:** Paula Boggs Muething, City Manager

**Subject:** Ordinance – Urban Parking Overlay District #2: Camp Washington

---

Transmitted is an Ordinance captioned:

ESTABLISHING Urban Parking Overlay District #2, “Camp Washington,” in the Camp Washington neighborhood as an urban parking overlay district to lift minimum off-street parking requirements in the area.

Summary

On August 7, 2013, Cincinnati City Council approved Ordinance 259-2013 which allows City Council to create Urban Parking Overlay Districts over certain portions of the City. On September 19, 2019, Cincinnati City Council approved Ordinance 293-2018 which created Urban Parking Overlay District #1: Urban Core over Downtown, Over-the-Rhine, Pendleton, and parts of Mt. Auburn and West End.

On March 1, 2021, the Camp Washington Community Board formally requested an Urban Parking Overlay District, along with a map of the desired boundary. The proposal is to create Urban Parking Overlay District #2, “Camp Washington”, in a portion of Camp Washington, as an overlay district to eliminate all off-street parking requirements in the area within the Overlay District, except for the physical location of parking, should any be provided.

Minimum parking requirements are not designed to promote a high-density, walkable, pedestrian-friendly, and mixed-use environment, as well as a strong sense of character of place. The Camp Washington Community Board made the request, and the Camp Washington Community Council and Business Association have provided letters of support. This proposal is consistent with the approved Camp Washington neighborhood plan: *Made in Camp* (2018) and *Plan Cincinnati* (2012).

The City Planning Commission voted to approve the zone change at their June 4, 2021 meeting.

The Administration recommends Approval of this Ordinance.

cc: Katherine Keough-Jurs, AICP, Director   
Department of City Planning and Engagement





# City of Cincinnati

DBS

AWB

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

- 2021

**ESTABLISHING** Urban Parking Overlay District #2, “Camp Washington,” in the Camp Washington neighborhood as an urban parking overlay district to lift minimum off-street parking requirements in the area.

WHEREAS, the Camp Washington neighborhood contains a high-density, mixed-use, urban environment that promotes and encourages walkability and provides the foundation for a healthy and attractive neighborhood; and

WHEREAS, lifting minimum off-street parking requirements in certain designated areas of the Camp Washington neighborhood will encourage and promote physical development that strengthens the desirable characteristics of the urban neighborhood; and

WHEREAS, the reduction or elimination of minimum off-street parking requirements will further promote development in Camp Washington as these requirements increase the cost of development and therefore pose a major obstacle to the redevelopment of Camp Washington, the reutilization of existing buildings, and the conversion of existing buildings to more productive uses; and

WHEREAS, the proposed urban parking overlay district applies only to off-street parking regulations and will not affect the off-street loading requirements of the Cincinnati Municipal Code; and

WHEREAS, the City Planning Commission at its regularly scheduled meeting on June 4, 2021 affirmatively recommended that the City Council establish an urban parking overlay district for the Camp Washington neighborhood to lift minimum off-street parking requirements in that area; and

WHEREAS, a committee of Council held a public hearing on the proposed urban parking overlay district following due and proper notice pursuant to Cincinnati Municipal Code Section 111-1, and the committee approved the establishment of an urban parking overlay district for the Camp Washington neighborhood, finding it in the interest of the general public’s health, safety, and welfare; and

WHEREAS, the Council finds that establishing an urban parking overlay district for the Camp Washington neighborhood is consistent with Plan Cincinnati (2012), including the Strategy under Goal 2 in the Live Initiative Area to “Become more walkable” (p. 157) and the Strategy under Goal 2 of the Sustain Initiative Area to “Preserve our built history,” which specifically recommends that the City “develop changes to zoning regulations to remove barriers to the adaptive reuse of buildings” (p.197); and

WHEREAS, the Council finds that establishing an urban parking overlay district for the Camp Washington neighborhood is consistent with the Made in Camp Plan (2018), including the recommendation to “[d]o something dramatic to jumpstart the business district” (p.19) and to “analyze parking requirements and make necessary changes” (p. 23); and

WHEREAS, the Council further finds that the proposed urban parking overlay district is in the interest of the general public’s health, safety, and welfare; now, therefore,

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

Section 1. That, pursuant to Cincinnati Municipal Code 1425-04, the area of the City of Cincinnati’s official zoning map shown on the map attached hereto as Exhibit A and incorporated by reference is hereby amended to superimpose Urban Parking Overlay District #2, “Camp Washington,” over the existing zoning district within the designated area.

Section 2. That Cincinnati Municipal Code Sections 1425-03, 1425-05, 1425-07, 1425-09, 1425-19, and 1425-21 are hereby declared inoperable in Urban Parking Overlay District #2, “Camp Washington,” to the extent they require the establishment, provision, or maintenance of off-street parking requirements. That Cincinnati Municipal Code Sections 1425-03, 1425-05, 1425-07, 1425-09, 1425-19, and 1425-21 shall continue to have an operative effect in Urban Parking Overlay District #2, “Camp Washington,” to the extent they require the establishment, provision, or maintenance of loading facilities.

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

Passed: \_\_\_\_\_, 2021

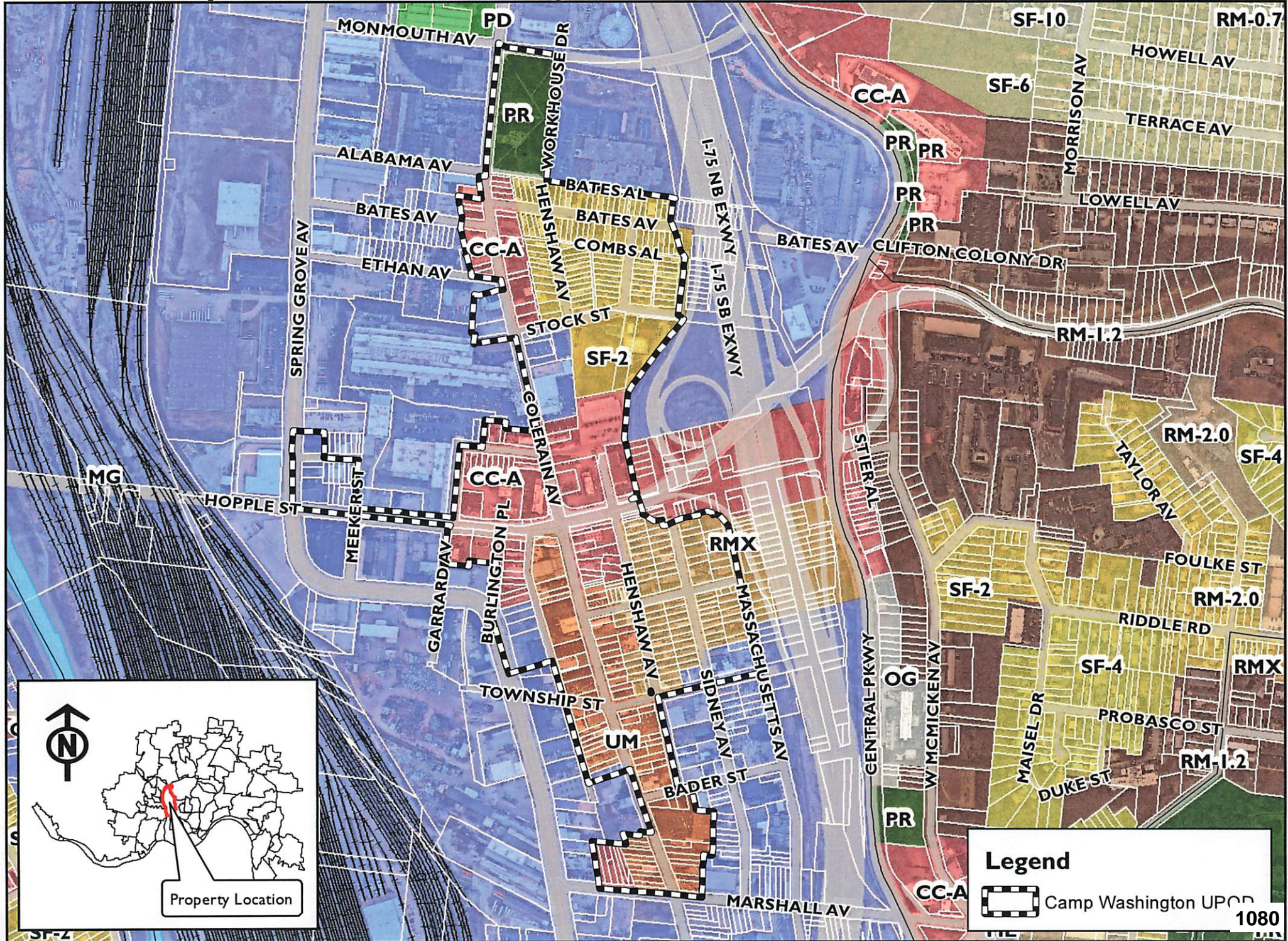
\_\_\_\_\_  
John Cranley, Mayor

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

**EXHIBIT A**

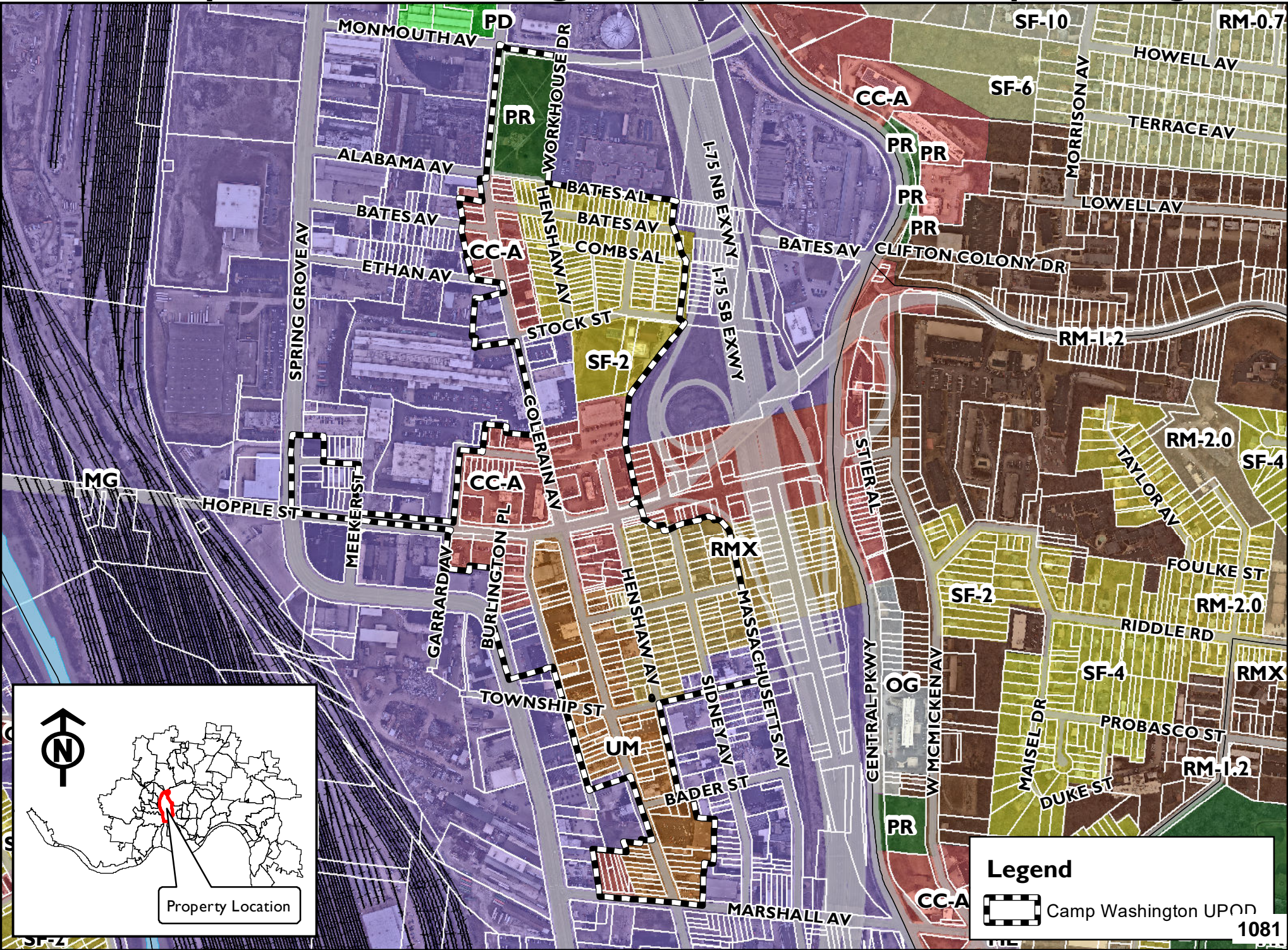


# Ex.A: Proposed Urban Parking Overlay District #2: Camp Washington





# Ex.A: Proposed Urban Parking Overlay District #2: Camp Washington





**SUBJECT:** A report and recommendation on a proposed map amendment to add Urban Parking Overlay District #2: "Camp Washington", as outlined in § 1425-04 - Urban Parking Overlay Districts in the Cincinnati Zoning Code, to a portion of Camp Washington.

**ATTACHMENTS:**

Provided, in addition to this report, are the following attachments:

- Exhibit A – Location Map
- Exhibit B – Request for an Urban Parking Overlay District from Camp Washington Community Board
- Exhibit C – Letter of Support from Camp Washington Community Council
- Exhibit D – Letter of Opposition from Christopher Cain

**BACKGROUND:**

On August 7, 2013, Cincinnati City Council approved Ordinance 259-2013 for text amendments to the Cincinnati Zoning Code (CZC) to modify Chapter 1411, "Downtown Development Districts" and Chapter 1425, "Parking and Loading Regulations" to reduce the minimum parking requirements for residential uses in the Downtown neighborhood of Cincinnati and to create Urban Parking Overlay Districts to make it possible for City Council to eliminate minimum parking requirements in the areas it determines to be appropriate. § 1425-04 of the CZC, that allows City Council to establish Urban Parking Overlay Districts within which the provisions of Sections 1425-03, 1425-05, 1425-07, 1425-09, 1425-11, 1425-13, 1425-17, 1425-19, 1425-21, and 1425-23 of the Zoning Code, do not apply.

In early 2019, Camp Washington requested a zone change in the southern portion of their Neighborhood Business District (NBD) to Urban Mix to fulfill a recommendation of the recently approved *Made in Camp* (2018) plan to create a mixed-use NBD (p.11). During the zone change process, Urban Parking Overlay District no. 1: "Walkable Urban Core" was being established in Downtown, Over-the-Rhine, Pendleton, and portions of Mount Auburn and West End. Seeing this, Camp Washington leaders and some property owners expressed interest in potentially applying an Urban Parking Overlay District (UPOD) in a portion of Camp Washington.

On March 1, 2021, the Camp Washington Community Board formally requested an Urban Parking Overlay District, along with a map of the desired boundary (Exhibit B). The proposal is to create Urban Parking Overlay District #2, "Camp Washington", in a portion of Camp Washington, as an overlay district to eliminate all off-street parking requirements in the area within the Overlay District, except for the physical location of parking, should any be provided.

The boundary, which was requested by the Camp Washington Community Board as shown in Exhibit B, contains all of the non-Manufacturing General zoning that isn't I-75 right-of-way, with the exception of Planned Development 39 (PD-39) and Planned Development 90 (PD-90). It also includes the northwest corner of Spring Grove Avenue and Hopple Street as these buildings have commercial or residential character.

**PUBLIC COMMENT:**

A public staff conference was held on May 18, 2021. Notice was sent to every property owner in the proposed Urban Parking Overlay District, along with the Camp Washington Community Board and Camp Washington Community Council. Eight members of the public attended the public staff conference. Everyone was generally in support of the proposal, including some business owners who were waiting for this proposal to go through before making additional investments in the neighborhood. There were questions as to what might happen for residential property that does not have off-street parking, as Camp Washington continues to revitalize. The Camp

Washington Community Board stated they are working on a public parking lot for the Camp Washington Neighborhood Business District (NBD), which should help. The UPOD could be modified or eliminated based on the wishes of the neighborhood or combined with other programs, such as residential permit parking.

Staff has also received several emails phone calls on this proposal. The correspondence received has either been in support of the proposal or questions as to why a notice was sent and how the proposal would affect the property owner. Staff did receive one letter of opposition, which is attached as Exhibit D.

### **ANALYSIS:**

The existing parking regulations do not promote a high-density, walkable, pedestrian-friendly, and mixed-use environment, as well as a strong sense of character of place. Lifting existing parking requirements can help create and maintain the urban form desired in Camp Washington, which is an area of higher density, established before both automobiles and zoning regulations were common practice.

Under existing regulations, the minimum parking requirements for much of Camp Washington are already effectively eliminated or severely reduced. For all commercial uses in Camp Washington, the first 2,000 square feet of gross floor area is exempt from the parking requirements and may be further reduced or eliminated if within 600 feet of existing parking.

Camp Washington contains a high-density, mixed-use urban environment that promotes and encourages walkability and provides the foundation for a healthy and attractive neighborhood. *Plan Cincinnati* (2012) supports the enhancement and increase of compact and walkable development, as does *Made in Camp* (2018). This is a desirable goal that will promote larger societal goals, such as environmental and fiscal sustainability, equity, small business development, and preservation of historic architecture.

The proposed elimination of minimum off-street parking requirements removes an obstacle to the redevelopment of the Camp Washington, reutilization of existing buildings, and the conversion of buildings to more productive uses.

### **CONSISTENCY WITH PLANS:**

*Plan Cincinnati* (2012) recommends, in the short range, to “Revise the City’s Building and Zoning Codes [...] with standards that emphasize traditional neighborhood development over suburban development” (p. 157) and to “Develop changes to zoning regulations to remove barriers to the adaptive reuse of buildings” (p. 197).

*Made in Camp* (2018) recommends to “Do something dramatic to jumpstart the business district” (p.19) and to “analyze parking requirements and make necessary changes” (p. 23).

The existing minimum parking regulations emphasize suburban development patterns, obstruct the renovation and rehabilitation of existing buildings, and endanger the urban fabric and historic character of the city, by attempting to provide parking for all vehicles, contrary to the recommendations of these plans.

### **CONCLUSIONS:**

Minimum parking requirements are not designed to promote a high-density, walkable, pedestrian-friendly, and mixed-use environment, as well as a strong sense of character of place. The Camp Washington Community Board made the request, and the Camp Washington Community Council has provided a letter of support. *Made in Camp* (2018) and *Plan Cincinnati* (2012) do not support minimum parking requirements in urban neighborhoods. The existing parking requirements within the neighborhood are already relaxed, therefore eliminating them would not result in a significantly adverse impact to Camp Washington.

**RECOMMENDATION:**

The staff of the Department of City Planning recommends that the City Planning Commission take the following action:

**APPROVE** the proposed map amendment to add Urban Parking Overlay District #2: "Camp Washington", as outlined in § 1425-04 - Urban Parking Overlay Districts in the Cincinnati Zoning Code, to a portion of Camp Washington.

Respectfully Submitted:



James Weaver, AICP, Senior City Planner  
Department of City Planning

Approved:



Katherine Keough-Jurs, AICP, Director  
Department of City Planning

**Ex.A: Proposed Urban Parking Overlay District #2: Camp Washington**



Exhibit B

March 1<sup>st</sup>, 2021

City of Cincinnati



City of Cincinnati,

On behalf of Camp Washington Community Board, I am requesting that you consider a Parking Overlay for Camp Washington. Over the past month, we have been working with the City of Cincinnati Department of Community and Economic Development to come up with a map of that we believe would be most beneficial of the Parking Overlay. We have also reached out to the City of Cincinnati's Planning Department to gather more information about the Parking Overlay and to make sure it would benefit the community.

In addition to speaking with city representatives, we have also presented the idea and map at the Camp Washington Community Council meeting and the Camp Washington Business Association. We received little feedback or concern for implementing the Parking Overlay, which secured our decision to request the City of Cincinnati to review the materials.

Thank you for your time and we look forward to working with you all on this project.

Sincerely,

*Sidney Nation*

Sidney Nation  
Executive Director  
Camp Washington Community Board

Exhibit B



Exhibit C



5-10-21

City of Cincinnati  
Planning Commission  
Two Centennial Plaza  
805 Central Avenue, Suite 720  
Cincinnati, OH 45202

Dear City of Cincinnati Planning Commission,

I am writing to state that the Camp Washington Community Council supports the Urban Parking Overlay for Camp Washington and believe that it will provide more opportunity for property owners.

The proposed project will alleviate the stress of parking requirements for commercial and residential property owners in Camp Washington, which has been an issue that restricted many of our property owners.

The Urban Overlay will:

1. Improve the number of vacant residential and commercial properties in Camp Washington
2. Spark the revitalization of the Camp Washington Neighborhood Business District
3. Remove the need to apply for parking variances to do necessary repairs or improvements to properties.

The success of the Urban Overlay is vital to the economic growth and vibrancy of Camp Washington's Neighborhood Business District and to the reactivation of vacant properties in the neighborhood.

Thank you for your consideration of this overlay and the investment into the neighborhood of Camp Washington.

Sincerely,

Justin Leach  
President, Camp Washington Community Council



# CHRISTOPHER A. CAIN

## FURNITURE CRAFTSMAN

May 18, 2021

James Weaver, Sr. City Planner  
Dept. of City Planning  
2 Centennial Plaza  
805 Central Avenue  
Cincinnati, Ohio

Mr. Weaver,

I am writing in opposition to the proposed Urban Parking Overlay District over a portion of Camp Washington. As a property and business owner on Colerain Avenue for over 20 years, parking is already an issue. Most properties have no off-street parking leaving residents to park continuously on the street, coupled with daily business parking, there are already not enough spaces to go around. For example at my end of Colerain, there are two barber shops (one has less than 500 sq. ft.) that generate parking all day, particularly on Thursday and Friday. Two currently vacant buildings, 2815 and 2819-21 are scheduled for renovation bringing many new residents, and neither building has off street parking.

There needs to be an updated concerted effort to address the need for off street parking throughout the neighborhood. At our end of Colerain, Direct Xpress has a large vacant lot next to the barber shop and one of the soon to be renovated buildings, and on Marshall there is a vacant lot which could service properties fronting on Colerain. We need to look at alternatives to a growing parking problem before we just give up and let chaos reign.

Sincerely

Christopher A. Cain

2817 COLERAIN AVENUE

CINCINNATI, OHIO 45225 (513) 555-6000 600-9840



May 28, 2021

Honorable Mayor John Cranley  
City of Cincinnati  
801 Plum Street, Suite 150  
Cincinnati, OH 45202

Dear Mayor Cranley:

The Camp Washington Business Association supports to add Urban Parking Overlay District #2: Camp Washington.

The Business Association wants to see Camp Washington's continued revitalization and believe this is a critical piece to that end.

We respectfully request your cooperation with and support of Mr. Weaver's proposal.

