



*Cincinnati Board of Park Commissioners*

**Board Meeting Agenda**

**April 29, 2022**

**1:00 PM**

**Zoom Meeting - Director Selection Committee**

**Order of Business**

**I. Call to Order**

**II. Moerlein Lager House Lease Agreement**

**III. Executive Session\***

**A. Discuss the appointment, employment  
and compensation of a public employee**

**Molly North, Committee Chair