With warm regards,

A handwritten signature in dark ink, appearing to read "Matthew Wagner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Matthew Wagner, President  
Camp Washington Business Association

1315 HOPPLE LLC  
1315 HOPPLE ST  
CINCINNATI OH 45225

1326 HOPPLE CINCINNATI LLC  
600 HAMILTON ST SUITE 500  
ALLENTOWN PA 18101

1373 AVON PLACE LLC  
1368 AVON PL  
CINCINNATI OH 45225

2855 COLERAIN LLC  
1546 KNOWLTON ST  
CINCINNATI OH 45223

2906 SIDNEY AVENUE LLC  
PO BOX 14506 %NORTHSIDE MEAT CO  
CINCINNATI OH 45250

2906 SIDNEY LLC  
PO BOX 14056  
CINCINNATI OH 45250

2906 SYDNEY AVENUE LLC  
3114 SPRING GROVE AVE  
CINCINNATI OH 45225

2917 SIDNEY LLC  
2910 SIDNEY AVE  
CINCINNATI OH 45225

2938 SIDNEY AVENUE LLC  
2906 SIDNEY AVE  
CINCINNATI OH 45225

2949 MASS LLC  
2910 SYDNEY AVE  
CINCINNATI OH 45202

2953 MASS LLC  
2906 SYDNEY AVE  
CINCINNATI OH 45202

2964 BURLINGTON LLC  
1317 HOPPLE ST  
CINCINNATI OH 45225

3010 COLERAIN AVENUE LLC  
3010 COLERAIN AVE  
CINCINNATI OH 45255

3025 COLERAIN LLC  
4680 MISSION LN  
CINCINNATI OH 45223

AFFORDABLE THRU-WALL A/C LLC  
2958 HENSHAW  
CINCINNATI OH 45225

ALLEN FRANCES M & REBECCA L PYLES  
3070 SYDNEY AVE  
CINCINNATI OH 45225

ALNAJAR KHALID  
1327 HOPPLE ST  
CINCINNATI OH 45225

ALTERDOYLE HOMES LLC  
7808 E KEMPER RD  
CINCINNATI OH 45249

ARTIST CITY PROPERTIES LLC  
2940 COLERAIN AVE  
CINCINNATI OH 45225

ASH PATRICIA ANN  
2953 SIDNEY AVE  
CINCINNATI OH 45225-2134

ASSAS MOHAMED A & NASSIMA  
ELKAMAL  
2375 MONTANA AVE #519  
CINCINNATI OH 45211

BAILEY CRAIG  
3603 NEWTON AVE  
CINCINNATI OH 45207

BAILEY DAVID & MARY VIDOUREK  
2806 COLERAIN AVE  
CINCINNATI OH 45225

BAILEY LINDA S  
2972 SIDNEY AVE  
CINCINNATI OH 45225

BAILEY VICTOR  
2093 PHILADELPHIA PIKE  
CLAYMONT DE 19703

BAKER KEITH  
2813 COLERAIN AVE  
CINCINNATI OH 45225

BARBER RANDY & MARSHA  
3079 HENSHAW AVE  
CINCINNATI OH 45225-1836

BARBER RANDY LEE  
3076 SIDNEY AVE  
CINCINNATI OH 45225-1819

BARNES SUZANNA M @ 3  
1066 RACHEL ST  
CINCINNATI OH 45225

BARNETT ERIC  
1230 BATES AVE  
CINCINNATI OH 45225

BEILER LORI A  
28977 BARBER RD  
WEST HARRISON IN 47060

BELGHITI HAMID  
1070 RACHEL ST  
CINCINNATI OH 45225

BLOOM THERESA R  
1235 BATES AVE  
CINCINNATI OH 45225-1339

BNK DEVELOPMENT LLC  
120 MARKET ST  
INDIANAPOLIS IN 46204

BOMKAMP KEVIN L  
2915 COLERAIN AVE  
CINCINNATI OH 45244

BONOMINI JOSEPH L  
3281 WOODS RD  
LAWRENCEBURG IN 47025

BOONE TYREL D  
3061 SIDNEY AVE  
CINCINNATI OH 45225

BOWMAN BRENDYN TR  
256 MOHAWK ST  
CINCINNATI OH 45214

BOYLE CASEY AUSTIN  
2855 HENSHAW AVE  
CINCINNATI OH 45225

BOYLE EDNA J  
2962 HENSHAW AVE  
CINCINNATI OH 45225

BROWN STEVEN  
1369 AVON PL  
CINCINNATI OH 45225

BUFORD MARIA L  
1314 ELAM ST  
CINCINNATI OH 45225-1808

CAIN CHRISTOPHER A & LINDA  
GOLDENHAR  
2817 COLERAIN AVE  
CINCINNATI OH 45225

CAMP WASHINGTON CHILI INC  
3005 COLERAIN AVE  
CINCINNATI OH 45225

CAMP WASHINGTON COMMUNITY  
BOARD INC  
2951 SIDNEY AVE  
CINCINNATI OH 45225-2134

CAMP WASHINGTON REALTY LLC  
1020 KIELEY PL  
CINCINNATI OH 45217

CAMPER 29 LLC  
2692 MADISON RD STE N1 #210  
CINCINNATI OH 45208

CANTEY SARAH M & KARMA J NUTTER  
3073 SIDNEY AVE  
CINCINNATI OH 45225

CAPITAL COALITION LLC  
3106-3108 COLERAIN AVE  
CINCINNATI OH 45225

CARDER STEVEN G  
2873 COLERAIN AVE  
CINCINNATI OH 45225

CG HOUSING LLC  
413 HUNTLEY CT  
LEBANON OH 45036

CINCINNATI CONCESSION CO  
1320 ETHAN AVE  
CINCINNATI OH 45225

CINCINNATI METROPOLITAN HOUSING  
AUTHORITY  
1635 WESTERN AVE  
CINCINNATI OH 45214

CINNANTA PROPERTIES LLC  
817 WADE FARM DR  
AUSTELL GA 30168

CLARK RUTH A & WILLIAM J  
2911 SIDNEY AVE  
CINCINNATI OH 45225

COLEMAN HARVEY D & DEBRA J  
2921 HENSHAW AVE  
CINCINNATI OH 45225

COLERAIN HOLDINGS LLC C/O  
REALIANT PROPERTY MGMT  
3103 COLERAIN AVE  
CINCINNATI OH 45225

COOK BARBARA  
3086 HENSHAW AVE  
CINCINNATI OH 45225-1835

COOPER LARRY  
10976 NORTH HOGAN RD  
AURORA IN 47001

CULLEN GEOFFREY CHARLES &  
CALCAGNO HEATHER  
3631 HIGHLAND GREEN  
CINCINNATI OH 45245

CUTIE PIE PROPERTIES III LLC  
P O BOX 19129  
CINCINNATI OH 45219

D & B REALTY ASSOCIATES LTD  
15 REILY RD  
CINCINNATI OH 45215

DANIELS DARRYL  
1320 ELAM ST  
CINCINNATI OH 45225

DAVIS BENTLEY S  
2977 SIDNEY AVE #2  
CINCINNATI OH 45225

DAVIS BETTY J  
2937 SIDNEY AVE  
CINCINNATI OH 45225

DAY DONALD @ 4  
2954 HENSHAW AVE  
CINCINNATI OH 45225-2122

DWYER JOHN  
1197 W EIGHTH ST  
CINCINNATI OH 45203

EDMERSON ANTHONY  
919 FINDLAY IL ST  
CINCINNATI OH 45214

EUBANKS MICHAEL J & YOLANDA  
1637 PULTE ST  
CINCINNATI OH 45225

EXCEL DEVELOPMENT CO INC  
2403 AUBURN AVE  
CINCINNATI OH 45219

FERRARI ANTONIO  
2941 MASSACHUSETTS AVE  
CINCINNATI OH 45225

FERRARI ANTONIO F  
2925 SIDNEY AVE  
CINCINNATI OH 45225

FIFTH THIRD BANK  
38 FOUNTAIN SQUARE MD 10ATA1  
CINCINNATI OH 45263

FOR RENT PROPERTIES LLC  
P O BOX 498484 ATTN JAMES COLLIER  
CINCINNATI OH 45249

FORD GERALD A  
1223 BATES AVE  
CINCINNATI OH 45225-1339

FORD LAVERNE  
3067 HENSHAW AVE  
CINCINNATI OH 45225-1836

FREDETTE SCOTT  
4370 HAMILTON AVE  
CINCINNATI OH 45223

GIBSON JOCELYN M & JUSTIN A LEACH  
1211 BATES AVE  
CINCINNATI OH 45225

GILLESPIE DENNIS  
5563 BOOMER RD  
CINCINNATI OH 45247-7922

GILLISPIE ROBERT  
5620 ST RTE 128  
CLEVES OH 45002

GORMAN SAMUEL T  
2936 SIDNEY AVE  
CINCINNATI OH 45225

GRANT INVESTMENTS LLC  
PO BOX 46307 KYRENE BUILDING  
CINCINNATI OH 45246

GRILLI PAUL WILLIAM & NATALIE  
MANCINO  
3066 HENSHAW AVE  
CINCINNATI OH 45255

HACKER JOHN F  
3071 MASSACHUSETTS AVE  
CINCINNATI OH 45225-1816

HAL MFG COMPANY  
3116 SPRING GROVE AVE  
CINCINNATI OH 45225

HALSTEAD PROPERTIES LLC  
PO BOX 9392  
CINCINNATI OH 45214

HAMILTON COUNTY COMMRS BOARD  
OF  
138 E COURT ST  
CINCINNATI OH 45202

HAPKEY LLC  
3104 SPRING GROVE AVE  
CINCINNATI OH 45225

HARRIS MARK & CARMEL BUCKLEY  
7797 SHAWNEE RUN RD  
CINCINNATI OH 45243

HART BRIAN D  
2964 SIDNEY  
CINCINNATI OH 45214

HIGGINBOTHAN JAMMIE E  
2921 SIDNEY AVE  
CINCINNATI OH 45225

HILL ROY J  
2820 COLERAIN AVE  
CINCINNATI OH 45225

HOGAN CURT E  
1316 ELAM ST  
CINCINNATI OH 45225

HOLLOWAY ERIN & LARAY HAMILTON  
4571 KIRBY AVE  
CINCINNATI OH 45223

HOLMES DENNIS M  
4235 MAD ANTHONY ST APT 2  
CINCINNATI OH 45223

HORTON DONALD & HORTON JAMES  
3071 HENSHAW  
CINCINNATI OH 45219

HUDDLE REAL ESTATE LLC  
2917 COLERAIN AVE  
CINCINNATI OH 45225

J & J BROTHERS LEASING LLC  
2841 COLERAIN AVE  
CINCINNATI OH 45225

JOHNSON LASHON  
7809 LENNOXSHIRE LN  
CHARLOTTE NC 28210

JOHNSON RONALD LEE  
2822 COLERAIN AVE  
CINCINNATI OH 45225

JOHNSON TAWANDA  
1234 BATES AVE  
CINCINNATI OH 45225-1308

JUSTICE DAVID C JR  
1239 BATES AVE  
CINCINNATI OH 45225

KAPLAN FRED M & CHRISTINA L ZYCH  
1218 BATES AVE  
CINCINNATI OH 45225

KELTY WANDA R  
7596 DOG TROT  
CINCINNATI OH 45248

KENT VENUS  
3063 HENSHAW AVE  
CINCINNATI OH 45225

KILEY TYLER L  
597 TERRACE AVE  
CINCINNATI OH 45220

KITE VINCENT PROPERTIES LLC  
521 SAGE RUN DR  
LEBANON OH 45036

KLEINE-KREUTZMANN CATHERINE  
1313 ELAM ST  
CINCINNATI OH 45225-1807

KLOR KLEEN INC  
3118 SPRING GROVE AVE  
CINCINNATI OH 45225

KNIGHT ROBERT & PAMELA  
15 W FOURTH ST UNIT 307  
CINCINNATI OH 45202

KNODLE ELIZABETH & JASON H  
HOUNSHELL  
1311 ELAM ST  
CINCINNATI OH 45225

KNUE JOSEPH H JR & JOANN T  
9633 HARRISON PIKE  
CLEVES OH 45002

KNUTSON CHAD  
3092 COLERAIN AVE  
CINCINNATI OH 45225

KSL INVESTMENTS PROPERTIES CORP  
1095 SPRUCEGLEN DR  
CINCINNATI OH 45224

KUERTZ SAVANNA LYNN  
1060 TOWNSHIP ST  
CINCINNATI OH 45225

KUROWSKI HENRY & MYRTLE  
3122 COLERAIN AVE  
CINCINNATI OH 45225-1312

LANDERS KAREN P  
1246 BATES AVE  
CINCINNATI OH 45225

LESNIAK JEREMY Q  
2939 SIDNEY AVE  
CINCINNATI OH 45225

LOCAL 98 D A L U AFL-CIO  
3118 COLERAIN AVE  
CINCINNATI OH 45225

LUKE HENRY & MAYMAY CHAN  
8126 BRIDLEMAKER LN  
CINCINNATI OH 45249



MARSHALL GEORGE B  
8386 FRANE LN  
CINCINNATI OH 45236

MARSHALL WILLIAM K & JODI M  
1319 ELAM ST  
CINCINNATI OH 45225

MASJID AS SUNNAH INC  
1254 BATES AVE  
CINCINNATI OH 45225

MATTHEWS JOE & YVONNE  
2965 SIDNEY AVE  
CINCINNATI OH 45225

MAYNARD SHAILAH A & JOHN M  
STANKOVICH  
1311 CHASE AVE  
CINCINNATI OH 45223

MAYO ROBERT III & ROMONA J  
BRIGHT-MAYO  
3646 SOLAR VISTA PLACE  
CINCINNATI OH 45213

MCINTOSH ALICE  
3069 HENSHAW AVE  
CINCINNATI OH 45225

MCKINLEY ANDREW  
2930 SPRING GROVE AVE  
CINCINNATI OH 45225

MEYER TOOL INC  
3064 COLERAIN AVE  
CINCINNATI OH 45225

MI JINGYI  
3969 LOWRY AVE  
CINCINNATI OH 45229

MIDDLE EARTH PROPERTIES  
PO BOX 14508  
CINCINNATI OH 45250

MILLER STEVEN JOSEPH  
1231 BATES AVE  
CINCINNATI OH 45225

MOORE JOHN MICHAEL  
1207 BATES AVE  
CINCINNATI OH 45225-1307

MORRIS ROBERT J  
2853 COLERAIN AVE  
CINCINNATI OH 45225

MULBERRY VIEWS LLC  
8824 FALMOUTH DR  
CINCINNATI OH 45231

MUTTERS RONALD & VIRGINIA  
3074 HENSHAW AVE  
CINCINNATI OH 45225-1835

NEWSOME TINA M  
1236 BATES AVE  
CINCINNATI OH 45225-1308

NORTHSIGHTED LLC  
P O BOX 11674  
CINCINNATI OH 45211

OAKLEAF REALTY CO INC  
5966 STEWART RD  
CINCINNATI OH 45227

OCHS-NADERER CHRISTINE M & CALEB  
A  
3065 SIDNEY AVE  
CINCINNATI OH 45225

OEHLSCHLAEGER PRISCILLA @2  
3088 HENSHAW AVE  
CINCINNATI OH 45255

OHARA TERRELL L  
2166 CRANE AVE  
CINCINNATI OH 45207

OMEGA PROPERTIES LLC  
3202 COLERAIN AVE  
CINCINNATI OH 45225

ORNELLA PRESTON & SHERRY  
5899 FROST RD  
GEORGETOWN OH 45121

OVERBEY GREGORY A  
2908 COLERAIN AVE  
CINCINNATI OH 45225

P S IMAGINATION LLC  
2864 SPRING GROVE AVE  
CINCINNATI OH 45225

PARTIN DILLARD & MARY H  
3068 HENSHAW AVE  
CINCINNATI OH 45225-1835

PICKETT ROSALIE  
1243 BATES AVE  
CINCINNATI OH 45225

PITTMAN JEREMIAH  
2926 HENSHAW AVE  
CINCINNATI OH 45225-2106

PITTMAN LINDA  
2924 HERSHOW AVE  
CINCINNATI OH 45225

PLAZA FOUR INVESTORS LLC  
3210 NEW YEAR DR  
CINCINNATI OH 45251

PREME INVESTMENT GROUP LLC  
10574 LATINA CT  
CINCINNATI OH 45218

PRIDE RESOURCES LLC  
2737 COLERAIN AVE  
CINCINNATI OH 45225

PSIHOUNTAKIS MANOUSO G &  
ANASTASIA M  
126 SPYGLASS CT  
CINCINNATI OH 45238

QUIGGIE PROPERTIES LLC  
536 EVANSWOOD PL  
CINCINNATI OH 45220

RAMSEY LILLIE M  
1244 BATES AVE  
CINCINNATI OH 45225-1308

REHAB IN PROCESS LLC  
5423 GRAFTON  
CINCINNATI OH 45237

RICHARDS WAYNE G  
4672 DRYRIDGE  
CINCINNATI OH 45252

RILEY BRENT C  
1393 KENROSS CT  
CINCINNATI OH 45240

RLB HOLDINGS LLC  
46 SHERIDAN AVENUE  
FT. THOMAS KY 40175

RLG PROPERTY MANAGEMENT LLC  
5516 RACEVIEW AVE  
CINCINNATI OH 45248

ROGERS JORDIN  
3073 MASSACHUSETTS AVE  
CINCINNATI OH 45225

ROI ENTERPRISES LLC  
PO BOX 53769  
CINCINNATI OH 45253-0769

ROOK MARY M  
2945 MASSACHUSETTS AVE  
CINCINNATI OH 45225

ROUSE VICKIE L  
2950 HENSHAW AVE  
CINCINNATI OH 45225

SANDUSKY BOYD  
2933 SIDNEY AVE  
CINCINNATI OH 45225

SANREGRET ADAM  
3071 SIDNEY AVE  
CINCINNATI OH 45255

SAVOCA THOMAS M  
650 E MCMILLIAN SUITE 100  
CINCINNATI OH 45202

SCHERER MICHAEL E  
3074 SIDNEY  
CINCINNATI OH 45225

SCHERTZ MATTHEW RICHARD &  
DEBORAH ROCHELLE  
2952 BURLINGTON PL  
CINCINNATI OH 45255

SCHMIDT INGRID A  
3078 HENSHAW AVE UNIT 1  
CINCINNATI OH 45225

SCOTT RAY & NORMA J  
3064 HENSHAW AVE  
CINCINNATI OH 45225-1835

SEILER CARY E  
2870 JESSAMINE ST  
CINCINNATI OH 45225

SMITH JOSHUA A & HANNAH L  
FOUREMAN  
3083 HENSHAW AVE  
CINCINNATI OH 45225

SMITH NEDRA B  
2934 SIDNEY AVE  
CINCINNATI OH 45225-2125

SPROWLS GARRY M & JANET M  
2911 COLERAIN AVE  
CINCINNATI OH 45225

STATE OF OHIO  
505 S STATE ROUTE 741  
LEBANON OH 45036

STEVE'S COMMUNITY SHENANIGANS  
LLC  
1145 GLENNA DRIVE  
CINCINNATI OH 45238

T L C PROPERTIES INC  
PO BOX 66338  
BATON ROUGE LA 70896

TALLARIGO JOANNE W  
3260 GLENDORA AVE  
CINCINNATI OH 45220



THE COMPOUND LLC  
1828 FREEMAN AVE  
CINCINNATI OH 45214

THOMAS CEDRIC D  
6400 ELWYNNE DR  
CINCINNATI OH 45236

THOMAS CEDRIC D TR  
6400 ELWYNE DR  
CINCINNATI OH 45236

THOMPSON AMBER M  
2340 OAKTREE PL  
CINCINNATI OH 45238

THRIVING INVESTMENTS LLC  
9569 COLEGATE WAY  
HAMILTON OH 45011

TOLENTINO MATTHEW A & DANIELLE  
BENIGNUS  
1255 BATES AVE  
CINCINNATI OH 45225

TRB INVESTMENTS LTD  
2908 SPRING GROVE AVE  
CINCINNATI OH 45225

TUCKER JAMES  
1515 MARKET ST  
CINCINNATI OH 45215

TWENTY NINE SEVENTY FOUR LLC  
2974 COLERAIN AVE  
CINCINNATI OH 45225

TWO STORIES PROPERTY LLC  
261 MOHAWK ST  
CINCINNATI OH 45214

UNITED COALITION FOR ANIMALS  
2828 COLERAIN AVE  
CINCINNATI OH 45225

UNITED RELIANCE LLC  
PO BOX 23158  
CINCINNATI OH 45223

URBAN OVERLAP LLC  
1709 CHASE AVE  
CINCINNATI OH 45223

VERMILION CAPITAL PARTNERS  
PO BOX 32098  
CINCINNATI OH 45232

VOLZ KAREN J  
1210 BATES AVE  
CINCINNATI OH 45225-1308

WALKER LUECREASIA M  
1216 BATES AVE  
CINCINNATI OH 45225

WASHINGTON EVANG CHURCH THE  
2950 SIDNEY AVE  
CINCINNATI OH 45225

WATSON DANIEL  
1241 BATES AVE  
CINCINNATI OH 45225

WATTS MINNIE P  
1253 BATES AVE  
CINCINNATI OH 45225-1343

WATTS TARA M  
3082 HENSHAW AVE  
CINCINNATI OH 45225

WELCH MELINDA E & KEVIN M  
3059 SIDNEY AVE  
CINCINNATI OH 45225

WENDYS PROPERTIES LLC  
ONE DAVE THOMAS BLVD C/O THE  
WENDYS COMPANY  
DUBLIN OH 43017

WESLEY RUSSELL C  
1245 BATES AVE  
CINCINNATI OH 45225

WHITE C DON TR  
3096 COLERAIN AVE  
CINCINNATI OH 45225

WHITE CATHERINE LOUISE  
1237 BATES AVE  
CINCINNATI OH 45225

WHITE DON  
4221 COLERAIN AVE  
CINCINNATI OH 45225

WHITEHEAD PATRICIA  
2921 MASSACHUSETTS AVE  
CINCINNATI OH 45225

WILEY LARK A@3  
3021 CARROLL AVE  
CINCINNATI OH 45248

WILSON GREG  
2867 COLERAIN AVE  
CINCINNATI OH 45225

WINANS PAULA J  
3085 MASSACHUSETTS AVE  
CINCINNATI OH 45225

WOOD STEPHEN D  
PO BOX 69  
MORNING VIEW KY 41063

ZAHNEIS FAMILY REAL ESTATE III LLC  
6605 POWNER FARM DR  
CINCINNATI OH 45248

CAMP WASHINGTON COMMUNITY  
COUNCIL  
2951 Sidney Ave  
CINCINNATI OH 45225

1315 HOPPLE LLC  
1315 HOPPLE ST  
CINCINNATI OH 45225

1326 HOPPLE CINCINNATI LLC  
600 HAMILTON ST SUITE 500  
ALLENTOWN PA 18101

1373 AVON PLACE LLC  
1368 AVON PL  
CINCINNATI OH 45225

2855 COLERAIN LLC  
1546 KNOWLTON ST  
CINCINNATI OH 45223

2906 SIDNEY AVENUE LLC  
PO BOX 14506 %NORTHSIDE MEAT CO  
CINCINNATI OH 45250

2906 SIDNEY LLC  
PO BOX 14056  
CINCINNATI OH 45250

2906 SYDNEY AVENUE LLC  
3114 SPRING GROVE AVE  
CINCINNATI OH 45225

2917 SIDNEY LLC  
2910 SIDNEY AVE  
CINCINNATI OH 45225

2938 SIDNEY AVENUE LLC  
2906 SIDNEY AVE  
CINCINNATI OH 45225

2949 MASS LLC  
2910 SYDNEY AVE  
CINCINNATI OH 45202

2953 MASS LLC  
2906 SYDNEY AVE  
CINCINNATI OH 45202

2964 BURLINGTON LLC  
1317 HOPPLE ST  
CINCINNATI OH 45225

3010 COLERAIN AVENUE LLC  
3010 COLERAIN AVE  
CINCINNATI OH 45255

3025 COLERAIN LLC  
4680 MISSION LN  
CINCINNATI OH 45223

AFFORDABLE THRU-WALL A/C LLC  
2958 HENSHAW  
CINCINNATI OH 45225

ALLEN FRANCES M & REBECCA L PYLES  
3070 SYDNEY AVE  
CINCINNATI OH 45225

ALNAJAR KHALID  
1327 HOPPLE ST  
CINCINNATI OH 45225

ALTERDOYLE HOMES LLC  
7808 E KEMPER RD  
CINCINNATI OH 45249

ARTIST CITY PROPERTIES LLC  
2940 COLERAIN AVE  
CINCINNATI OH 45225

ASH PATRICIA ANN  
2953 SIDNEY AVE  
CINCINNATI OH 45225-2134

ASSAS MOHAMED A & NASSIMA  
ELKAMAL  
2375 MONTANA AVE #519  
CINCINNATI OH 45211

BAILEY CRAIG  
3603 NEWTON AVE  
CINCINNATI OH 45207

BAILEY DAVID & MARY VIDOUREK  
2806 COLERAIN AVE  
CINCINNATI OH 45225

BAILEY LINDA S  
2972 SIDNEY AVE  
CINCINNATI OH 45225

BAILEY VICTOR  
2093 PHILADELPHIA PIKE  
CLAYMONT DE 19703

BAKER KEITH  
2813 COLERAIN AVE  
CINCINNATI OH 45225

BARBER RANDY & MARSHA  
3079 HENSHAW AVE  
CINCINNATI OH 45225-1836

BARBER RANDY LEE  
3076 SIDNEY AVE  
CINCINNATI OH 45225-1819

BARNES SUZANNA M @ 3  
1066 RACHEL ST  
CINCINNATI OH 45225

BARNETT ERIC  
1230 BATES AVE  
CINCINNATI OH 45225

BEILER LORI A  
28977 BARBER RD  
WEST HARRISON IN 47060

BELGHITI HAMID  
1070 RACHEL ST  
CINCINNATI OH 45225

BLOOM THERESA R  
1235 BATES AVE  
CINCINNATI OH 45225-1339

BNK DEVELOPMENT LLC  
120 MARKET ST  
INDIANAPOLIS IN 46204

BOMKAMP KEVIN L  
2915 COLERAIN AVE  
CINCINNATI OH 45244

BONOMINI JOSEPH L  
3281 WOODS RD  
LAWRENCEBURG IN 47025

BOONE TYREL D  
3061 SIDNEY AVE  
CINCINNATI OH 45225

BOWMAN BRENDYN TR  
256 MOHAWK ST  
CINCINNATI OH 45214

BOYLE CASEY AUSTIN  
2855 HENSHAW AVE  
CINCINNATI OH 45225

BOYLE EDNA J  
2962 HENSHAW AVE  
CINCINNATI OH 45225

BROWN STEVEN  
1369 AVON PL  
CINCINNATI OH 45225

BUFORD MARIA L  
1314 ELAM ST  
CINCINNATI OH 45225-1808

CAIN CHRISTOPHER A & LINDA  
GOLDENHAR  
2817 COLERAIN AVE  
CINCINNATI OH 45225

CAMP WASHINGTON CHILI INC  
3005 COLERAIN AVE  
CINCINNATI OH 45225

CAMP WASHINGTON COMMUNITY  
BOARD INC  
2951 SIDNEY AVE  
CINCINNATI OH 45225-2134

CAMP WASHINGTON REALTY LLC  
1020 KIELEY PL  
CINCINNATI OH 45217

CAMPER 29 LLC  
2692 MADISON RD STE N1 #210  
CINCINNATI OH 45208

CANTEY SARAH M & KARMA J NUTTER  
3073 SIDNEY AVE  
CINCINNATI OH 45225

CAPITAL COALITION LLC  
3106-3108 COLERAIN AVE  
CINCINNATI OH 45225

CARDER STEVEN G  
2873 COLERAIN AVE  
CINCINNATI OH 45225

CG HOUSING LLC  
413 HUNTLEY CT  
LEBANON OH 45036

CINCINNATI CONCESSION CO  
1320 ETHAN AVE  
CINCINNATI OH 45225

CINCINNATI METROPOLITAN HOUSING  
AUTHORITY  
1635 WESTERN AVE  
CINCINNATI OH 45214

CINNANTA PROPERTIES LLC  
817 WADE FARM DR  
AUSTELL GA 30168

CLARK RUTH A & WILLIAM J  
2911 SIDNEY AVE  
CINCINNATI OH 45225

COLEMAN HARVEY D & DEBRA J  
2921 HENSHAW AVE  
CINCINNATI OH 45225

COLERAIN HOLDINGS LLC C/O  
REALIANT PROPERTY MGMT  
3103 COLERAIN AVE  
CINCINNATI OH 45225

COOK BARBARA  
3086 HENSHAW AVE  
CINCINNATI OH 45225-1835

COOPER LARRY  
10976 NORTH HOGAN RD  
AURORA IN 47001

CULLEN GEOFFREY CHARLES &  
CALCAGNO HEATHER  
3631 HIGHLAND GREEN  
CINCINNATI OH 45245

CUTIE PIE PROPERTIES III LLC  
P O BOX 19129  
CINCINNATI OH 45219

D & B REALTY ASSOCIATES LTD  
15 REILY RD  
CINCINNATI OH 45215

DANIELS DARRYL  
1320 ELAM ST  
CINCINNATI OH 45225

DAVIS BENTLEY S  
2977 SIDNEY AVE #2  
CINCINNATI OH 45225

DAVIS BETTY J  
2937 SIDNEY AVE  
CINCINNATI OH 45225

DAY DONALD @ 4  
2954 HENSHAW AVE  
CINCINNATI OH 45225-2122

DWYER JOHN  
1197 W EIGHTH ST  
CINCINNATI OH 45203

EDMERSON ANTHONY  
919 FINDLAY IL ST  
CINCINNATI OH 45214

EUBANKS MICHAEL J & YOLANDA  
1637 PULTE ST  
CINCINNATI OH 45225

EXCEL DEVELOPMENT CO INC  
2403 AUBURN AVE  
CINCINNATI OH 45219

FERRARI ANTONIO  
2941 MASSACHUSETTS AVE  
CINCINNATI OH 45225

FERRARI ANTONIO F  
2925 SIDNEY AVE  
CINCINNATI OH 45225

FIFTH THIRD BANK  
38 FOUNTAIN SQUARE MD 10ATA1  
CINCINNATI OH 45263

FOR RENT PROPERTIES LLC  
P O BOX 498484 ATTN JAMES COLLIER  
CINCINNATI OH 45249

FORD GERALD A  
1223 BATES AVE  
CINCINNATI OH 45225-1339

FORD LAVERNE  
3067 HENSHAW AVE  
CINCINNATI OH 45225-1836

FREDETTE SCOTT  
4370 HAMILTON AVE  
CINCINNATI OH 45223

GIBSON JOCELYN M & JUSTIN A LEACH  
1211 BATES AVE  
CINCINNATI OH 45225

GILLESPIE DENNIS  
5563 BOOMER RD  
CINCINNATI OH 45247-7922

GILLISPIE ROBERT  
5620 ST RTE 128  
CLEVES OH 45002

GORMAN SAMUEL T  
2936 SIDNEY AVE  
CINCINNATI OH 45225

GRANT INVESTMENTS LLC  
PO BOX 46307 KYRENE BUILDING  
CINCINNATI OH 45246

GRILLI PAUL WILLIAM & NATALIE  
MANCINO  
3066 HENSHAW AVE  
CINCINNATI OH 45255

HACKER JOHN F  
3071 MASSACHUSETTS AVE  
CINCINNATI OH 45225-1816

HAL MFG COMPANY  
3116 SPRING GROVE AVE  
CINCINNATI OH 45225

HALSTEAD PROPERTIES LLC  
PO BOX 9392  
CINCINNATI OH 45214

HAMILTON COUNTY COMMRS BOARD  
OF  
138 E COURT ST  
CINCINNATI OH 45202

HAPKEY LLC  
3104 SPRING GROVE AVE  
CINCINNATI OH 45225

HARRIS MARK & CARMEL BUCKLEY  
7797 SHAWNEE RUN RD  
CINCINNATI OH 45243

HART BRIAN D  
2964 SIDNEY  
CINCINNATI OH 45214

HIGGINBOTHAN JAMMIE E  
2921 SIDNEY AVE  
CINCINNATI OH 45225

HILL ROY J  
2820 COLERAIN AVE  
CINCINNATI OH 45225

HOGAN CURT E  
1316 ELAM ST  
CINCINNATI OH 45225

HOLLOWAY ERIN & LARAY HAMILTON  
4571 KIRBY AVE  
CINCINNATI OH 45223

HOLMES DENNIS M  
4235 MAD ANTHONY ST APT 2  
CINCINNATI OH 45223

HORTON DONALD & HORTON JAMES  
3071 HENSHAW  
CINCINNATI OH 45219

HUDDLE REAL ESTATE LLC  
2917 COLERAIN AVE  
CINCINNATI OH 45225

J & J BROTHERS LEASING LLC  
2841 COLERAIN AVE  
CINCINNATI OH 45225

JOHNSON LASHON  
7809 LENNOXSHIRE LN  
CHARLOTTE NC 28210

JOHNSON RONALD LEE  
2822 COLERAIN AVE  
CINCINNATI OH 45225

JOHNSON TAWANDA  
1234 BATES AVE  
CINCINNATI OH 45225-1308

JUSTICE DAVID C JR  
1239 BATES AVE  
CINCINNATI OH 45225

KAPLAN FRED M & CHRISTINA L ZYCH  
1218 BATES AVE  
CINCINNATI OH 45225

KELTY WANDA R  
7596 DOG TROT  
CINCINNATI OH 45248

KENT VENUS  
3063 HENSHAW AVE  
CINCINNATI OH 45225

KILEY TYLER L  
597 TERRACE AVE  
CINCINNATI OH 45220

KITE VINCENT PROPERTIES LLC  
521 SAGE RUN DR  
LEBANON OH 45036

KLEINE-KREUTZMANN CATHERINE  
1313 ELAM ST  
CINCINNATI OH 45225-1807

KLOR KLEEN INC  
3118 SPRING GROVE AVE  
CINCINNATI OH 45225

KNIGHT ROBERT & PAMELA  
15 W FOURTH ST UNIT 307  
CINCINNATI OH 45202

KNODLE ELIZABETH & JASON H  
HOUNSHELL  
1311 ELAM ST  
CINCINNATI OH 45225

KNUE JOSEPH H JR & JOANN T  
9633 HARRISON PIKE  
CLEVES OH 45002

KNUTSON CHAD  
3092 COLERAIN AVE  
CINCINNATI OH 45225

KSL INVESTMENTS PROPERTIES CORP  
1095 SPRUCEGLEN DR  
CINCINNATI OH 45224

KUERTZ SAVANNA LYNN  
1060 TOWNSHIP ST  
CINCINNATI OH 45225

KUROWSKI HENRY & MYRTLE  
3122 COLERAIN AVE  
CINCINNATI OH 45225-1312

LANDERS KAREN P  
1246 BATES AVE  
CINCINNATI OH 45225

LESNIAK JEREMY Q  
2939 SIDNEY AVE  
CINCINNATI OH 45225

LOCAL 98 D A L U AFL-CIO  
3118 COLERAIN AVE  
CINCINNATI OH 45225

LUKE HENRY & MAYMAY CHAN  
8126 BRIDLEMAKER LN  
CINCINNATI OH 45249

MARSHALL GEORGE B  
8386 FRANE LN  
CINCINNATI OH 45236

MARSHALL WILLIAM K & JODI M  
1319 ELAM ST  
CINCINNATI OH 45225

MASJID AS SUNNAH INC  
1254 BATES AVE  
CINCINNATI OH 45225

MATTHEWS JOE & YVONNE  
2965 SIDNEY AVE  
CINCINNATI OH 45225

MAYNARD SHAILAH A & JOHN M  
STANKOVICH  
1311 CHASE AVE  
CINCINNATI OH 45223

MAYO ROBERT III & ROMONA J  
BRIGHT-MAYO  
3646 SOLAR VISTA PLACE  
CINCINNATI OH 45213

MCINTOSH ALICE  
3069 HENSHAW AVE  
CINCINNATI OH 45225

MCKINLEY ANDREW  
2930 SPRING GROVE AVE  
CINCINNATI OH 45225

MEYER TOOL INC  
3064 COLERAIN AVE  
CINCINNATI OH 45225

MI JINGYI  
3969 LOWRY AVE  
CINCINNATI OH 45229

MIDDLE EARTH PROPERTIES  
PO BOX 14508  
CINCINNATI OH 45250

MILLER STEVEN JOSEPH  
1231 BATES AVE  
CINCINNATI OH 45225

MOORE JOHN MICHAEL  
1207 BATES AVE  
CINCINNATI OH 45225-1307

MORRIS ROBERT J  
2853 COLERAIN AVE  
CINCINNATI OH 45225

MULBERRY VIEWS LLC  
8824 FALMOUTH DR  
CINCINNATI OH 45231

MUTTERS RONALD & VIRGINIA  
3074 HENSHAW AVE  
CINCINNATI OH 45225-1835

NEWSOME TINA M  
1236 BATES AVE  
CINCINNATI OH 45225-1308

NORTHSIGHTED LLC  
P O BOX 11674  
CINCINNATI OH 45211

OAKLEAF REALTY CO INC  
5966 STEWART RD  
CINCINNATI OH 45227

OCHS-NADERER CHRISTINE M & CALEB  
A  
3065 SIDNEY AVE  
CINCINNATI OH 45225

OEHLSCHLAEGER PRISCILLA @2  
3088 HENSHAW AVE  
CINCINNATI OH 45255

OHARA TERRELL L  
2166 CRANE AVE  
CINCINNATI OH 45207

OMEGA PROPERTIES LLC  
3202 COLERAIN AVE  
CINCINNATI OH 45225

ORNELLA PRESTON & SHERRY  
5899 FROST RD  
GEORGETOWN OH 45121

OVERBEY GREGORY A  
2908 COLERAIN AVE  
CINCINNATI OH 45225

P S IMAGINATION LLC  
2864 SPRING GROVE AVE  
CINCINNATI OH 45225

PARTIN DILLARD & MARY H  
3068 HENSHAW AVE  
CINCINNATI OH 45225-1835

PICKETT ROSALIE  
1243 BATES AVE  
CINCINNATI OH 45225

PITTMAN JEREMIAH  
2926 HENSHAW AVE  
CINCINNATI OH 45225-2106

PITTMAN LINDA  
2924 HERSHOW AVE  
CINCINNATI OH 45225

PLAZA FOUR INVESTORS LLC 3210 NEW YEAR DR CINCINNATI OH 45251	PREME INVESTMENT GROUP LLC 10574 LATINA CT CINCINNATI OH 45218	PRIDE RESOURCES LLC 2737 COLERAIN AVE CINCINNATI OH 45225
PSIHOUNTAKIS MANOUSO G & ANASTASIA M 126 SPYGLASS CT CINCINNATI OH 45238	QUIGGIE PROPERTIES LLC 536 EVANSWOOD PL CINCINNATI OH 45220	RAMSEY LILLIE M 1244 BATES AVE CINCINNATI OH 45225-1308
REHAB IN PROCESS LLC 5423 GRAFTON CINCINNATI OH 45237	RICHARDS WAYNE G 4672 DRYRIDGE CINCINNATI OH 45252	RILEY BRENT C 1393 KENROSS CT CINCINNATI OH 45240
RLB HOLDINGS LLC 46 SHERIDAN AVENUE FT. THOMAS KY 40175	RLG PROPERTY MANAGEMENT LLC 5516 RACEVIEW AVE CINCINNATI OH 45248	ROGERS JORDIN 3073 MASSACHUSETTS AVE CINCINNATI OH 45225
ROI ENTERPRISES LLC PO BOX 53769 CINCINNATI OH 45253-0769	ROOK MARY M 2945 MASSACHUSETTS AVE CINCINNATI OH 45225	ROUSE VICKIE L 2950 HENSHAW AVE CINCINNATI OH 45225
SANDUSKY BOYD 2933 SIDNEY AVE CINCINNATI OH 45225	SANREGRET ADAM 3071 SIDNEY AVE CINCINNATI OH 45255	SAVOCA THOMAS M 650 E MCMILLIAN SUITE 100 CINCINNATI OH 45202
SCHERER MICHAEL E 3074 SIDNEY CINCINNATI OH 45225	SCHERTZ MATTHEW RICHARD & DEBORAH ROCHELLE 2952 BURLINGTON PL CINCINNATI OH 45255	SCHMIDT INGRID A 3078 HENSHAW AVE UNIT 1 CINCINNATI OH 45225
SCOTT RAY & NORMA J 3064 HENSHAW AVE CINCINNATI OH 45225-1835	SEILER CARY E 2870 JESSAMINE ST CINCINNATI OH 45225	SMITH JOSHUA A & HANNAH L FOUREMAN 3083 HENSHAW AVE CINCINNATI OH 45225
SMITH NEDRA B 2934 SIDNEY AVE CINCINNATI OH 45225-2125	SPROWLS GARRY M & JANET M 2911 COLERAIN AVE CINCINNATI OH 45225	STATE OF OHIO 505 S STATE ROUTE 741 LEBANON OH 45036
STEVE'S COMMUNITY SHENANIGANS LLC 1145 GLENNA DRIVE CINCINNATI OH 45238	T L C PROPERTIES INC PO BOX 66338 BATON ROUGE LA 70896	TALLARIGO JOANNE W 3260 GLENDORA AVE CINCINNATI OH 45220



THE COMPOUND LLC 1828 FREEMAN AVE CINCINNATI OH 45214	THOMAS CEDRIC D 6400 ELWYNNE DR CINCINNATI OH 45236	THOMAS CEDRIC D TR 6400 ELWYNNE DR CINCINNATI OH 45236
THOMPSON AMBER M 2340 OAKTREE PL CINCINNATI OH 45238	THRIVING INVESTMENTS LLC 9569 COLEGATE WAY HAMILTON OH 45011	TOLENTINO MATTHEW A & DANIELLE BENIGNUS 1255 BATES AVE CINCINNATI OH 45225
TRB INVESTMENTS LTD 2908 SPRING GROVE AVE CINCINNATI OH 45225	TUCKER JAMES 1515 MARKET ST CINCINNATI OH 45215	TWENTY NINE SEVENTY FOUR LLC 2974 COLERAIN AVE CINCINNATI OH 45225
TWO STORIES PROPERTY LLC 261 MOHAWK ST CINCINNATI OH 45214	UNITED COALITION FOR ANIMALS 2828 COLERAIN AVE CINCINNATI OH 45225	UNITED RELIANCE LLC PO BOX 23158 CINCINNATI OH 45223
URBAN OVERLAP LLC 1709 CHASE AVE CINCINNATI OH 45223	VERMILION CAPITAL PARTNERS PO BOX 32098 CINCINNATI OH 45232	VOLZ KAREN J 1210 BATES AVE CINCINNATI OH 45225-1308
WALKER LUECREASIA M 1216 BATES AVE CINCINNATI OH 45225	WASHINGTON EVANG CHURCH THE 2950 SIDNEY AVE CINCINNATI OH 45225	WATSON DANIEL 1241 BATES AVE CINCINNATI OH 45225
WATTS MINNIE P 1253 BATES AVE CINCINNATI OH 45225-1343	WATTS TARA M 3082 HENSHAW AVE CINCINNATI OH 45225	WELCH MELINDA E & KEVIN M 3059 SIDNEY AVE CINCINNATI OH 45225
WENDYS PROPERTIES LLC ONE DAVE THOMAS BLVD C/O THE WENDYS COMPANY DUBLIN OH 43017	WESLEY RUSSELL C 1245 BATES AVE CINCINNATI OH 45225	WHITE C DON TR 3096 COLERAIN AVE CINCINNATI OH 45225
WHITE CATHERINE LOUISE 1237 BATES AVE CINCINNATI OH 45225	WHITE DON 4221 COLERAIN AVE CINCINNATI OH 45225	WHITEHEAD PATRICIA 2921 MASSACHUSETTS AVE CINCINNATI OH 45225
WILEY LARK A@3 3021 CARROLL AVE CINCINNATI OH 45248	WILSON GREG 2867 COLERAIN AVE CINCINNATI OH 45225	WINANS PAULA J 3085 MASSACHUSETTS AVE CINCINNATI OH 45225

WOOD STEPHEN D  
PO BOX 69  
MORNING VIEW KY 41063

ZAHNEIS FAMILY REAL ESTATE III LLC  
6605 POWNER FARM DR  
CINCINNATI OH 45248

CAMP WASHINGTON COMMUNITY  
COUNCIL  
2951 Sidney Ave  
CINCINNATI OH 45225

June 9, 2021



Cincinnati City Council  
Council Chambers, City Hall  
Cincinnati, Ohio 45202

Dear Members of Council:

We are transmitting herewith an Ordinance captioned as follows:

**ESTABLISHING Urban Parking Overlay District #2, "Camp Washington," in the Camp Washington neighborhood as an urban parking overlay district to lift minimum off-street parking requirements in the area.**

**Summary:**

On August 7, 2013, Cincinnati City Council approved Ordinance 259-2013 which allows City Council to create Urban Parking Overlay Districts over certain portions of the City. On September 19, 2019, Cincinnati City Council approved Ordinance 293-2018 which created Urban Parking Overlay District #1: Urban Core over Downtown, Over-the-Rhine, Pendleton, and parts of Mt. Auburn and West End.

On March 1, 2021, the Camp Washington Community Board formally requested an Urban Parking Overlay District, along with a map of the desired boundary. The proposal is to create Urban Parking Overlay District #2, "Camp Washington", in a portion of Camp Washington, as an overlay district to eliminate all off-street parking requirements in the area within the Overlay District, except for the physical location of parking, should any be provided.

Minimum parking requirements are not designed to promote a high-density, walkable, pedestrian-friendly, and mixed-use environment, as well as a strong sense of character of place. The Camp Washington Community Board made the request, and the Camp Washington Community Council and Business Association have provided letters of support.

This proposal is consistent with the approved Camp Washington neighborhood plan: *Made in Camp* (2018) and *Plan Cincinnati* (2012).

The City Planning Commission voted to approve the zone change at their June 4, 2021 meeting.

Motion to Approve: Mr. Samad

Ayes:

Mr. Juech  
Mr. Eby  
Mr. Smitherman  
Ms. McKinney  
Mr. Stallworth  
Ms. Sesler  
Mr. Samad

Seconded: Mr. Smitherman

THE CITY PLANNING COMMISSION

A handwritten signature in black ink that reads "Katherine Keough-Jurs".

Katherine Keough-Jurs, AICP, Director  
Department of City Planning and Engagement

KKJ: jmw

Encl.: Staff Report, Ordinance

June 22, 2021

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

**From:** Paula Boggs Muething, City Manager *LB for PBM* *202102353*

**Subject:** Emergency Ordinance – Mural Installation at William Howard Taft Road and Woodburn Avenue in East Walnut Hills

---

Transmitted is an Emergency Notwithstanding Ordinance captioned:

**AUTHORIZING** the City Manager to design, install, and maintain a mural on the retaining wall located at the intersection of William Howard Taft Road and Woodburn Avenue in the East Walnut Hills neighborhood, notwithstanding any conflicting Department of Transportation and Engineering rules and regulations or any provision of the Cincinnati Municipal Code that would prohibit the installation and maintenance of the mural.

The City Planning Commission recommended approval of the ordinance at its March 19, 2021 meeting.

Summary

The East Walnut Hills Assembly, the official community council for the East Walnut Hills neighborhood, has received a \$15,000 grant from the Haile Foundation. The East Walnut Hills Assembly intends to use the funds for a wall mural to serve as an entrance into the East Walnut Hills Business District. The East Walnut Hills Assembly requests the proposed Notwithstanding Ordinance (NWO) to permit the installation of a mural within the City-owned right-of-way. The proposed mural would be installed on a curved stone retaining wall in a portion of City-owned right-of-way at the northwest corner of William Howard Taft Road and Woodburn Avenue. The wall is approximately 1,977 square feet. In order to allow for the installation of the mural, City Council would need to approve the NWO, which would allow the City to designate one or more agents or contractors, including the East Walnut Hills Assembly, to carry out all or a portion of the proposed work required to install and maintain the mural.

The City Planning Commission recommended the following on March 19, 2021 to City Council:

**APPROVE** the Notwithstanding Ordinance permitting the installation of a mural in City-owned right-of-way along William Howard Taft Road and Woodburn Avenue in East Walnut Hills with the following conditions:

- 1) That the mural installation size, location, and design be reviewed and approved by the Department of Transportation and Engineering at the time of permit review; and
- 2) The petitioner shall coordinate with the City regarding the donation of the mural in the right-of-way including a contract with the City in a similar form as the City of Cincinnati Artwork Donation Agreement (Exhibit C); and
- 3) All artists involved in the creation and installation of the artwork shall provide the City with a Waiver of Rights pursuant to the Visual Artists Rights Act (Exhibit D).

cc: Katherine Keough-Jurs, AICP, Director, Department of City Planning and Engagement *KKJ*





## EMERGENCY

City of Cincinnati

JRS

AWB

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

- 2021

**AUTHORIZING** the City Manager to design, install, and maintain a mural on the retaining wall located at the intersection of William Howard Taft Road and Woodburn Avenue in the East Walnut Hills neighborhood, notwithstanding any conflicting Department of Transportation and Engineering rules and regulations or any provision of the Cincinnati Municipal Code that would prohibit the installation and maintenance of the mural.

WHEREAS, the City of Cincinnati wishes to install a mural (“Artwork”), as depicted in Exhibit A to this ordinance, on the retaining wall located at the intersection of William Howard Taft Road and Woodburn Avenue in the East Walnut Hills neighborhood to enliven the space and promote public awareness of the arts; and

WHEREAS, the City may designate one or more agents or contractors, including the East Walnut Hills Assembly (“EWHA”), to carry out all or a portion of the work required to design, install, and maintain the Artwork; and

WHEREAS, the City may also accept donations from one or more persons, including the EWHA, in order to offset the cost and expense associated with the design, installation, and maintenance of the Artwork and to ensure the design, installation, and maintenance of the Artwork shall have little or no impact on the General Fund of the City of Cincinnati; and

WHEREAS, the design, installation, and maintenance of the Artwork shall be performed under the management of the City Manager or her designee, and any agents or contractors of the City, including the EWHA, shall comply with rules and regulations established by the City Manager and the City’s Department of Transportation and Engineering (“DOT”) regarding the design, installation, and maintenance of the mural, including rules and regulations concerning its location, size, materials, means of installation, and maintenance as necessary to ensure public safety; and

WHEREAS, the City’s design, installation, and maintenance of the Artwork is the City’s own expression, constitutes government speech, and does not signify the City’s intent to create a free speech forum; and

WHEREAS, the City will own the Artwork created under this project, will maintain complete control over the surrounding public rights-of-way as necessary for public safety, and will require the artists who design, install, and maintain the Artwork to waive their rights in and to the Artwork, including waiving all applicable rights under the federal Visual Artists Rights Act of 1990, 17 U.S.C. §§ 106A and 113(d), so as to ensure that expression made through the Artwork constitutes government speech; and

WHEREAS, the extent of maintenance and repair of the Artwork shall remain within the City's discretion, and the Artwork shall remain subject to removal by the City, in part or in whole, at any time; and

WHEREAS, prior to installation, DOTE will review the final design and placement of the Artwork to ensure it will not detract from, interfere with, or obscure official traffic control devices, will be safe, and will not unreasonably interfere with the use of William Howard Taft Road and Woodburn Avenue by pedestrians and motorists; and

WHEREAS, the City has an interest in promoting the arts, including within the public right-of-way, notwithstanding the provisions of the Cincinnati Municipal Code that would normally prohibit such displays, when the proposed display will not negatively impact the health, safety, or welfare of residents and users of the right-of-way; and

WHEREAS, the City Council finds that the design, installation, and maintenance of the Artwork in the East Walnut Hills neighborhood will beautify the public rights-of-way, enhance civic pride, and advance public health and wellness goals; and

WHEREAS, the design, installation, and maintenance of this Artwork is consistent with the "Live" goal to "[c]reate 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 City Council hereby declares the design, installation, and maintenance of the mural depicted on the attached Exhibit A ("Artwork"), incorporated herein by reference, on the retaining wall located at the intersection of William Howard Taft Road and Woodburn Avenue in the East Walnut Hills neighborhood to be a matter of significant public interest, and it hereby resolves to raise public awareness of the arts through the design, installation, and maintenance of this conspicuous visual art; further that, notwithstanding the provisions of the Cincinnati Municipal Code that would normally restrict such displays within the public right-of-way, Council has determined that the design, installation, and maintenance of the Artwork is in the interest of the public health, safety, morals, and general welfare and will not negatively impact the health, safety, morals, or welfare of residents and users of the public right-of-way.

Section 2. That the City's design, installation, and maintenance of the Artwork is the City's own expression, constitutes government speech, and does not signify the City's intent to create a free speech forum.

Section 3. That the City Manager is hereby authorized to design, install, and maintain the Artwork on the retaining wall located at the intersection of William Howard Taft Road and Woodburn Avenue in the East Walnut Hills neighborhood, which Artwork shall be substantially consistent with the design depicted on the attached Exhibit A, incorporated herein by reference, and shall be located in the area depicted on the same, notwithstanding any conflicting Department of Transportation and Engineering ("DOTE") rules and regulations, and any applicable provisions of the Cincinnati Municipal Code.

Section 4. That the design, installation, and maintenance of the Artwork shall be performed under the management of the City Manager or her designee, and any agents or contractors of the City, including the East Walnut Hills Assembly, shall comply with rules and regulations established by the City Manager and the City's Department of Transportation and Engineering ("DOTE") regarding the design, installation, and maintenance of the Artwork, including rules and regulations concerning its colors, symbols, styles, location, size, materials, and means of installation and maintenance as necessary to ensure public safety.

Section 5. That the City Manager is authorized to engage one or more agents or contractors to assist with the City's design, installation and maintenance of the Artwork on such terms and conditions that the City Manager determines are in the best interests of the City, and any work performed by the agents and contractors so engaged by the City Manager shall be performed under the management of the City Manager or her designee, who shall have the sole authority to approve the design, location, size, materials, and means of installation and

maintenance of the mural and to establish rules and regulations for the same as necessary to ensure public safety.

Section 6. That the extent of maintenance and repair of the Artwork shall remain within the City's discretion, and the Artwork shall remain subject to removal by the City, in whole or in part, at any time.

Section 7. That the City will own the Artwork created under this project, will maintain complete control over the right of way as necessary for public safety, and will require the artists who design, install, and maintain the Artwork to waive their rights to the design, installation, including waiving all applicable rights to the Artwork under the federal Visual Artists Rights Act of 1990, 17 U.S.C. §§ 106A and 113(d), so as to ensure that expression made through the Artwork constitutes government speech.

Section 8. That the City Manager is authorized to accept donations, including materials, labor, money, and in-kind services, on such terms and conditions that the City Manager determines are in the best interests of the City, to offset the cost and expense associated with the design, installation, and maintenance of the Artwork, so that the design, installation, and maintenance of the Artwork shall have minimal impact on the General Fund of the City of Cincinnati.

Section 9. That the proper City officials are hereby authorized to do all things necessary and proper to comply with the terms of Sections 1 through Section 8 hereof.

Section 10. 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 public art project described in this ordinance to



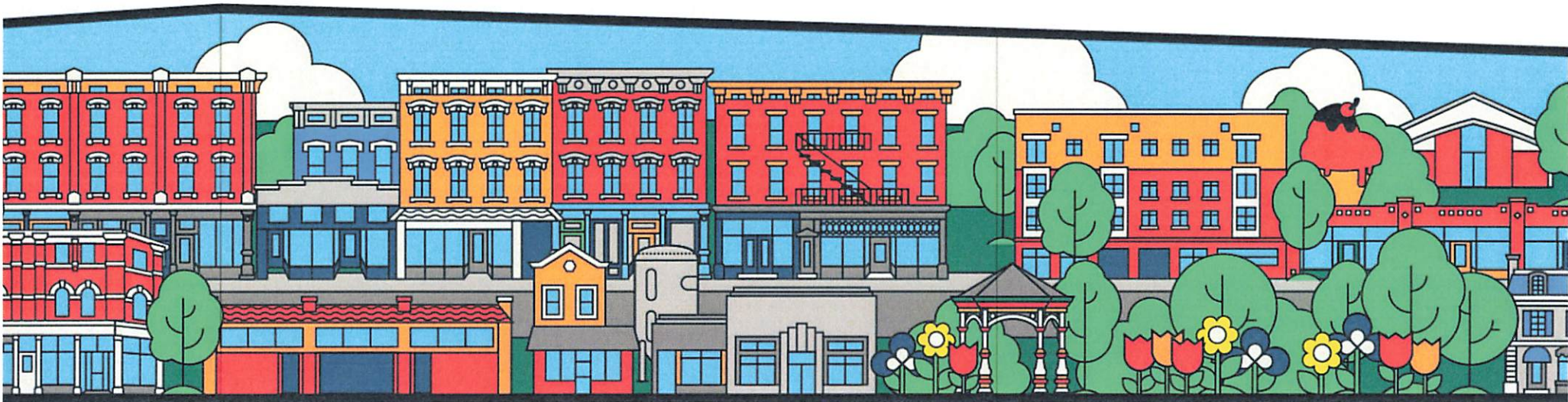
proceed to allow the corresponding benefits to the City and the East Walnut Hills neighborhood to be realized at the earliest possible time.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

**EXHIBIT A**



Woodburn Avenue Historic District

Madison Avenue Business District



1116

Honorable City Planning Commission  
Cincinnati, Ohio

March 19, 2021

**SUBJECT:** A report and recommendation on a proposed Notwithstanding Ordinance permitting the installation of a mural in City-owned right-of-way along William Howard Taft Road and Woodburn Avenue in East Walnut Hills.

**GENERAL INFORMATION:**

Location: Auditor's Parcel No. 062-0001-0114-90  
Petitioner: East Walnut Hills Assembly  
Petitioner's Address: P.O. Box 68050 Cincinnati, OH 45206

**ATTACHMENTS:**

Provided in addition to this report are the following attachments:

- Exhibit A - Location Map
- Exhibit B - Notwithstanding Ordinance (NWO) Application
- Exhibit C - City of Cincinnati Artwork Donation Agreement
- Exhibit D - Waiver of Rights Pursuant to the Visual Artists Rights Act (VARA)

**BACKGROUND:**

The East Walnut Hills Assembly, the official community council for the East Walnut Hills neighborhood, has received a \$15,000 grant from the Haile Foundation. The East Walnut Hills Assembly intends to use the funds for a wall mural to serve as an entrance into the East Walnut Hills Business District. The East Walnut Hills Assembly requests the proposed Notwithstanding Ordinance (NWO) to permit the installation of a mural within the City-owned right-of-way.

The proposed mural would be installed on a curved stone retaining wall in a portion of City-owned right-of-way at the northwest corner of William Howard Taft Road and Woodburn Avenue. The wall is approximately 1,977 square feet. In order to allow for the installation of the mural, City Council would need to approve the NWO, which would allow the City to designate one or more agents or contractors, including the East Walnut Hills Assembly, to carry out all or a portion of the proposed work required to install and maintain the mural.

Under the requested NWO, the East Walnut Hills Assembly would serve as the City's designee to install the mural on the entire front surface of the wall, budget permitting. The plans for the mural are in the early stages, but the project is intended to reflect the creative vision of the community. A steering committee comprised of community members is proposed to guide the project and gather community feedback. This feedback will be used to then make a call for artists. The committee will then narrow the field of artists. The selected artists will provide a creative brief and the community members will provide input on the preferred mural design. This process is proposed to occur over the course of the spring of 2021, with the goal of installing the mural in the summer of 2021.

The installation and maintenance of the mural would be performed under the management of the Department of Transportation and Engineering (DOTE), and any agents or contractors of the City, including East Walnut Hills Assembly, would be required to comply with the rules and regulations concerning the mural's location, size, materials, and means of installation and maintenance. After installation, the City would own the mural and would continue to maintain complete control over the public right-of-way as necessary for public safety, and will require the artists who installed and maintain

the mural to waive the rights to the installation, therefore a Waiver of Rights Pursuant to the Visual Artists Rights Act (VARA) will be necessary to be executed between the artists and the City (Exhibit D).

Section 111-5 of the Cincinnati Municipal Code allows for community councils, including an organization participating in the neighborhood support program, to apply for an NWO through the Director of City Planning as long as the need for the relief from existing legislative and administrative procedures is outlined. In the application, the East Walnut Hills Assembly outlined that the requested NWO would allow for the installation of the mural within City right-of-way that would otherwise not be permitted without a change to existing legislation, or the implementation of a special program through the Department of Transportation and Engineering.

#### **PUBLIC COMMENT AND NOTIFICATION:**

The East Walnut Hills Assembly discussed the proposed mural, including the timeline and process for City approvals, at their February 2, 2021 meeting. Community members made several comments in support of the project and there were no comments against the project. No official vote was taken. Notice for the March 19, 2021 City Planning Commission was sent to property owners within 400 feet of the proposed mural site. No comments have been received to-date.

#### **ANALYSIS:**

The Department of City Planning has consistently taken a position to not support any Notwithstanding Ordinances because they do not comply with the Cincinnati Zoning Code that the Department is charged with developing and enforcing. However, Cincinnati Municipal Code Section 111-5 establishes certain factors for evaluation by the City Council committee that considers a Notwithstanding Ordinance application, and the Department will therefore provide input on the following factors. The City Planning Commission shall consider the following when making a recommendation on NWOs to City Council:

- 1) Whether the proposed application will not have an adverse effect on the character of the area or the public health, safety and welfare;

*The mural is not expected to have any negative impact on the character of the proposed location area, or the public health, safety, and welfare as the mural is intended for the enjoyment and benefit of the public.*

- 2) Whether the proposed application is consistent with the purposes of this code and the zoning district where the subject property is located including but not limited to:

- (a) Providing a guide for the physical development of the city.

*Not applicable to this application.*

- (b) Preserving the character and quality of residential neighborhoods.

*The mural is not expected to have any negative impact on the quality of residential neighborhoods and is intended for the enjoyment and benefit of the public. The mural will serve as an entrance into the East Walnut Hills Business District and provide a sense of community pride.*

- (c) Fostering convenient, harmonious and workable relationships among land uses.

*Not applicable to this application.*

- (d) Achieving the arrangement of land uses described in the comprehensive plan for the development of the city as may have been adopted by council.

*The Notwithstanding Ordinance is consistent with Plan Cincinnati (see “Consistency with Plan Cincinnati” for further information in this staff report).*

- (e) Promoting the economic stability of existing land uses and protecting them from intrusions by inharmonious or harmful land uses.

*Not applicable to this application.*

- (f) Providing opportunities for economic development and new housing for all segments of the community.

*Not applicable to this application.*

- (g) Creating pedestrian-friendly environments to reduce reliance on the automobile for travel.

*Not applicable to this application.*

- (h) Preventing excessive population densities and overcrowding of land or buildings.

*Not applicable to this application.*

- (i) Ensuring the provision of adequate open space for light, air and fire safety.

*Not applicable to this application.*

- (j) Ensuring that development is compatible with the environment, particularly on the hillsides and along the riverfront.

*Not applicable to this application.*

- (k) Promoting the conservation, protection, restoration and enhancement of the historic resources of the city.

*Not applicable to this application.*

- (l) Lessening congestion in the public streets by providing for off-street parking and loading areas for commercial vehicles.

*Not applicable to this application.*

- (m) Providing effective signage that is compatible with the surrounding urban environment.

*The design for the mural has not been finalized. The Department of Transportation and Engineering will review the graphics when the permit is applied for by the applicant.*

- (n) Setting standards by which a nonconforming use may continue to function and to provide for the adaptive reuse of nonconforming buildings.

*Not applicable to this application.*

### **CONSISTENCY WITH PLANS:**

*Plan Cincinnati (2012)*

The Notwithstanding Ordinance is consistent with *Plan Cincinnati* (2012), specifically the Guiding Geographic Principle to “Focus revitalization on existing centers of activity” (p. 86). East Walnut Hills is characterized as an Evolve neighborhood. Evolve neighborhoods like East Walnut Hills may lack visible Neighborhood Business District boundaries (p. 89). The proposed mural would mark the southern

end of the East Walnut Hills Neighborhood Business District.

The request is also consistent with the Compete Initiative Area's Goals to "Cultivate our position as the most vibrant and economically healthiest part of our region (p. 114) and "Become nationally and internationally recognized as a vibrant and unique city" (p. 121). Specifically, it is consistent with the Strategy to "Promote Cincinnati's lifestyle" (p. 122). The proposed mural would support neighborhood pride and community and promote vibrancy in the business district.

### **CONCLUSIONS:**

The Notwithstanding Ordinance to permit the installation of the mural at the specific location within the portion of City-owned right-of-way of William Howard Taft Road and Woodburn Avenue will permit a landmark indicating the southern end of the East Walnut Hills Business District and will provide community pride.

The Department of City Planning has consistently taken the position to not support any Notwithstanding Ordinances for land use decisions because they do not comply with the zoning laws that the department is charged with developing and enforcing.

### **RECOMMENDATION:**

The staff of the Department of City Planning recommends that the City Planning Commission take the following action:

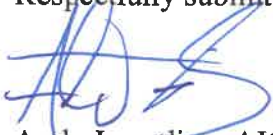
**DENY** the Notwithstanding Ordinance permitting the installation of a mural in City-owned right-of-way along William Howard Taft Road and Woodburn Avenue in East Walnut Hills for the following reason:

- 1) The Department of City Planning cannot support any Notwithstanding Ordinances for land use decisions because the ordinances do not comply with the zoning laws that the Department of City Planning is charged with developing and enforcing.

If the City Planning Commission decides to recommend approval of the Notwithstanding Ordinance, the City Planning Commission should consider the following conditions:

- 1) That the mural installation size, location, and design be reviewed and approved by the Department of Transportation and Engineering at the time of permit review; and
- 2) The petitioner shall coordinate with the City regarding the donation of the mural in the right-of-way including a contract with the City in a similar form as the City of Cincinnati Artwork Donation Agreement (Exhibit C); and
- 3) All artists involved in the creation and installation of the artwork shall provide the City with a Waiver of Rights pursuant to the Visual Artists Rights Act (Exhibit D).

Respectfully submitted:



Andy Juengling, AICP, Senior City Planner  
Department of City Planning

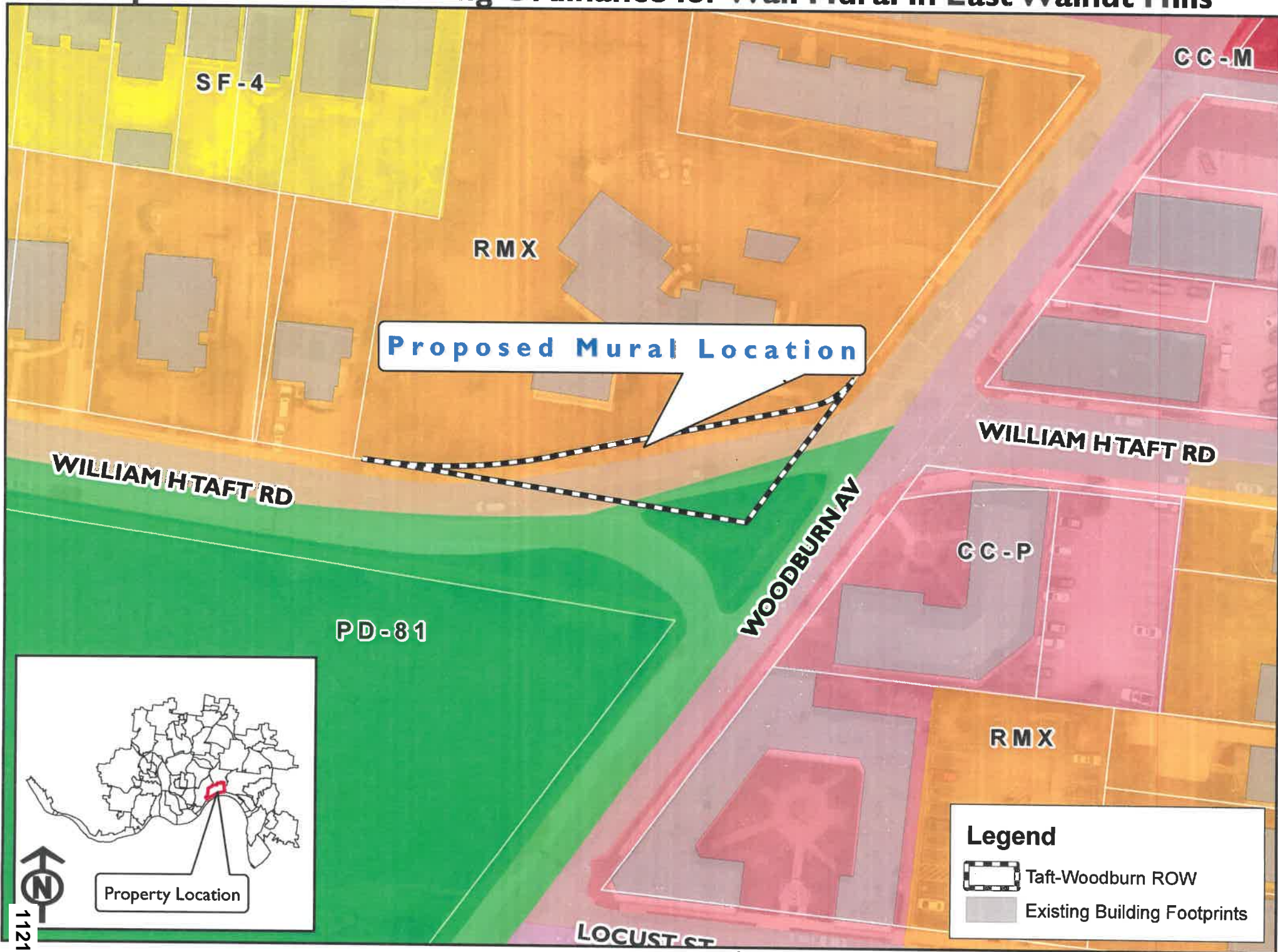
Approved:



Katherine Keough-Jurs, AICP, Director  
Department of City Planning



# Proposed Notwithstanding Ordinance for Wall Mural in East Walnut Hills





805 CENTRAL AVE, SUITE 720  
CINCINNATI OHIO 45202  
P 513 352 3271  
F 513 352 2579  
WWW.CINCINNATI-OH.GOV  
CAGIS.HAMILTON-CO.ORG

**Notwithstanding  
Ordinance Application**

INITIALIZED BY

**Part A - Identification**

Subject Property Address (Please print in blue or black ink only)		
Taft / Woodburn NW (aka Taft / Woodburn Wall); Parcel 006200020112		
Applicant - Name (Print)		Phone No
East Walnut Hills Assembly (Sam Lieberman)		513-382-3229
E-mail Address		liebermans@gmail.com
Street Number & Name	City / State / Zip Code	Phone No / Fax No
1301 Burdett Ave	Cincinnati / OH / 45206	
Relationship of Applicant to Owner:		
<input type="checkbox"/> Owner	<input type="checkbox"/> Lessee	<input type="checkbox"/> Attorney
Property Owner - Name (Print)		Phone No
City of Cincinnati		
E-mail Address		
Street Number & Name	City / State / Zip Code	Phone No / Fax No

**Part B - Submission Requirements (Please provide the following for a complete application)**

1. A copy of the zoning map showing the subject property. A copy may be obtained through the Zoning Administration by emailing [zoninginfo@cincinnati-oh.gov](mailto:zoninginfo@cincinnati-oh.gov) or by calling (513) 352-2430.
2. A written statement outlining all of the practical difficulties created by following existing legislative and administrative procedures.
3. Submit one (1) paper copy and one (1) digital copy of the application to the Director of City Planning at 805 Central Avenue, Suite 720, Cincinnati, Ohio 45202. Payment must be included with the application. (Payable to the City of Cincinnati)

**Part C - Authorization**

The applicant or agent undersigned does hereby certify that the information and statements given on the application, drawings, and inspections are to the best of their knowledge, true and correct. The undersigned further certifies their authorization to grant consent to the inspection by employees of the City of Cincinnati of the described premises at any time when work on those premises is ongoing and hereby grants their consent.

Applicant's Signature Sam Lieberman

Digitally signed by Sam Lieberman  
Date: 2021.02.05 08:44:25 -05'00'

Date 02/05/2021

**FOR OFFICE USE ONLY**

Reviewed By:

Kirz Palmer

City Planning Staff

Processing Fee       

2/11/2021

Date Application Complete



805 CENTRAL AVE, SUITE 720  
CINCINNATI OHIO 45202  
P 513 352 3271  
F 513 352 2579  
WWW.CINCINNATI-OH.GOV  
CAGIS.HAMILTON-CO.ORG

**Notwithstanding  
Ordinance Application**

INITIALIZED BY

### Part A - Identification

Subject Property Address (Please print in blue or black ink only)

Taft / Woodburn NW (aka Taft / Woodburn Wall); Parcel 006200020112

Applicant - Name (Print)

East Walnut Hills Assembly (Sam Lieberman)

Phone No

513-382-3229

E-mail Address

liebermans@gmail.com

Street Number & Name

1301 Burdett Ave

City / State / Zip Code

Cincinnati / OH / 45206

Phone No / Fax No

Relationship of Applicant to Owner:

☐

Owner

☐

Lessee

☐

Attorney

Property Owner - Name (Print)

City of Cincinnati

Phone No

E-mail Address

Street Number & Name

City / State / Zip Code

Phone No / Fax No

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Applicant's Signature Sam Lieberman

Digitally signed by Sam Lieberman  
Date: 2021.02.05 08:44:25 -05'00'

Date 02/05/2021

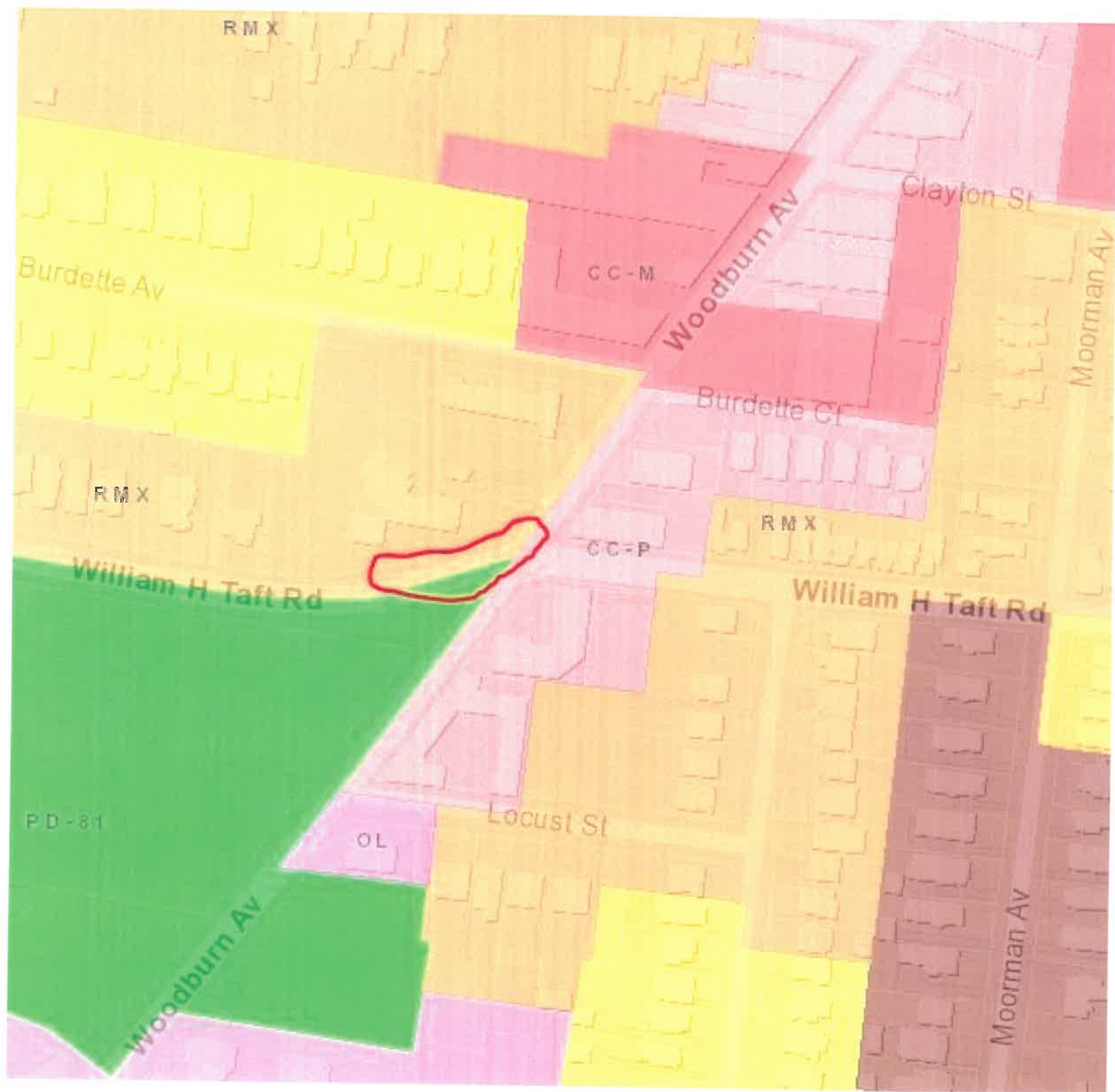
### FOR OFFICE USE ONLY

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

Processing Fee \_\_\_\_\_

City Planning Staff \_\_\_\_\_

Date Application Complete \_\_\_\_\_







### **East Walnut Hills Assembly Taft/Woodburn Wall Mural Project**

By following the existing legislation, the installment of the proposed mural would not be possible without a change in the legislation, or the implementation of a program that allows for this type of installation.

A mural is proposed for the stone wall that curves around the northwest corner of the William Howard Taft Rd and Woodburn Ave intersection. The wall sits in the right-of-way and is owned by the City of Cincinnati. This mural will provide a bright and vibrant work of art in a high traffic area that will give the community a sense of pride. It will be an eye catching landmark that marks the southern end of the East Walnut Hills business district, complementing DeSales plaza which marks the northern end.

The mural will be the creative vision of a local artist informed by the desires of the community. The East Walnut Hills Assembly will strive to engage the community throughout this project in a few ways. A steering committee of community members will be created to guide the project. The steering committee will develop and deploy a survey to provide the opportunity for community members to have input on high-level design direction. Following a call for artists the selection will be narrowed by the committee to three artists who will be compensated to respond to a specific creative brief that incorporates the community's vision and the community will be asked to vote on their preferred design. As COVID allows, we plan to incorporate a community mural paint day and a mural unveiling celebration.

The East Walnut Hills Assembly was graciously granted \$15,000 by the Haile Foundation and those funds will be used for this project. A final line-item budget is not yet available, however a majority of the funds will be used to compensate artists.

We hope to unveil the mural in late summer. In order to do so we will be forming the steering committee, gathering high-level community input, and making a call for artists by the end of March 2021. By the end of May 2021 a designer and mural design will have been selected by the community to initiate wall prep. This will allow the designer to work on the mural beginning in July 2021. This timeline necessitates a parallel path of progress toward (and details of) the mural in conjunction with the NWO and RSP application processes.

## ARTWORK DONATION AGREEMENT

The **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), and **[APPLICANT NAME]**, [an Ohio limited liability company] [a neighborhood community group] [an individual], the address of which is [full address] ("**Applicant**"), hereby enter this agreement for the installation of an artistic depiction, artwork, graphic design, or other artistic idea (the "**Artwork**") to be owned and displayed by the City as its own expression, which Artwork is depicted in Exhibit A (Depiction of Artwork) attached hereto and will be installed in the area shown on Exhibit B (Location) hereto (the "**Location**").

**WHEREAS**, the City of Cincinnati operates various artwork programs through which it reviews and approves proposals to create public art on certain City owned structures and/or within the right-of-way of certain City streets; and

**WHEREAS**, the City takes ownership and displays as its own expression artwork that is successfully selected through its programs; and

**WHEREAS**, the Applicant has been selected by the City through its artwork program to install the artwork, which the Applicant has agreed to donate to the City upon the terms and conditions contained herein; and

**NOW THEREFORE**, the terms and conditions of this Agreement are as follows:

### 1. APPROVAL AND INSTALLATION

**a. Application.** In accordance with The City of Cincinnati, Department of Transportation policies and guidelines, the Applicant has submitted an application and required fees, which include a detailed proposal for how the Artwork will look, what materials will be used, and any other relevant details about the installation of the Artwork and about the Location (the "**Proposal**"). The City has approved the installation of the Artwork, and it has agreed to assume ownership of the Artwork and display it at the Location.

**b. Access.** The Applicant shall be permitted to install the Artwork at the Location. No other installation, painting, or encroachment of any kind shall be permitted in any other location in the City's right-of-way or other City property or structures.

**c. Changes; Approval.** The Applicant shall make whatever additional changes to the Artwork plans as may be required by the City's Department of Transportation and Engineering ("DOTE"), and the Applicant shall not commence installation until DOTE has approved the final plans.

**d. Before Installation.** The Applicant agrees to notify all households and businesses within one city block of the Location at least fourteen (14) days before starting installation of the Artwork. The Applicant will provide notice by posting it on doors and if a door is not present, by regular mail to the owner. This requirement may be waived in writing by DOTE.

**e. No Transfer.** This Agreement is personal to the Applicant and shall not inure to the benefit of the Applicant's successors-in-interest. This Agreement also may not be assigned without the prior written consent of the City. This Agreement shall not be recorded in the public records.

**f. Installation.** The Applicant agrees to complete the installation of the Artwork as detailed in the Proposal within the timeframe provided by DOTE, and it agrees the installation of the Artwork shall otherwise remain under the direction and control of DOTE. The Artwork installation and the art contained therein shall not deviate in any way from the Proposal accepted and agreed to by the City or its departments.

**g. Permits.** The Applicant agrees to obtain all necessary permits and pay all necessary fees for such permits, including a Street Blocking Permit from the Cincinnati Police Department, as are necessary

for the installation of the Artwork.

**h. Prompt Notification.** The Applicant shall notify DOTE upon completion of the Artwork.

**i. Materials.** The Applicant shall provide all paint, materials, equipment, services, and know-how used in connection with the installation of the Artwork for the benefit of the City, and the City accepts the provision of the materials, equipment services, and know-how. The Applicant acknowledges and agrees to comply with all design and material criteria as provided by DOTE. The Applicant shall not bring or permit to be brought onto the right-of-way any hazardous materials or other contaminants or substances that are harmful to the public or to the environment. DOTE may set standards for, and the Applicant will ensure compliance with, any other requirement regarding materials applicable to the Artwork.

**j. Cleanliness of Site.** The Applicant shall not store, use, or dispose of any toxic or hazardous materials without the prior written consent of the City, and shall keep the Location, and surrounding area, free from accumulation of waste materials or rubbish caused by any installation or operation. Upon completion of the Artwork, the Applicant shall remove all waste materials, rubbish, artistic tools, construction equipment, machinery, and surplus materials. If the Applicant fails to clean up as provided herein, the City may do so, and the full costs thereof shall be charged to the Applicant.

**2. MAINTENANCE.** The Applicant acknowledges and understands the City has no responsibility to maintain the Artwork and artwork after the installation. The Applicant acknowledges damage may occur as a result of utility work, road maintenance, road cleaning, reconstruction of road and right-of-way, and any other such work, and the City shall not be responsible for any repairs or maintenance. The Applicant may apply to repair the Artwork eighteen (18) months after the installation is completed; provided, however, the approval to repair the Artwork shall remain within the sole discretion of the City.

**3. EXPENSES.** All expenses associated with the installation, maintenance, repair, and removal of the Artwork, and the Applicant's use of the Location, shall be borne by the Applicant. The Applicant agrees to donate the Artwork and artwork and any time, materials, or talents necessary for the installation of the Artwork to the City. The Applicant shall be solely responsible for compensation of any and all individuals, including any contractors or subcontractors, providing services to install or maintain the Artwork. The City shall not be responsible for any costs associated with the Artwork or the Applicant's use of the Location.

**4. NO CITY WARRANTIES; APPLICANT WAIVER OF CLAIMS FOR DAMAGE.** The Applicant acknowledges and agrees that working within a public right-of-way is inherently dangerous, and it requires that the Applicant take appropriate measures and precautions to protect itself, and its agents, employees, contractors, and subcontractors from harm. The City makes no representations or warranties to the Applicant concerning the condition of the Location or its suitability for the installation of the Artwork. The City shall have no responsibility or liability for loss or damage to the Artwork or any items of personal property that may at any time be on the Location, including, without limitation, damage caused by the general public, trespassers, graffiti, thrown objects, wind, hail, fire, or other casualty, no matter how such damage is caused. The Applicant hereby waives, as against the City and its employees, agents, and contractors, all claims and liability, and on behalf of the Applicant's insurers, rights of subrogation, with respect to property damaged or destroyed by fire or other casualty or any other cause, no matter how caused.

**5. CITY OWNERSHIP, RIGHT TO MODIFY OR REMOVE.** The Applicant hereby transfers all ownership interest in the Artwork and the artwork contained in the Artwork to the City, and the City shall own all rights in the Artwork, the Proposal, and any art therein except as specified below. The Applicant acknowledges the Artwork is temporary and the City may, in its sole discretion, paint over, remove, resurface or allow the installation of different artwork, in part or in whole, at any time the City decides.

**6. COPYRIGHT, VARA WAIVER.**

**a. Applicant Warranty.** The Applicant warrants and represents neither the Proposal, the Artwork, nor any artwork contained therein violates any copyright or infringes on the copyright of any third party



or on any other intellectual property rights of any third party. The Applicant further represents it holds full title to any artwork transferred to the City and it is not licensing or sub-licensing any such artwork and has the right and authority to enter into this Agreement.

**b. Copyright.** The Applicant transfers to the City all ownership interest in all rights including rights under the federal Visual Artists Rights Act of 1990 ("VARA"), 17 U.S.C. §§ 106A and 113(d) in the Proposal, the Artwork, and the artwork contained therein. The artist or artists who have been or will be involved in designing or installing the Artwork or in creating the Proposal have waived their rights under VARA by completing and signing a waiver of rights under VARA, which is attached hereto as Exhibit C (*Signed VARA Waiver*).

**c. Artists Intellectual Property License.** The City hereby grants to the Applicant the limited and revocable license to make, display, and distribute, and authorize the making, displaying, and distribution of photographs and other reproductions of the Artwork. The Applicant may use such reproductions for advertising, educational and promotional materials, brochures, books, flyers, postcards, print, broadcast, film, and electronic and multimedia publicity. The Applicant may not license or sublicense its rights for any private or commercial purpose. This license granted hereunder does not include the right to sell photographs or reproductions of the Artwork.

## **7. CITY AND UTILITY ACCESS.**

**a. City's Right to Enter upon Property.** The Applicant acknowledges that the City and its authorized representatives have the unlimited right to enter upon the Location and the Artwork at any time for any purpose, including without limitation to inspect the Location and the Artwork. The Applicant further acknowledges its ability to enter upon the Location shall always be subject to the City's direction and control. The City shall have no duty to inspect.

**b. Rights of Utility Companies.** The authorization herein granted to the Applicant to install the Artwork and to use the Location are subject and subordinate to the rights of any and all utility companies that may now or hereafter have utility lines and/or other utility installations within the Location. The Applicant shall not alter, relocate, or otherwise interfere with such utility lines and installations and shall not do anything that will impair such utility companies' right to enter upon the Location from time to time for all purposes associated with the operation, maintenance, repair, replacement or removal of such utility lines and installations. Such utility companies have continued access to the Location 24 hours per day, 7 days per week, 52 weeks per year.

**8. COMPLIANCE WITH LAWS, REGULATIONS, AND PROGRAMS.** The Applicant shall comply with all applicable statutes, ordinances, regulations, and rules of the federal government, the State of Ohio, the County of Hamilton, and the City of Cincinnati.

**9. INDEMNIFICATION OF THE CITY.** The Applicant shall indemnify, defend, and save the City, its employees, agents, and contractors harmless from and against any and all losses, damages, settlements, costs, charges professional fees, and other expenses and liabilities of every kind and character (including without limitation attorney fees) arising out of or related to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with the Applicant's installation, maintenance, or removal of the Artwork, use of the Location, or violation of the provisions set forth in this Agreement, including without limitation any of the foregoing that may arise or be claimed with respect to any death, personal injury, or loss of or damage to property on or about the Location, including any such death, injury, or loss related to the materials used in installation, maintenance, or removal of the Artwork. The Applicant shall assume the defense (with counsel acceptable to the City) and settlement of any and all such suits or other legal proceedings brought against the City and shall pay all judgments entered in such suits or other legal proceedings. The assumption of liability and indemnity obligations of the Applicant under this Agreement shall survive the termination of this Agreement with respect to matters arising prior thereto.

**10. NOTICES.** All notices given hereunder by either party shall be in writing and shall be personally

delivered or mailed by U.S. Mail to the parties at the following addresses:

To City:

City of Cincinnati  
Dept. of Transportation & Engineering  
City Hall, Room 450  
801 Plum Street  
Cincinnati, OH 45202

To the Applicant:

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**11. LAW TO GOVERN.** This Agreement is entered into and is to be performed in the State of Ohio. The City and the Applicant 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.

**12. FORUM SELECTION.** The Applicant acknowledges and agrees that all state courts of record sitting in Hamilton County, Ohio, shall be the exclusive forum for the filing, initiation, and prosecution of any suit or proceeding arising from or out of, or relating to, this Agreement, or attachment thereto, including any duty owed by the Applicant to the City in connection therewith.

**13. AMENDMENT.** This Agreement may not be modified or amended.

**14. ENTIRETY.** This Agreement and the exhibits attached hereto contain the entire agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

*[Signature Page Follows]*

This Artwork Agreement is executed by the parties on the dates set forth below.

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Paula Boggs Muething, Interim City Manager

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

Recommended by:

\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form:

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

**ACCEPTED AND AGREED TO BY:**

**[APPLICANT NAME]**

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

Printed name: \_\_\_\_\_

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

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

**EXHIBIT A – Depiction of Artwork**

**SEE ATTACHED**

**EXHIBIT B – Location**

**SEE ATTACHED**

**EXHIBIT C – Signed VARA Waiver**

**SEE ATTACHED**

**WAIVER OF RIGHTS PURSUANT TO  
THE VISUAL ARTISTS RIGHTS ACT**

Description of Artwork (type, medium, colors, design): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Title (if applicable): \_\_\_\_\_

Date Created: \_\_\_\_\_

Dimensions (estimated): \_\_\_\_\_

Location: \_\_\_\_\_

The above-described artwork may be considered to be a "work of visual art" subject to the provisions of the federal Visual Artists Rights Act of 1990, 17 U.S.C. §106A and 113(d) ("**VARA**"), specifically the rights of certain authors to attribution and integrity codified in §106A(a).

I am an author of the artwork and am authorized to waive the rights conferred under VARA in accordance with the waiver provision 17 U.S.C. §106A(e)(1).

I hereby voluntarily and permanently waive my rights to attribution and integrity with respect to the artwork pursuant to VARA, and any identical or similar rights pursuant to any other applicable federal law, state law, or foreign or international law. I hereby waive my right to prevent any intentional distortion, mutilation, or other modification of the artwork.

I acknowledge that because of this waiver, the City of Cincinnati, and its officers, employees, agents, contractors, licensees, successors, or assigns ("**City**"), have the absolute right to change, modify, move, relocate, transport, remove, replace, repair, or restore the artwork located within the City, in whole or in part, in the City's sole discretion.

I understand the effect of this waiver and hereby acknowledge that I am surrendering the rights described herein with respect to the artwork.

Signature of Artist: \_\_\_\_\_

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

Date Signed: \_\_\_\_\_

June 16, 2021

To: Sheila Andrews, Office of the Clerk of Council

From: Katherine Keough-Jurs, AICP, Director  
Department of City Planning and Engagement

Copies to: Andy Juengling, AICP, Senior City Planner

Subject: Emergency Ordinance – Mural Installation at William Howard Taft Road and  
Woodburn Avenue in East Walnut Hills

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The above referenced Emergency Ordinance is ready to be scheduled for Committee. We are requesting that this item be scheduled for the June 22, 2021 meeting of the Economic Growth & Zoning Committee.

Included in this submission are the following items:

- 1) The transmittal letter to the Economic Growth & Zoning Committee;
- 2) A copy of the City Planning Commission staff report dated March 19, 2021;
- 3) The Emergency Ordinance Notwithstanding authorizing the installation of a mural on a retaining wall at the intersection of William Howard Taft Road and Woodburn Avenue in East Walnut Hills;



June 16, 2021

Cincinnati City Council  
Council Chambers, City Hall  
Cincinnati, Ohio 45202

Dear Members of Council:

We are transmitting herewith an Emergency Ordinance captioned as follows:

**AUTHORIZING** the City Manager to design, install, and maintain a mural on the retaining wall located at the intersection of William Howard Taft Road and Woodburn Avenue in the East Walnut Hills neighborhood, notwithstanding any conflicting Department of Transportation and Engineering rules and regulations or any provision of the Cincinnati Municipal Code that would prohibit the installation and maintenance of the mural.

**Summary:**

The East Walnut Hills Assembly, the official community council for the East Walnut Hills neighborhood, has received a \$15,000 grant from the Haile Foundation. The East Walnut Hills Assembly intends to use the funds for a wall mural to serve as an entrance into the East Walnut Hills Business District. The East Walnut Hills Assembly requests the proposed Notwithstanding Ordinance (NWO) to permit the installation of a mural within the City-owned right-of-way. The proposed mural would be installed on a curved stone retaining wall in a portion of City-owned right-of-way at the northwest corner of William Howard Taft Road and Woodburn Avenue. The wall is approximately 1,977 square feet. In order to allow for the installation of the mural, City Council would need to approve the NWO, which would allow the City to designate one or more agents or contractors, including the East Walnut Hills Assembly, to carry out all or a portion of the proposed work required to install and maintain the mural.

The City Planning Commission recommended the following on March 19, 2021 to City Council:

**APPROVE** the Notwithstanding Ordinance permitting the installation of a mural in City-owned right-of-way along William Howard Taft Road and Woodburn Avenue in East Walnut Hills with the following conditions:

- 1) That the mural installation size, location, and design be reviewed and approved by the Department of Transportation and Engineering at the time of permit review; and
- 2) The petitioner shall coordinate with the City regarding the donation of the mural in the right-of-way including a contract with the City in a similar form as the City of Cincinnati Artwork Donation Agreement (Exhibit C); and
- 3) All artists involved in the creation and installation of the artwork shall provide the City with a Waiver of Rights pursuant to the Visual Artists Rights Act (Exhibit D).

Motion to Approve: Mr. Samad

Ayes:

Mr. Juech  
Ms. McKinney  
Mr. Samad  
Ms. Sesler  
Mr. Smitherman  
Mr. Stallworth

Seconded: Mr. Smitherman

THE CITY PLANNING COMMISSION



Katherine Keough-Jurs, AICP, Director  
Department of City Planning and Engagement

# City of Cincinnati



801 Plum Street, Suite 346-A  
Cincinnati, Ohio 45202

Phone (513) 352-5205  
Email Jan.Michele.Kearney@  
cincinnati.oh.gov  
Web www.cincinnati.oh.gov

**Jan-Michele Lemon Kearney**  
*Councilmember*

202102162

June 4, 2021

## MOTION

WE MOVE for the City Administration to request information from the Cincinnati Police Department to identify the needs of the Cincinnati Police Department regarding the use of a new gun firing range.

WE FURTHER MOVE that the Administration prepare a report on negotiations with the City of Evendale regarding the existing range and the feasibility, including all costs, of removing training from the current firing range to a new facility.

*Jan-Michele Lemon Kearney*

\_\_\_\_\_  
Councilmember Jan-Michele Lemon Kearney

_____	_____
_____	_____
_____	_____
_____	_____

# Mathematics Olympiad

NO. 100-10000

to the fact that the Commission has not yet received the information requested by the Commission in its letter of 10 October 1990. The Commission has also received information from the Commission that the Commission has not yet received the information requested by the Commission in its letter of 10 October 1990.

1992-1993, 1993-1994, 1994-1995, 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021, 2021-2022, 2022-2023, 2023-2024, 2024-2025, 2025-2026, 2026-2027, 2027-2028, 2028-2029, 2029-2030, 2030-2031, 2031-2032, 2032-2033, 2033-2034, 2034-2035, 2035-2036, 2036-2037, 2037-2038, 2038-2039, 2039-2040, 2040-2041, 2041-2042, 2042-2043, 2043-2044, 2044-2045, 2045-2046, 2046-2047, 2047-2048, 2048-2049, 2049-2050, 2050-2051, 2051-2052, 2052-2053, 2053-2054, 2054-2055, 2055-2056, 2056-2057, 2057-2058, 2058-2059, 2059-2060, 2060-2061, 2061-2062, 2062-2063, 2063-2064, 2064-2065, 2065-2066, 2066-2067, 2067-2068, 2068-2069, 2069-2070, 2070-2071, 2071-2072, 2072-2073, 2073-2074, 2074-2075, 2075-2076, 2076-2077, 2077-2078, 2078-2079, 2079-2080, 2080-2081, 2081-2082, 2082-2083, 2083-2084, 2084-2085, 2085-2086, 2086-2087, 2087-2088, 2088-2089, 2089-2090, 2090-2091, 2091-2092, 2092-2093, 2093-2094, 2094-2095, 2095-2096, 2096-2097, 2097-2098, 2098-2099, 2099-2100, 2100-2101, 2101-2102, 2102-2103, 2103-2104, 2104-2105, 2105-2106, 2106-2107, 2107-2108, 2108-2109, 2109-2110, 2110-2111, 2111-2112, 2112-2113, 2113-2114, 2114-2115, 2115-2116, 2116-2117, 2117-2118, 2118-2119, 2119-2120, 2120-2121, 2121-2122, 2122-2123, 2123-2124, 2124-2125, 2125-2126, 2126-2127, 2127-2128, 2128-2129, 2129-2130, 2130-2131, 2131-2132, 2132-2133, 2133-2134, 2134-2135, 2135-2136, 2136-2137, 2137-2138, 2138-2139, 2139-2140, 2140-2141, 2141-2142, 2142-2143, 2143-2144, 2144-2145, 2145-2146, 2146-2147, 2147-2148, 2148-2149, 2149-2150, 2150-2151, 2151-2152, 2152-2153, 2153-2154, 2154-2155, 2155-2156, 2156-2157, 2157-2158, 2158-2159, 2159-2160, 2160-2161, 2161-2162, 2162-2163, 2163-2164, 2164-2165, 2165-2166, 2166-2167, 2167-2168, 2168-2169, 2169-2170, 2170-2171, 2171-2172, 2172-2173, 2173-2174, 2174-2175, 2175-2176, 2176-2177, 2177-2178, 2178-2179, 2179-2180, 2180-2181, 2181-2182, 2182-2183, 2183-2184, 2184-2185, 2185-2186, 2186-2187, 2187-2188, 2188-2189, 2189-2190, 2190-2191, 2191-2192, 2192-2193, 2193-2194, 2194-2195, 2195-2196, 2196-2197, 2197-2198, 2198-2199, 2199-2200, 2200-2201, 2201-2202, 2202-2203, 2203-2204, 2204-2205, 2205-2206, 2206-2207, 2207-2208, 2208-2209, 2209-2210, 2210-2211, 2211-2212, 2212-2213, 2213-2214, 2214-2215, 2215-2216, 2216-2217, 2217-2218, 2218-2219, 2219-2220, 2220-2221, 2221-2222, 2222-2223, 2223-2224, 2224-2225, 2225-2226, 2226-2227, 2227-2228, 2228-2229, 2229-2230, 2230-2231, 2231-2232, 2232-2233, 2233-2234, 2234-2235, 2235-2236, 2236-2237, 2237-2238, 2238-2239, 2239-2240, 2240-2241, 2241-2242, 2242-2243, 2243-2244, 2244-2245, 2245-2246, 2246-2247, 2247-2248, 2248-2249, 2249-2250, 2250-2251, 2251-2252, 2252-2253, 2253-2254, 2254-2255, 2255-2256, 2256-2257, 2257-2258, 2258-2259, 2259-2260, 2260-2261, 2261-2262, 2262-2263, 2263-2264, 2264-2265, 2265-2266, 2266-2267, 2267-2268, 2268-2269, 2269-2270, 2270-2271, 2271-2272, 2272-2273, 2273-2274, 2274-2275, 2275-2276, 2276-2277, 2277-2278, 2278-2279, 2279-2280, 2280-2281, 2281-2282, 2282-2283, 2283-2284, 2284-2285, 2285-2286, 2286-2287, 2287-2288, 2288-2289, 2289-2290, 2290-2291, 2291-2292, 2292-2293, 2293-2294, 2294-2295, 2295-2296, 2296-2297, 2297-2298, 2298-2299, 2299-2300, 2300-2301, 2301-2302, 2302-2303, 2303-2304, 2304-2305, 2305-2306, 2306-2307, 2307-2308, 2308-2309, 2309-2310, 2310-2311, 2311-2312, 2312-2313, 2313-2314, 2314-2315, 2315-2316, 2316-2317, 2317-2318, 2318-2319, 2319-2320, 2320-2321, 2321-2322, 2322-2323, 2323-2324, 2324-2325, 2325-2326, 2326-2327, 2327-2328, 2328-2329, 2329-2330, 2330-2331, 2331-2332, 2332-2333, 2333-2334, 2334-2335, 2335-2336, 2336-2337, 2337-2338, 2338-2339, 2339-2340, 2340-2341, 2341-2342, 2342-2343, 2343-2344, 2344-2345, 2345-2346, 2346-2347, 2347-2348, 2348-2349, 2349-2350, 2350-2351, 2351-2352, 2352-2353, 2353-2354, 2354-2355, 2355-2356, 2356-2357, 2357-2358, 2358-2359, 2359-2360, 2360-2361, 2361-2362, 2362-2363, 2363-2364, 23

**June 9, 2021**

**To:** Mayor and Members of City Council 202102150

**From:** Paula Boggs Muething, City Manager

**Subject:** **Emergency Ordinance – New Classification and Salary Range for the classification of Director of Procurement**

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Attached is an Emergency Ordinance captioned:

**ESTABLISHING** the classification and salary range schedule for the new employment classification of Director of Procurement; and **ENACTING** Section 993 of Division 5, Chapter 307 of the Cincinnati Municipal Code, in order to establish a new salary schedule and classification title for the new classification consistent with the organizational changes described herein.

The Human Resources Director has approved to establish the salary schedule and classification title for the new employment classification of Director of Procurement. The Department of Human Resources has done due diligence and conducted appropriate evaluation to ensure that the new salary schedule and classification title is consistent with similar positions with factors considered throughout the evaluation process including, scope of work and responsibility. The creation of the classification is necessary to fit the needs of the City, and consistent with the organizational changes described herein.

The Recommended FY 2022-2023 Biennial Operating Budget includes the transfer of the Division of Purchasing from the Department of Finance to the City Manager's Office and will be renamed as the Office of Procurement. The new Director of Procurement classification is necessary to align the Director's title with the revised Office name for FY 2022.

The reason for the emergency is the immediate need to establish the classification and salary ranges in order to recruit and retain qualified employees.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
Karen Alder, Finance Director  
William M. Brown, Human Resources Director

Attachment

## **EMERGENCY**

**LES**

**-2021**

**ESTABLISHING** the classification and salary range schedule for the new employment classification of Director of Procurement; and **ENACTING** Section 993 of Division 5, Chapter 307 of the Cincinnati Municipal Code, in order to establish a new salary schedule and classification title for the new classification consistent with the organizational changes described herein.

WHEREAS, the City's Department of Human Resources is recommending the establishment of a new classification specification and salary range for Director of Procurement in order to support the creation of new departments and the ongoing duties of existing departments and Directors across various City agencies; and

WHEREAS, the City's Human Resources Department has determined the creation of the Director of Procurement classification specification is necessary to fit the needs of City-wide employment; and

WHEREAS, the creation of the Director of Procurement classification specification is necessary to ensure consistency in the knowledge, skills, and abilities required to carry out the fiduciary obligations prescribed to the position; and

WHEREAS, the Director of Procurement position and salary range provide greater prospects for succession planning and organizational planning among City leaders with institutional knowledge; and

WHEREAS, the Department of Human Resources has done its due diligence and conducted appropriate internal comparisons to ensure the new classification and salary range are consistent with the scope of services and the level of responsibility of the position of Director of Procurement, and the factors considered throughout the evaluation process included liability, scope of responsibility, judgment and independent action, accountability, and supervisory responsibility; and

WHEREAS, it has been determined that adopting the new salary range and classification title for the position is based upon a market analysis consistent with the organization changes described herein and internal cost of living adjustment comparisons as approved by City Council; and

WHEREAS, it is further recommended that future cost of living adjustments for the Director of Procurement be aligned with salary adjustments for the non-represented groups as approved by City Council; now, therefore,

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

Section 1. That new Section 993 of Division 5, Chapter 307 of the Cincinnati Municipal Code is hereby enacted as shown below:

<b>Classification</b>	<b>Minimum – Annual</b>	<b>Maximum – Annual</b>
Director of Procurement	\$110,928.58	\$154,246.15

Section 2. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to establish the classification and salary ranges in order to recruit and retain qualified employees.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

Date: June 16, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager **202102250**

Subject: ORDINANCE - STREETCAR POWER-DOWNS AND SHUTDOWN WORK PERMITS

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Attached is an ordinance captioned as follows:

MODIFYING Title VII, "General Regulations," of the Cincinnati Municipal Code by AMENDING the provisions of Section 722-3, "Construction Permit," of Chapter 722, "Management and Control of the Use of the City Right-of-Way," and by ORDAINING new Section 723-79, "Streetcar Power-Down and Shutdown Work Permit," and Section 723-99-J, "Violation of Section 723-79," of Chapter 723, "Streets and Sidewalks, Use Regulations" to establish a clear and effective framework for ensuring the safety, security, and welfare of persons in the right of way whose work requires prolonged access to the streetcar system, including work that requires the shutdown of the electrified overhead catenary system; and further MODIFYING Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code by AMENDING the provisions of Section 1501-3, "Class A Civil Offenses," and Section 1501-9, "Class D Civil Offenses," to specify the penalties associated with violations of the framework established herein.

Following the completed transition of streetcar management duties from SORTA to the City, the attached Ordinance removes "SORTA" from Section 722-3(d)(xi) of the CMC and clarifies that in order to provide for the safe and effective management of the right-of-way by the City, providers will be required, when applicable, to obtain a streetcar power-down or shutdown permit from the City when working in proximity to the streetcar route.

The Administration recommends passage of the attached ordinance.

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



JRS  
*BWb*

**City of Cincinnati**  
**An Ordinance No. \_\_\_\_\_ - 2021**

**MODIFYING** Title VII, “General Regulations,” of the Cincinnati Municipal Code by **AMENDING** the provisions of Section 722-3, “Construction Permit,” of Chapter 722, “Management and Control of the Use of the City Right-of-Way,” and by **ORDAINING** new Section 723-79, “Streetcar Power-Down and Shutdown Work Permit,” and Section 723-99-J, “Violation of Section 723-79,” of Chapter 723, “Streets and Sidewalks, Use Regulations” to establish a clear and effective framework for ensuring the safety, security, and welfare of persons in the right of way whose work requires prolonged access to the streetcar system, including work that requires the shutdown of the electrified overhead catenary system; and further **MODIFYING** Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code by **AMENDING** the provisions of Section 1501-3, “Class A Civil Offenses,” and Section 1501-9, “Class D Civil Offenses,” to specify the penalties associated with violations of the framework established herein.

WHEREAS, Cincinnati Municipal Code (“CMC”) Chapter 723, “Streets and Sidewalks, Use Regulations,” requires persons to first obtain a permit when they seek access to the City right-of-way to perform certain types of work; and

WHEREAS, these permits are the primary tool by which the City ensures that work performed in the right of way is coordinated and safely performed; and

WHEREAS, performing work in the streetcar right-of-way in particular presents elevated concerns for the safety, security, and welfare of the persons performing the work, other persons who may be impacted by the work, and the City’s infrastructure and assets; and

WHEREAS, City Council accordingly wishes to establish certain supplemental conditions for obtaining a permit to work in proximity to the streetcar right-of-way in order to provide for the safety, security, and welfare of persons and the City’s infrastructure and assets, and further wishes to establish the penalties associated with the failure to satisfy those conditions; and

WHEREAS, additionally, CMC Section 722-3(d)(xi) currently requires a provider seeking to do work in the right of way along the Cincinnati Bell Connector route to obtain authorization from SORTA when performing the work; and

WHEREAS, the Council wishes to modify this section to recognize the transition of the management of the Cincinnati Bell Connector from SORTA to the City; now, therefore,

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



Section 1. That Section 722-3, “Construction Permit,” of the Cincinnati Municipal Code is hereby amended as follows:

**Sec. 722-3. - Construction Permit.**

(a) *Permit Required for Construction in Right of Way.* The director is charged with regulating the right of way for the construction, maintenance, and repair of streets, sidewalks, sidewalk spaces, alleys, public ways and places, and no provider, whether an abutting owner or not, shall do or permit to be done by his agents or employees without having first obtained from the director a permit under Chapter 718, Chapter 719, Chapter 721, Chapter 722, or Chapter 723, any of the following acts:

- (i) Make any excavation or dig into any street, sidewalk, sidewalk space, alley, or other portion of the right of way;
- (ii) Remove, break or make holes in any pavement of the roadway or sidewalk or in any sidewalk space or any curb;
- (iii) Construct, build, erect, or place any thing or structure in, upon, over, or under a street, sidewalk, sidewalk space, alley, or public way or place;
- (iv) Make an improvement to the surface of any street, sidewalk, sidewalk space, alley, or public way or place by grading or paving, or construct or repair a sidewalk or curb, or make any other improvement thereto; ~~or~~
- (v) Occupy or obstruct the right-of-way for purposes of accessing or maintaining facilities; or
- (vi) Engage in construction or demolition activities, make any street opening, place any obstruction, or otherwise perform work within, or in proximity to, the streetcar right-of-way that requires the power-down or shutdown of the streetcar transit system or that otherwise materially interferes with the operation of the streetcar transit system.

(b) *Repealed.*

(c) *Other Approvals, Permits, and Agreements.* Providers shall obtain any and all regulatory approvals, permits, authorizations, or licenses necessary for the offering or provision of such services from the appropriate federal, state and local authorities and upon the city’s reasonable request, shall provide copies of such documents to the city. Further, permission to occupy the right-of-way shall not entitle a provider to use, alter, convert to, or interfere with, the facilities, easements, poles, conduits, lines, pipelines, wires, fiber, cable or any other real or personal property of any kind whatsoever under the management or control of the city.

(d) *Conditions for Providers Occupying the Right of Way.* In order to provide for the safe and effective management of the right of way by the city and in addition to the requirements imposed by the Cincinnati municipal code, providers shall:

- (i) Prioritize efficient, and least obtrusive use of right of way, consistent with safety, and to minimize traffic and other disruptions including street cuts; and
- (ii) Participate in the department of transportation and engineering's construction coordination system using Cincinnati Area Geographic Information System ("CAGIS") for joint planning, construction, and advance notification of the provider's capital improvement and capital replacement projects located within the right of way. On a continuing basis, providers shall identify all capital work planned within three years, enter the planned work into the CAGIS-based construction coordination system, and make updates as necessary to maintain accuracy of the construction coordination system. Noncompliance with construction coordination requirements shall be grounds for denial of a construction permit; and
- (iii) Upon written notice, and at the direction of the director, promptly remove or rearrange facilities as necessary for public safety; and
- (iv) Perform all work, construction, maintenance or removal of facilities within the right of way, including tree trimming, in accordance with good engineering, construction and arboricultural practice including any appropriate state building codes, safety codes and law and use best efforts to repair and replace any street, curb or other portion of the right of way, or facilities located therein, to a condition to be determined by the director to be adequate under current standards and not less than materially equivalent to its condition prior to such work and to do so in a manner which minimizes any inconvenience to the public, the city and other providers, all in accordance with all applicable provisions of this chapter and the Cincinnati municipal code; and
- (v) Construct, install, operate and maintain its facilities and system in a manner consistent with all applicable laws, ordinances, construction standards and governmental requirements including, but not limited to, the national electric safety code, national electric code and applicable FCC or other federal, state and/or local regulations; and
- (vi) Comply with CMC Section 743-19, "Protection of Public Trees," which prohibits providers from performing work within 15 feet of a public tree without first obtaining a permit for such work from the urban forestry division of the Cincinnati parks' department; and

- (vii) Warrant that all worker facilities, conditions and procedures that are used during construction, installation, operation and maintenance of the provider's facilities within the right of way shall comply with all applicable standards of the federal occupational safety and health administration; and
- (viii) Use its best efforts to cooperate with the city in any emergencies involving the right of way; and
- (ix) Weather permitting, remove all graffiti within 30 calendar days of notice. Provider shall remove any and all graffiti on any of the provider's facilities located within the city right-of-way. Should the provider fail to do so, the city may take action to remove the graffiti and bill the provider for the cost thereof; and
- (x) ~~Providers shall field~~ identify ~~their~~ its facilities in the right of way in accordance with the requirements set forth in the Ohio revised code and the Cincinnati municipal code, including, but not limited to, CMC Section 722-5(a); and
- (xi) When applicable, obtain a separate streetcar power-down or shutdown permit pursuant to CMC Section 723-79. Permittee shall have valid authorization from the streetcar transit system ~~SORTA~~ where when required ~~under the code~~ for work occurring within, or in proximity to, the right of way of ~~along~~ a streetcar route.

Section 2. That the existing Section 722-3, "Construction Permit," of the Cincinnati Municipal Code is hereby repealed.

Section 3. That new Section 723-79, "Streetcar Power-Down and Shutdown Work Permit," of Chapter 723, "Streets and Sidewalks, Use Regulations," of the Cincinnati Municipal Code is hereby ordained to read as follows:

**Sec. 723-79 – Streetcar Power-Down and Shutdown Work Permit.**

- (a) No person shall engage in construction or demolition activities, make any street opening, place any obstruction, or otherwise perform work within, or in proximity to, the streetcar right-of-way that requires the power-down or shutdown of the streetcar transit system or that otherwise materially interferes with the operation of the streetcar transit system without first obtaining a streetcar power-down permit or shutdown permit, as applicable, from the director of transportation and engineering.

- (b) In furtherance of his or her responsibility for management of the city's multi-modal transportation system, the director of transportation and engineering is authorized to establish rules and regulations for the issuance of streetcar power-down permits and streetcar shutdown permits, including the establishment of permit fees, which rules and regulations shall be effective upon approval by the city manager.
- (c) The rules and regulations established pursuant to subsection (b) shall promote the safe and orderly conduct of work in the streetcar right-of-way, shall promote the safety and welfare of workers, transit operators, city staff, right-of-way users, and neighboring residents and business, and shall protect and secure the streetcar right-of-way and the streetcar system, including the electric overhead catenary system.
- (d) A streetcar power-down permit or shutdown permit issued under this Section 723-79 shall be conditioned on the permittee obtaining track access authorization from the department of transportation and engineering and streetcar transit system in accordance with streetcar transit system rules and regulations. The track access authorization requirements ensure permittee coordination with the streetcar operator with regard to timing of the work, safety training, and other requirements protective of the public safety.

Section 4. That new Section 723-99-J, "Violation of Section 723-79," of Chapter 723, "Streets and Sidewalks, Use Regulations," of the Cincinnati Municipal Code is hereby ordained to read as follows:

**Sec. 723-99-J. - Violation of Section 723-79.**

Whoever violates the provisions of Section 723-79 commits a Class D Civil Offense as set forth in Cincinnati Municipal Code § 1501-9(b) and is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense.

Section 5. That Section 1501-3, "Class A Civil Offenses," of the Cincinnati Municipal Code is hereby amended as follows:

A person who violates a standard of conduct set forth in a section or chapter of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class A Civil Offense. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 1501-99 for the first violation of a Class B Civil Offense.

a.	§ 511-1	Advertising on Vehicles.
b.	§ 511-33	Front Yard Parking.

c.	§ 514-11	Parking Restrictions.
d.	§ 604-17	Unapproved Bird, Fowl or Animal Feeding.
e.	§ 701-19	Order to Muzzle Dogs.
f.	§ 701-27	Loud Dog.
g.	§ 701-30	Dog Excrement Removal.
h.	§ 721-63	Gutter Crossings.
i.	§ 721-65	Obstructing Gutters.
j.	§ 721-93	Temporary Driveway Permits.
k.	§ 723-5	Encumbering Sidewalks.
l.	§ 723-9	Regulations for Wholesale Produce Areas.
m.	§ 723-11	Retail Sidewalk Display.
n.	§ 723-12	Free Standing Business or Identification Signs (Sandwich Boards) on Sidewalk.
o.	§ 723-13	Temporary Encumbrances.
p.	§ 723-17	U.S. Mail Boxes.
q.	§ 723-23	Ground and Debris on Street or Sidewalk.
r.	§ 723-29	Sprinkling Roadways in Congested District.
s.	§ 723-31	Sprinkling Before Sweeping.
t.	§ 723-37	Unloading Heavy Material on Streets or Sidewalks.
u.	§ 723-39	Inscribing Names or Advertising Matter on Sidewalks Unlawful.
v.	§ 723-57	Removal of Snow.
w.	§ 723-59	Ice on Sidewalks.
x.	§ 723-65	Displaying House Numbers.
y.	§ 723-69	Removing House Numbers.
<del>z.</del>	<del>§ 723-79</del>	<del>Fire Kettle Permit.</del>
<u>z.aa.</u>	§ 729-7	Setting Out Containers.
<u>aa.bb.</u>	§ 729-15	Containers to be Removed from Collection Points.
<u>bb.ee.</u>	§ 729-37	Street Waste Receptacles.
<u>cc.dd.</u>	§ 729-87(a)	Recyclable Materials - Taking Recyclables.
<u>dd.ee.</u>	§ 729-87(b)	Recyclable Materials - Destruction of Container.
<u>ee.ff.</u>	§ 729-87(c)	Recyclable Materials - Relocation of Container.
<u>ff.gg.</u>	§ 729-87(d)	Recyclable Materials - Failure to Remove Container from Collection Point.

<del>gg.hh.</del>	§ 729-88	Yard Waste Materials.
<del>hh.ii.</del>	§ 729-89(c)	Disposal of Unacceptable Waste.
<del>ii.jj.</del>	§ 911-17	Posting Bills on Streets.
<del>jj.kk.</del>	§ 1123-11(b)	Vacant Foreclosed Property Registration - Failure to maintain accurate information.
<del>kk.ll.</del>	§ 1123-11(c)	Vacant Foreclosed Property Registration - Failure to maintain the property in accordance with the maintenance provisions.
<del>ll.mm.</del>	§ 701-2(B)(1)	Leash Required; Responsibility for Injury (Leash).
<del>mm.nn.</del>	§ 856-25(d)	Failure to Provide Registration Number on a Listing Advertising a Short Term Rental.
<del>nn.oo.</del>	§ 874.07(b)	Failure to Maintain Accurate Residential Rental Property Registration.
<del>oo.pp.</del>	§ 1601-57	Enforcement of Emergency Orders.
<del>pp.qq.</del>	§ 1601-59	Enforcement of Health Orders.

Section 6. That the existing Section 1501-3, "Class A Civil Offenses," of the Cincinnati Municipal Code is hereby repealed.

Section 7. That Section 1501-9, "Class D Civil Offenses," of the Cincinnati Municipal Code is hereby amended as follows:

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

- (a) Class D Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 720-13	Private Facilities	Class E
(2)	§ 720-45	Notice of Violations	Class E

			Civil Fine for Subsequent Offense
(3)	§ 720-69	Notice to Correct Drainage	Class E
(4)	Chapter 855	Rooming Houses	Class D
(5)	Chapter 895	Outdoor Advertising Signs	Class D
(6)	Chapter 1101	Administration, Cincinnati Building Code	Class E
(7)	Chapter 1106	General and Specialty Contractors	Class E
(8)	Chapter 1107	Elevator and Conveyer Equipment	Class E
(9)	Chapter 1117	Housing Code	Class E
(10)	Chapter 1119	Building Hazard Abatement Code	Class E
(11)	Chapter 1127	General Inspection Programs Code	Class E
(12)	Title XIV	Zoning Code	Class E
(13)	§ 1201-21	Maintenance	Class D
(14)	§ 1201-33	Evacuation	Class D
(15)	§ 1201-35	Spills and Leaks	Class D
(16)	Chapter 1235	Detectors, Early Fire Warning Systems	Class D
(17)	§ 1123-11(a)	Vacant Foreclosed Property Registration - Failure to register a vacant, foreclosed property.	Class E
(18)	§ 874-07(a)	Failure to Register Residential Rental Property	Class D

(b) Class D Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 718-25	Secret Street Uses	Class E

			Civil Fine for Subsequent Offense
(2)	§ 721-59	Taking Material from Streets	Class E
(3)	§ 729-71(c)(2)	Personal Property Left Abandoned on Streets and Sidewalks - 4 or more items	Class D
(4)	§ 761-14	Eviction or Retaliation by Landlord	Class E
(5)	Chapter 891	Home Improvement	Class E
(6)	§ 1201-47	Failure to Comply with Orders	Class D
(7)	§ 1219-21	Causing Fire Through Negligence	Class D
(8)	Chapter 1251	Fire Starting Apparatus	Class D
(9)	§ 759-4	Use of a Motor Vehicle to Facilitate a Drug Related Crime	Class D
(10)	Chapter 722	Management and Control of the Use of the City Right-of-Way	Class E
(11)	Chapter 730	Commercial Waste Franchises	
(12)	§ 856-25(c)	Violation of Limitations on Operators or Operation of Short Term Rentals	Class D
(13)	§ 1125-17(1)	Failure to Register a Vacant Building	Class E
(14)	§ 1601-57	Enforcement of Emergency Orders	Class D
(15)	§ 1601-59	Enforcement of Health Orders	Class D
(16)	<u>§ 723-79</u>	<u>Failure to Obtain Streetcar Power-Down or Shutdown Work Permit</u>	<u>Class D</u>

Section 8. That the existing Section 1501-9, “Class D Civil Offenses,” of the Cincinnati Municipal Code is hereby repealed.

Section 9. That the City Manager and the proper City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including by updating applicable rules and regulations, fee schedules, and policies and procedures for the Cincinnati Bell Connector and the streetcar transit system in accordance with the modifications to the Cincinnati Municipal Code provided for herein.



Section 10. That the Finance Director is authorized to accept all funds received pursuant to this Ordinance and deposit such funds into the Streetcar Operations Fund 455 account no. 0455x8361 "Streetcar Power-Down and Shutdown Permit."

Section 11. 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.

Date: June 16, 2021

To: Mayor and Members of City Council 202102258

From: Paula Boggs Muething, City Manager

Subject: EMERGENCY LEGISLATIVE RESOLUTION – SIDEWALK ASSESSMENTS – 2021  
SIDEWALK SAFETY PROGRAM – MT. WASHINGTON, RAINBOW SUBDIVISION

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Attached is an emergency legislative resolution captioned as follows:

DECLARING the necessity of repairs to certain sidewalks, associated sidewalk spaces, curbs, and gutters in the Mount Washington neighborhood, and the necessity of assessing abutting properties to recover the cost of such repairs in accordance with Ohio Revised Code Chapter 729 and Cincinnati Municipal Code Chapter 721.

This resolution will declare the necessity of special assessments upon certain property bounding and abutting streets within the City of Cincinnati, in Mt. Washington, Rainbow Subdivision, as noted in Attachment I, Exhibit A, for the purpose of paying the cost and expense of repairing, reconstructing, and constructing concrete sidewalks, driveways, and curbs consistent with Ohio Revised Code Chapter 729 and Cincinnati Municipal Code Requirements.

The property owners are being notified of the need for repairs and have the option to have the work completed by private contractors. Repairs not made by the property owners, according to City requirements, will be completed by the City. The owners of these properties will be billed the cost of the repairs. Costs which are not paid by the owners within thirty days will then be assessed in accordance with Ohio Revised Code requirements.

Ultimately, unpaid assessments will be certified to the County Auditor for collection by the County Treasurer in the same manner as real estate taxes.

The request for emergency passage is necessary to allow administration to proceed immediately with notifying property owners to provide ample time needed for notification process, establishing a deadline to allow property owners to hire their own private contractor, if they chose to, and schedule remaining repairs for city contractor to be completed before the end of the construction season.

The Administration recommends passage of the attached emergency legislative resolution.

Attachment I – Exhibit A

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

EMERGENCY

**Legislative Resolution**

JRS *AWB*

RESOLUTION NO. \_\_\_\_\_ - 2021

**DECLARING** the necessity of repairs to certain sidewalks, associated sidewalk spaces, curbs, and gutters in the Mount Washington neighborhood, and the necessity of assessing abutting properties to recover the cost of such repairs in accordance with Ohio Revised Code Chapter 729 and Cincinnati Municipal Code Chapter 721.

WHEREAS, Cincinnati Municipal Code Chapter 721 requires property owners to keep the sidewalks, associated sidewalk spaces, curbs, and gutters abutting their properties safe and in good repair; and

WHEREAS, Ohio Revised Code Chapter 729 further authorizes the City to order the repair of sidewalks, sidewalk areas, curbs, and gutters and to levy an assessment upon the owners of abutting lots and lands to recover the cost of the repairs when they are performed by the City; and

WHEREAS, property owners' failure to keep abutting sidewalks, associated sidewalk spaces, curbs, and gutters safe and in good repair poses threats to the integrity of public infrastructure and interferes with the public's safe use and enjoyment of sidewalks and adjacent areas; and

WHEREAS, through its sidewalk safety program, the City regularly identifies sidewalks, associated sidewalk spaces, curbs, and gutters in need of repair, notifies abutting property owners of their obligation to repair them, repairs them if the property owner fails to do, and assesses the cost of the repairs to the abutting property owner; and

WHEREAS, pursuant to Ohio Revised Code Section 729.02, the City Council hereby declares the necessity of repairing certain sidewalks, associated sidewalk spaces, curbs, and gutters in the Mt. Washington neighborhood; and

WHEREAS, the Council further declares the necessity of assessing abutting properties to recover the cost of such repairs when the owners of those properties fail to make repairs or pay the City's bill within thirty days of the date of service of this resolution; now, therefore,

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

Section 1. That, pursuant to Ohio Revised Code Section 729.02, an estimated \$103,838.64 in repairs to sidewalks, associated sidewalk spaces, curbs, and gutters abutting

certain properties in the Mt. Washington neighborhood (“Necessary Sidewalk Repairs”) are hereby declared necessary for the public good and public safety.

Section 2. That, pursuant to Ohio Revised Code Section 729.02(A), the plans, specifications, and cost estimates corresponding to the Necessary Sidewalk Repairs are on file in the Clerk of Council’s office, which plans, specifications, and cost estimates are incorporated herein by reference and hereby approved (“Approved Plans”).

Section 3. That, pursuant to Ohio Revised Code Section 729.02(B), the lots and lands abutting the sidewalks, associated sidewalk spaces, curbs, and gutters whose repair is declared necessary by this resolution are described in the attached Exhibit A, incorporated herein by reference, and include properties fronting on the following streets: Rainbow Lane from Coffey Street to Corbly Street; Coffey Street from Rainbow Lane to its east terminus; Graf Drive from Rainbow Lane to Rainbow Lane; Findlater Court from Rainbow Lane to its north terminus; Rainbow Court from Rainbow Lane to its east terminus; Triesta Court from Rainbow Lane to its east terminus; and Hialea Court from Rainbow Lane to its east terminus.

Section 4. That, pursuant to Ohio Revised Code Section 729.02(C), the owners of the lots and lands abutting the sidewalks, associated sidewalk areas, curbs, and gutters to be repaired (“Abutting Property Owners”) shall cause the Necessary Sidewalk Repairs to be performed in accordance with the Approved Plans and applicable rules and regulations of the City’s Department of Transportation and Engineering.

Section 5. That, pursuant to Ohio Revised Code Section 729.02(D), the Abutting Property Owners shall cause the Necessary Sidewalk Repairs to be performed within thirty days from the date of service of this resolution.

Section 6. That, pursuant to Ohio Revised Code Section 729.02(E), in the event the Abutting Property Owners do not cause the Necessary Sidewalk Repairs to be performed within

the time allotted, the City will perform the Necessary Sidewalk Repairs and assess the cost thereof against the lots and lands abutting thereon.

Section 7. That the Clerk, or a person designated by the Clerk, shall cause the Abutting Property Owners to be served with notice of the passage of this resolution in accordance with Ohio Revised Code Section 729.03 and Article II, Section 6 of the City Charter. Service of the notice of the passage of this resolution shall also constitute a notice to repair pursuant to Cincinnati Municipal Code Section 721-149 and the notice shall contain the information required by Cincinnati Municipal Code Section 721-153.

Section 8. That, pursuant to Ohio Revised Code Section 729.07, upon completion of the Necessary Sidewalk Repairs, the total cost of the repairs performed by the City and a list of the estimated assessments to recover that cost shall be ascertained, placed on file with the Clerk, and made available for public inspection.

Section 9. That, pursuant to Ohio Revised Code Section 729.08, the Clerk, or a person designated by the Clerk, shall cause notice of the estimated assessments to be published for three consecutive weeks in a newspaper of general circulation, or as otherwise provided in Ohio Revised Code Section 7.16, which notice shall state that the list of estimated assessments has been made and is on file with the Clerk for inspection and examination.

Section 10. That, in addition, pursuant to Cincinnati Municipal Code 721-167, the Clerk, or a person designated by the Clerk, shall present each Abutting Property Owner who failed to perform the Necessary Sidewalk Repairs with a bill for the cost incurred by the City in performing those repairs. Each bill shall provide that the Abutting Property Owner may elect to pay the estimated assessment against his or her property in full or over a 3-, 5-, or 10-year period via an assessment levied against his or her property, which election must be communicated in a signed writing by the Abutting Property Owner to the Director of the City's Department of

Transportation and Engineering prior to the billing statement due date. Absent direction from an Abutting Property Owner, the City shall assess his or her property over a 3-year period. Interest shall be charged against all assessments not paid in full at the City-adopted rates in effect at the time Council levies each assessment. The 2021 rates are 3.16% for 3 years, 3.36% for 5 years, and 3.93% for 10 years.

Section 11. That, pursuant to Ohio Revised Code Section 729.09 and Cincinnati Municipal Code Section 721-169, for any Abutting Property Owner who fails to pay the City's bill within thirty days, the City shall, by subsequent ordinance, levy an assessment upon his or her property for the cost of the repairs, which assessment shall be collected by the County Treasurer in the same manner as real estate taxes are collected.

Section 12. 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 begin the process for performing the Necessary Sidewalk Repairs in the Mt. Washington neighborhood.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
Mayor

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

# EXHIBIT A

## 2021 SSP RAINBOW SUB

**Total Construction Cost: \$103,838.64**

<b>2021 SSP COFFEY ST</b>	<b>\$28,591.92</b>
<b>2021 SSP FINDLATER CT</b>	<b>\$7,730.40</b>
<b>2021 SSP GRAF DR</b>	<b>\$23,262.48</b>
<b>2021 SSP HIALEA CT</b>	<b>\$5,329.68</b>
<b>2021 SSP RAINBOW CT</b>	<b>\$7,662.24</b>
<b>2021 SSP RAINBOW LN</b>	<b>\$28,778.64</b>
<b>2021 SSP TRIESTA CT</b>	<b>\$2,483.28</b>

**Group Name: 2021 SSP COFFEY ST**

	<b>Location:</b>	<b>Parcel:</b>	<b>Construction Cost:</b>
1	6504 COFFEY St	0001-0001-0077	\$551.04
2	6512 COFFEY St	0001-0001-0078	\$826.56
3	6516 COFFEY St	0001-0001-0086	\$344.40
4	6519 COFFEY St	0001-0001-0091	\$344.40
5	6520 COFFEY St	0001-0001-0085	\$344.40
6	6523 COFFEY St	0001-0001-0102	\$1,102.08
7	6527 COFFEY St	0001-0001-0101	\$826.56
8	6532 COFFEY St	0001-0001-0082	\$2,360.64
9	6535 COFFEY St	0001-0001-0097	\$1,377.60
10	6536 COFFEY St	0001-0001-0083	\$551.04
11	6539 COFFEY St	0001-0001-0098	\$2,636.16
12	6540 COFFEY St	0001-0001-0079	\$344.40
13	6543 COFFEY St	0001-0001-0099	\$688.80
14	6544 COFFEY St	0001-0001-0080	\$551.04
15	6547 COFFEY St	0001-0001-0100	\$1,102.08
16	6548 COFFEY St	0001-0001-0090	\$1,660.32
17	6552 COFFEY St	0001-0001-0188	\$344.40
18	6556 COFFEY St	0001-0001-0311	\$551.04
19	6557 COFFEY St	0001-0001-0187	\$1,107.84
20	6560 COFFEY St	0001-0001-0189	\$1,033.20
21	6563 COFFEY St	0001-0001-0186	\$275.52
22	6568 COFFEY St	0001-0001-0190	\$275.52
23	6575 COFFEY St	0001-0001-0183	\$826.56
24	6581 COFFEY St	0001-0001-0182	\$275.52
25	6601 COFFEY St	0001-0001-0181	\$692.40
26	6605 COFFEY St	0001-0001-0180	\$692.40
27	6610 COFFEY St	0001-0001-0162	\$2,356.32
28	6615 COFFEY St	0001-0001-0178	\$275.52
29	6619 COFFEY St	0001-0001-0177	\$688.80
30	6620 COFFEY St	0001-0001-0164	\$344.40
31	6627 COFFEY St	0001-0001-0175	\$688.80
32	6631 COFFEY St	0001-0001-0174	\$344.40
33	6632 COFFEY St	0001-0001-0167	\$348.00
34	6636 COFFEY St	0001-0001-0168	\$344.40
35	6639 COFFEY St	0001-0001-0172	\$688.80
36	6644 COFFEY St	0001-0001-0170	\$826.56



**Group Name: 2021 SSP FINDLATER CT**

	<b>Location:</b>	<b>Parcel:</b>	<b>Construction Cost:</b>
37	2404 FINDLATER Ct	0001-0001-0139	\$692.40
38	2405 FINDLATER Ct	0001-0001-0149	\$1,722.00
39	2408 FINDLATER Ct	0001-0001-0138	\$344.40
40	2412 FINDLATER Ct	0001-0001-0143	\$688.80
41	2413 FINDLATER Ct	0001-0001-0147	\$344.40
42	2416 FINDLATER Ct	0001-0001-0142	\$1,868.40
43	2417 FINDLATER Ct	0001-0001-0146	\$692.40
44	2420 FINDLATER Ct	0001-0001-0144	\$1,033.20
45	2424 FINDLATER Ct	0001-0001-0141	\$344.40

**Group Name: 2021 SSP GRAF DR**

	<b>Location:</b>	<b>Parcel:</b>	<b>Construction Cost:</b>
46	6504 GRAF Dr	0001-0001-0088	\$690.24
47	6511 GRAF Dr	0001-0001-0105	\$690.24
48	6512 GRAF Dr	0001-0001-0122	\$826.56
49	6515 GRAF Dr	0001-0001-0116	\$1,531.20
50	6516 GRAF Dr	0001-0001-0123	\$826.56
51	6519 GRAF Dr	0001-0001-0106	\$275.52
52	6520 GRAF Dr	0001-0001-0124	\$551.04
53	6523 GRAF Dr	0001-0001-0107	\$1,036.80
54	6524 GRAF Dr	0001-0001-0121	\$344.40
55	6528 GRAF Dr	0001-0001-0118	\$275.52
56	6532 GRAF Dr	0001-0001-0117	\$344.40
57	6536 GRAF Dr	0001-0001-0115	\$275.52
58	6539 GRAF Dr	0001-0001-0110	\$688.80
59	6540 GRAF Dr	0001-0001-0119	\$901.20
60	6547 GRAF Dr	0001-0001-0112	\$413.28
61	6548 GRAF Dr	0001-0001-0113	\$275.52
62	6552 GRAF Dr	0001-0001-0248	\$413.28
63	6555 GRAF Dr	0001-0001-0247	\$826.56
64	6560 GRAF Dr	0001-0001-0250	\$413.28
65	6561 GRAF Dr	0001-0001-0246	\$2,366.40
66	6564 GRAF Dr	0001-0001-0251	\$556.80
67	6565 GRAF Dr	0001-0001-0245	\$1,809.60
68	6569 GRAF Dr	0001-0001-0244	\$688.80
69	6572 GRAF Dr	0001-0001-0253	\$413.28
70	6576 GRAF Dr	0001-0001-0254	\$688.80
71	6581 GRAF Dr	0001-0001-0241	\$413.28
72	6584 GRAF Dr	0001-0001-0256	\$2,227.20
73	6590 GRAF Dr	0001-0001-0257	\$2,498.40

**Group Name: 2021 SSP HIALEA CT**

	<b>Location:</b>	<b>Parcel:</b>	<b>Construction Cost:</b>
74	6606 HIALEA Ct	0001-0001-0222	\$1,248.48
75	6607 HIALEA Ct	0001-0001-0232	\$1,239.84
76	6611 HIALEA Ct	0001-0001-0231	\$417.60
77	6615 HIALEA Ct	0001-0001-0230	\$344.40
78	6618 HIALEA Ct	0001-0001-0225	\$417.60
79	6619 HIALEA Ct	0001-0001-0229	\$835.20
80	6620 HIALEA Ct	0001-0001-0226	\$826.56

**Group Name: 2021 SSP RAINBOW CT**

	<b>Location:</b>	<b>Parcel:</b>	<b>Construction Cost:</b>
81	2415 RAINBOW Ct	0001-0001-0314	\$137.76
82	2423 RAINBOW Ct	0001-0001-0316	\$757.68
83	2430 RAINBOW Ct	0001-0001-0336	\$835.20
84	2431 RAINBOW Ct	0001-0001-0318	\$413.28
85	2435 RAINBOW Ct	0001-0001-0319	\$413.28
86	2436 RAINBOW Ct	0001-0001-0335	\$413.28
87	2439 RAINBOW Ct	0001-0001-0320	\$826.56
88	2444 RAINBOW Ct	0001-0001-0334	\$344.40
89	2447 RAINBOW Ct	0001-0001-0322	\$413.28
90	2452 RAINBOW Ct	0001-0001-0332	\$826.56
91	2455 RAINBOW Ct	0001-0001-0324	\$413.28
92	2456 RAINBOW Ct	0001-0001-0331	\$348.00
93	2459 RAINBOW Ct	0001-0001-0325	\$344.40
94	2463 RAINBOW Ct	0001-0001-0326	\$417.60
95	2464 RAINBOW Ct	0001-0001-0329	\$344.40
96	2468 RAINBOW Ct	0001-0001-0328	\$413.28

Group Name: 2021 SSP RAINBOW LN

	Location:	Parcel:	Construction Cost:
97	6450 RAINBOW Ln	0001-0001-0065	\$551.04
98	6458 RAINBOW Ln	0001-0001-0067	\$275.52
99	6461 RAINBOW Ln	0001-0001-0075	\$1,377.60
100	6466 RAINBOW Ln	0001-0001-0069	\$275.52
101	6470 RAINBOW Ln	0001-0001-0070	\$553.92
102	6481 RAINBOW Ln	0001-0001-0089	\$275.52
103	6482 RAINBOW Ln	0001-0001-0073	\$1,107.84
104	6485 RAINBOW Ln	0001-0001-0084	\$1,794.48
105	6486 RAINBOW Ln	0001-0001-0074	\$551.04
106	6500 RAINBOW Ln	0001-0001-0154	\$2,496.96
107	6504 RAINBOW Ln	0001-0001-0157	\$1,033.20
108	6508 RAINBOW Ln	0001-0001-0158	\$1,670.40
109	6511 RAINBOW Ln	0001-0001-0128	\$344.40
110	6516 RAINBOW Ln	0001-0001-0156	\$964.32
111	6520 RAINBOW Ln	0001-0001-0152	\$619.92
112	6523 RAINBOW Ln	0001-0001-0125	\$413.28
113	6524 RAINBOW Ln	0001-0001-0151	\$1,033.20
114	6528 RAINBOW Ln	0001-0001-0150	\$344.40
115	6535 RAINBOW Ln	0001-0001-0132	\$348.00
116	6542 RAINBOW Ln	0001-0001-0136	\$1,524.00
117	6543 RAINBOW Ln	0001-0001-0134	\$696.00
118	6546 RAINBOW Ln	0001-0001-0137	\$2,004.00
119	6547 RAINBOW Ln	0001-0001-0135	\$1,661.76
120	6557 RAINBOW Ln	0001-0001-0267	\$1,252.80
121	6563 RAINBOW Ln	0001-0001-0266	\$826.56
122	6577 RAINBOW Ln	0001-0001-0263	\$556.80
123	6589 RAINBOW Ln	0001-0001-0260	\$1,670.40
124	6598 RAINBOW Ln	0001-0001-0221	\$696.00
125	6600 RAINBOW Ln	0001-0001-0233	\$344.40
126	6601 RAINBOW Ln	0001-0001-0258	\$1,515.36

**Group Name: 2021 SSP TRIESTA CT**

	<b>Location:</b>	<b>Parcel:</b>	<b>Construction Cost:</b>
127	6601 TRIESTA Ct	0001-0001-0219	\$275.52
128	6606 TRIESTA Ct	0001-0001-0206	\$348.00
129	6610 TRIESTA Ct	0001-0001-0207	\$688.80
130	6628 TRIESTA Ct	0001-0001-0212	\$826.56
131	6629 TRIESTA Ct	0001-0001-0213	\$344.40

# EXHIBIT A

## 2021 SSP RAINBOW SUB

Total Construction Cost: \$103,838.64

2021 SSP COFFEY ST	\$28,591.92
2021 SSP FINDLATER CT	\$7,730.40
2021 SSP GRAF DR	\$23,262.48
2021 SSP HIALEA CT	\$5,329.68
2021 SSP RAINBOW CT	\$7,662.24
2021 SSP RAINBOW LN	\$28,778.64
2021 SSP TRIESTA CT	\$2,483.28

Group Name: 2021 SSP COFFEY ST

	Location:	Parcel:	Construction Cost:
1	6504 COFFEY St	0001-0001-0077	\$551.04
2	6512 COFFEY St	0001-0001-0078	\$826.56
3	6516 COFFEY St	0001-0001-0086	\$344.40
4	6519 COFFEY St	0001-0001-0091	\$344.40
5	6520 COFFEY St	0001-0001-0085	\$344.40
6	6523 COFFEY St	0001-0001-0102	\$1,102.08
7	6527 COFFEY St	0001-0001-0101	\$826.56
8	6532 COFFEY St	0001-0001-0082	\$2,360.64
9	6535 COFFEY St	0001-0001-0097	\$1,377.60
10	6536 COFFEY St	0001-0001-0083	\$551.04
11	6539 COFFEY St	0001-0001-0098	\$2,636.16
12	6540 COFFEY St	0001-0001-0079	\$344.40
13	6543 COFFEY St	0001-0001-0099	\$688.80
14	6544 COFFEY St	0001-0001-0080	\$551.04
15	6547 COFFEY St	0001-0001-0100	\$1,102.08
16	6548 COFFEY St	0001-0001-0090	\$1,660.32
17	6552 COFFEY St	0001-0001-0188	\$344.40
18	6556 COFFEY St	0001-0001-0311	\$551.04
19	6557 COFFEY St	0001-0001-0187	\$1,107.84
20	6560 COFFEY St	0001-0001-0189	\$1,033.20
21	6563 COFFEY St	0001-0001-0186	\$275.52
22	6568 COFFEY St	0001-0001-0190	\$275.52
23	6575 COFFEY St	0001-0001-0183	\$826.56
24	6581 COFFEY St	0001-0001-0182	\$275.52
25	6601 COFFEY St	0001-0001-0181	\$692.40
26	6605 COFFEY St	0001-0001-0180	\$692.40
27	6610 COFFEY St	0001-0001-0162	\$2,356.32
28	6615 COFFEY St	0001-0001-0178	\$275.52
29	6619 COFFEY St	0001-0001-0177	\$688.80
30	6620 COFFEY St	0001-0001-0164	\$344.40
31	6627 COFFEY St	0001-0001-0175	\$688.80
32	6631 COFFEY St	0001-0001-0174	\$344.40
33	6632 COFFEY St	0001-0001-0167	\$348.00
34	6636 COFFEY St	0001-0001-0168	\$344.40
35	6639 COFFEY St	0001-0001-0172	\$688.80
36	6644 COFFEY St	0001-0001-0170	\$826.56



Group Name: 2021 SSP FINDLATER CT

	Location:	Parcel:	Construction Cost:
37	2404 FINDLATER Ct	0001-0001-0139	\$692.40
38	2405 FINDLATER Ct	0001-0001-0149	\$1,722.00
39	2408 FINDLATER Ct	0001-0001-0138	\$344.40
40	2412 FINDLATER Ct	0001-0001-0143	\$688.80
41	2413 FINDLATER Ct	0001-0001-0147	\$344.40
42	2416 FINDLATER Ct	0001-0001-0142	\$1,868.40
43	2417 FINDLATER Ct	0001-0001-0146	\$692.40
44	2420 FINDLATER Ct	0001-0001-0144	\$1,033.20
45	2424 FINDLATER Ct	0001-0001-0141	\$344.40

Group Name: 2021 SSP GRAF DR

	Location:	Parcel:	Construction Cost:
46	6504 GRAF Dr	0001-0001-0088	\$690.24
47	6511 GRAF Dr	0001-0001-0105	\$690.24
48	6512 GRAF Dr	0001-0001-0122	\$826.56
49	6515 GRAF Dr	0001-0001-0116	\$1,531.20
50	6516 GRAF Dr	0001-0001-0123	\$826.56
51	6519 GRAF Dr	0001-0001-0106	\$275.52
52	6520 GRAF Dr	0001-0001-0124	\$551.04
53	6523 GRAF Dr	0001-0001-0107	\$1,036.80
54	6524 GRAF Dr	0001-0001-0121	\$344.40
55	6528 GRAF Dr	0001-0001-0118	\$275.52
56	6532 GRAF Dr	0001-0001-0117	\$344.40
57	6536 GRAF Dr	0001-0001-0115	\$275.52
58	6539 GRAF Dr	0001-0001-0110	\$688.80
59	6540 GRAF Dr	0001-0001-0119	\$901.20
60	6547 GRAF Dr	0001-0001-0112	\$413.28
61	6548 GRAF Dr	0001-0001-0113	\$275.52
62	6552 GRAF Dr	0001-0001-0248	\$413.28
63	6555 GRAF Dr	0001-0001-0247	\$826.56
64	6560 GRAF Dr	0001-0001-0250	\$413.28
65	6561 GRAF Dr	0001-0001-0246	\$2,366.40
66	6564 GRAF Dr	0001-0001-0251	\$556.80
67	6565 GRAF Dr	0001-0001-0245	\$1,809.60
68	6569 GRAF Dr	0001-0001-0244	\$688.80
69	6572 GRAF Dr	0001-0001-0253	\$413.28
70	6576 GRAF Dr	0001-0001-0254	\$688.80
71	6581 GRAF Dr	0001-0001-0241	\$413.28
72	6584 GRAF Dr	0001-0001-0256	\$2,227.20
73	6590 GRAF Dr	0001-0001-0257	\$2,498.40

Group Name: 2021 SSP HIALEA CT

	Location:	Parcel:	Construction Cost:
74	6606 HIALEA Ct	0001-0001-0222	\$1,248.48
75	6607 HIALEA Ct	0001-0001-0232	\$1,239.84
76	6611 HIALEA Ct	0001-0001-0231	\$417.60
77	6615 HIALEA Ct	0001-0001-0230	\$344.40
78	6618 HIALEA Ct	0001-0001-0225	\$417.60
79	6619 HIALEA Ct	0001-0001-0229	\$835.20
80	6620 HIALEA Ct	0001-0001-0226	\$826.56

Group Name: 2021 SSP RAINBOW CT

	Location:	Parcel:	Construction Cost:
81	2415 RAINBOW Ct	0001-0001-0314	\$137.76
82	2423 RAINBOW Ct	0001-0001-0316	\$757.68
83	2430 RAINBOW Ct	0001-0001-0336	\$835.20
84	2431 RAINBOW Ct	0001-0001-0318	\$413.28
85	2435 RAINBOW Ct	0001-0001-0319	\$413.28
86	2436 RAINBOW Ct	0001-0001-0335	\$413.28
87	2439 RAINBOW Ct	0001-0001-0320	\$826.56
88	2444 RAINBOW Ct	0001-0001-0334	\$344.40
89	2447 RAINBOW Ct	0001-0001-0322	\$413.28
90	2452 RAINBOW Ct	0001-0001-0332	\$826.56
91	2455 RAINBOW Ct	0001-0001-0324	\$413.28
92	2456 RAINBOW Ct	0001-0001-0331	\$348.00
93	2459 RAINBOW Ct	0001-0001-0325	\$344.40
94	2463 RAINBOW Ct	0001-0001-0326	\$417.60
95	2464 RAINBOW Ct	0001-0001-0329	\$344.40
96	2468 RAINBOW Ct	0001-0001-0328	\$413.28

Group Name: 2021 SSP RAINBOW LN

	Location:	Parcel:	Construction Cost:
97	6450 RAINBOW Ln	0001-0001-0065	\$551.04
98	6458 RAINBOW Ln	0001-0001-0067	\$275.52
99	6461 RAINBOW Ln	0001-0001-0075	\$1,377.60
100	6466 RAINBOW Ln	0001-0001-0069	\$275.52
101	6470 RAINBOW Ln	0001-0001-0070	\$553.92
102	6481 RAINBOW Ln	0001-0001-0089	\$275.52
103	6482 RAINBOW Ln	0001-0001-0073	\$1,107.84
104	6485 RAINBOW Ln	0001-0001-0084	\$1,794.48
105	6486 RAINBOW Ln	0001-0001-0074	\$551.04
106	6500 RAINBOW Ln	0001-0001-0154	\$2,496.96
107	6504 RAINBOW Ln	0001-0001-0157	\$1,033.20
108	6508 RAINBOW Ln	0001-0001-0158	\$1,670.40
109	6511 RAINBOW Ln	0001-0001-0128	\$344.40
110	6516 RAINBOW Ln	0001-0001-0156	\$964.32
111	6520 RAINBOW Ln	0001-0001-0152	\$619.92
112	6523 RAINBOW Ln	0001-0001-0125	\$413.28
113	6524 RAINBOW Ln	0001-0001-0151	\$1,033.20
114	6528 RAINBOW Ln	0001-0001-0150	\$344.40
115	6535 RAINBOW Ln	0001-0001-0132	\$348.00
116	6542 RAINBOW Ln	0001-0001-0136	\$1,524.00
117	6543 RAINBOW Ln	0001-0001-0134	\$696.00
118	6546 RAINBOW Ln	0001-0001-0137	\$2,004.00
119	6547 RAINBOW Ln	0001-0001-0135	\$1,661.76
120	6557 RAINBOW Ln	0001-0001-0267	\$1,252.80
121	6563 RAINBOW Ln	0001-0001-0266	\$826.56
122	6577 RAINBOW Ln	0001-0001-0263	\$556.80
123	6589 RAINBOW Ln	0001-0001-0260	\$1,670.40
124	6598 RAINBOW Ln	0001-0001-0221	\$696.00
125	6600 RAINBOW Ln	0001-0001-0233	\$344.40
126	6601 RAINBOW Ln	0001-0001-0258	\$1,515.36

**Group Name: 2021 SSP TRIESTA CT**

	<b>Location:</b>	<b>Parcel:</b>	<b>Construction Cost:</b>
127	6601 TRIESTA Ct	0001-0001-0219	\$275.52
128	6606 TRIESTA Ct	0001-0001-0206	\$348.00
129	6610 TRIESTA Ct	0001-0001-0207	\$688.80
130	6628 TRIESTA Ct	0001-0001-0212	\$826.56
131	6629 TRIESTA Ct	0001-0001-0213	\$344.40

**June 16, 2021**

**To:** Mayor and Members of City Council 202102286

**From:** Paula Boggs Muething, City Manager

**Subject: Emergency Ordinance – Modifying Title I Remote Public Meetings**

---

Attached is an Emergency Ordinance captioned:

**MODIFYING** Title I, “Council and Corporation Miscellany,” by enacting new Chapter 121, “Remote Public Meetings,” of the Cincinnati Municipal Code, to allow public bodies of the City, except Council and its committees, to conduct public meetings remotely.

The purpose of this ordinance is to amend the Cincinnati Municipal Code to allow boards, commissions, and institutions created by the city’s charter or by ordinance to conduct meetings remotely. These changes would only apply to the meetings of the above-described public bodies and, as dictated by state law, would not apply to meetings of City Council or any of its committees or subcommittees. The reason for the emergency is the immediate need to enable the continuation of remote meeting capabilities for described city public bodies following expiration of statewide orders.

The Administration recommends passage of this Ordinance.

cc: William Weber, Assistant City Manager

Attachment

**Date:** June 15, 2021

**To:** Paul Boggs Muething, City Manager

**From:** Andrew W. Garth, City Solicitor

*AWG*

**Subject: Emergency Ordinance – Modifying Title I Remote Public Meetings**

---

Transmitted herewith is an emergency ordinance captioned as follows:

**MODIFYING** Title I, “Council and Corporation Miscellany,” by enacting new Chapter 121, “Remote Public Meetings,” of the Cincinnati Municipal Code, to allow public bodies of the City, except Council and its committees, to conduct public meetings remotely.

AWG/MSS/(lnk)  
Attachment  
341165



EMERGENCY

City of Cincinnati

MSS

BWB

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

-2021

**MODIFYING** Title I, "Council and Corporation Miscellany," by enacting new Chapter 121, "Remote Public Meetings," of the Cincinnati Municipal Code, to allow public bodies of the City, except Council and its committees, to conduct public meetings remotely.

WHEREAS, the experience gained over the past year under emergency measures suspending some aspects of the Ohio Open Meetings Act has shown that both the public and required attendees benefit from the ability to attend public meetings remotely using modern communications technology; and

WHEREAS, using widely available technology to increase public access to and public participation in such meetings is desirable because it increases transparency regarding the operations of local government; and

WHEREAS, allowing remote attendance by members of public bodies at such meetings increases flexibility and encourages public service by decreasing the burden associated with such service, especially when meetings extend beyond the regular workday; now, therefore,

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

Section 1. That new Chapter 121, "Remote Public Meetings," of Title I, "Council and Corporation Miscellany," of the Cincinnati Municipal Code, is hereby enacted as follows:

Sec. 121-1. - Definitions.

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

Sec. 121-1-H. – Hearing.

"Hearing" means an administrative hearing or other hearing at which a person may present written or oral testimony on a matter before a public body.

Sec. 121-1-M. - Meeting.

"Meeting" has the same meaning as ascribed in O.R.C. § 121.22.

Sec. 121-1-P. – Public Body.

“Public body” has the same meaning as ascribed in O.R.C. § 121.22, and includes those boards, commissions, and institutions created by the city’s charter or by ordinance, except that it does not include the council or any of its committees or subcommittees.

**Sec. 121-3. – Remote Open Meetings Allowed.**

Members of the city’s public bodies may hold and attend meetings and may conduct and attend hearings by means of teleconference, video conference, or any other similar technology.

**Sec. 121-5. – Effect of Remote Attendance.**

During any open meeting or hearing of a public body at which members of the public body appear remotely by means of teleconference, video conference, or any other similar technology, all of the following shall apply:

- (a) Any resolution, rule, determination, vote, or formal action of any kind shall have the same effect as if it had occurred during an open meeting or hearing of the public body held pursuant to O.R.C. § 121.22.
- (b) Members of a public body who attend meetings or hearings by means of teleconference, video conference, or any other similar technology shall be considered present as if in person at the meeting or hearing, shall be permitted to vote, and shall be counted for purposes of determining whether a quorum is present at the meeting or hearing.
- (c) Public bodies shall provide notification of meetings and hearings held under this section to the public, to the media that have requested notification of a meeting, and to the parties required to be notified of a hearing, at least twenty-four hours in advance of the meeting or hearing by reasonable methods by which any person may determine the time, location, and the manner by which the meeting or hearing will be conducted, except in the event of an emergency requiring immediate official action. In the event of an emergency, the public body shall immediately notify the news media that have requested notification or the parties required to be notified of a hearing of the time, place, and purpose of the meeting or hearing.
- (d) The public body shall provide the public access to a meeting held under this section, and to any hearing held under this section that the public would otherwise be entitled to attend, commensurate with the method in which the meeting or hearing is being conducted, including, but not limited to, live-streaming by means of the internet, local radio, television, cable, or public access channels, call in information for a teleconference, or by means of any other similar technology. The public body shall ensure that the public can observe and hear the discussions

and deliberations of all the members of the public body, whether the member is participating in person or electronically.

- (e) When members of a public body conduct a hearing by means of teleconference, video conference, or any other similar technology, the public body must establish a means through the use of equipment that is widely available to the general public to converse with witnesses and to receive documentary testimony and physical evidence.

Section 2. That the City Manager is hereby authorized develop regulations necessary to carry out the purposes of this ordinance.

Section 3. That the authority granted by this ordinance applies notwithstanding any conflicting provision of O.R.C. § 121.22, but nothing in this section shall be construed to negate any provision of O.R.C. § 121.22 not in conflict with this ordinance.

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

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 enable the continuation of remote meeting capabilities for city public bodies following expiration of statewide orders.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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

202102343

Date: June 15, 2021

**To:** Councilmember Greg Landsman  
**From:** Andrew W. Garth, City Solicitor *AWG*  
**Subject:** **Emergency Ordinance – Amending Ord. 0008-2021 Increase Voting Members**

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Transmitted herewith is an emergency ordinance captioned as follows:

**AMENDING** Ordinance 0008-2021 to increase the number of voting members of the City of Cincinnati Children and Families Cabinet by adding a member from Hamilton County Job & Family Services, a member from the Hamilton County Juvenile Court, and by increasing the number of each of the parent and youth representatives to two.

AWG/JGM/(lnk)  
Attachment  
339660



# City of Cincinnati

JGM

AWB

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

- 2021

**AMENDING** Ordinance 0008-2021 to increase the number of voting members of the City of Cincinnati Children and Families Cabinet by adding a member from Hamilton County Job & Family Services, a member from the Hamilton County Juvenile Court, and by increasing the number of each of the parent and youth representatives to two.

WHEREAS, on January 6, 2021, Council approved Ordinance 0008-2021 establishing a City of Cincinnati Children and Families Cabinet (“Children and Families Cabinet”), whose purpose is to advise the Mayor and Council about policy initiatives and to measure and monitor data on the improvement of safety, housing, health, cultural and societal exposure, and career opportunities for children and families in Cincinnati; and

WHEREAS, the involvement of Hamilton County Job & Family Services and the Hamilton County Juvenile Court is integral to the success of the Children and Families Cabinet because of their direct impact on the lives of Cincinnati’s children and families; and

WHEREAS, more representation by parents and children, those directly affected by the Children and Families Cabinet’s work, will ensure that outcomes are as meaningful as possible; and

WHEREAS, Ordinance 0008-2021 must be amended to increase the number of voting members of the City of Cincinnati Children and Families Cabinet from ten to fourteen by adding one representative from Hamilton County Job & Family Services, one representative from the Hamilton County Juvenile Court, and increasing the number of each of the parent and youth representatives from one to two; now, therefore,

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

Section 1. That Ordinance 0008-2021, approved by Council on January 6, 2021, is hereby amended as follows:

Section 1. That the Mayor and City Council hereby establish the City of Cincinnati Children and Families Cabinet (“Cabinet”), as further described herein, whose purpose is to advise the Mayor and Council about policy initiatives and to measure and monitor data on the improvement of safety, housing, health, cultural and societal exposure, and career opportunities for children and families. The Cabinet will also strive to improve communication between the City government and community stakeholders so that services to children and families are improved. Members shall be appointed by the Mayor subject to City Council approval. The Cabinet shall consist of ~~eleven~~ fifteen voting members, the Chair and ~~ten~~ fourteen individuals who are community stakeholders from a diverse and relevant range of sectors such as health, education,

housing, recreation, child poverty, and child development, among others at the discretion of the Mayor. The ~~ten~~ fourteen external members shall be chosen from the following: two representatives from the nonprofit sector; two representatives from philanthropic organizations; ~~one~~ two parent ~~representative~~ representatives; ~~one~~ two youth ~~representative~~ representatives; one Hamilton County Job & Family Services representative; one representative from the Hamilton County Juvenile Court; one representative of the Cincinnati Metropolitan Housing Authority; one representative from the Southwest Ohio Regional Transit Authority; one representative from the Regional Chamber of Commerce; and one representative from the African American Chamber of Commerce. The Cabinet shall be chaired by the Chair of the Major Projects and Smart Government Committee (or its successor committee), and the Chair may also appoint a Vice Chair. Additional community stakeholders are encouraged to attend. The City Manager or her designee is authorized to send a City Department head or departmental representative with appropriate subject matter expertise to Cabinet meetings from time to time as requested by the Cabinet.

Section 2. That all terms of Ordinance No. 0008-2021 not amended by this ordinance remain in full force and effect.

Section 3. 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

\_\_\_\_\_  
Deletions are struck through. Additions are underlined.

**Date:** June 22, 2021

**To:** Councilmember Jan-Michele Lemon Kearney  
**From:** Andrew Garth, City Solicitor *AWG*  
**Subject:** **Emergency Ordinance – Donations**

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Transmitted herewith is an emergency ordinance captioned as follows:

**AUTHORIZING** the transfer and return to source of the sum of \$12,000 from Councilmember Kearney's General Fund personnel services operating budget account no. 050x029x7100 to the unappropriated surplus of the General Fund 050; **AUTHORIZING** the transfer and appropriation of the sum of \$12,000 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 for the purpose of providing resources in the amounts of \$4,000 for Childhood Food Solutions, \$4,000 for Women of Alabaster, and \$4,000 for the First Step Home; **AUTHORIZING** the City Manager to enter into any agreements necessary for the distribution of these resources; and **DECLARING** the distribution of these resources to these local non-profit organizations to be for a public purpose.

AWG/CMZ/(lnk)  
Attachment  
342761



EMERGENCY

City of Cincinnati

CMZ

AWB

An Ordinance No. \_\_\_\_\_ - 2021

**AUTHORIZING** the transfer and return to source of the sum of \$12,000 from Councilmember Kearney's General Fund personnel services operating budget account no. 050x029x7100 to the unappropriated surplus of the General Fund 050; **AUTHORIZING** the transfer and appropriation of the sum of \$12,000 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 for the purpose of providing resources in the amounts of \$4,000 for Childhood Food Solutions, \$4,000 for Women of Alabaster, and \$4,000 for the First Step Home; **AUTHORIZING** the City Manager to enter into any agreements necessary for the distribution of these resources; and **DECLARING** the distribution of these resources to these local non-profit organizations to be for a public purpose.

WHEREAS, Council desires to provide resources in the amounts of \$4,000 for Childhood Food solutions, \$4,000 for Women of Alabaster, and \$4,000 for the First Step Home to fund important programs benefitting the community; now, therefore,

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

Section 1. That the transfer and return to source of the sum of \$12,000 from Councilmember Kearney's General Fund personnel services operating budget account no. 050x029x7100 to the unappropriated surplus of General Fund 050 is hereby authorized.

Section 2. That the transfer and appropriation of the sum of \$12,000 from the unappropriated surplus of the General Fund to the Department of Community and Economic Development's General Fund fixed charges operating budget account no. 050x161x7400 is hereby authorized for the purpose of providing resources in the amounts of \$4,000 for Childhood Food Solutions, \$4,000 for Women of Alabaster, and \$4,000 for the First Step Home.

Section 3. That the City Manager is hereby authorized to enter into any necessary agreements for the distribution of these resources.



Section 4. That the distribution of resources to local non-profit organizations for use in programs that benefit the community is hereby declared to serve a public purpose.

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 ensure necessary funds for distribution to local non-profit organizations prior to the end of Fiscal Year 2021.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

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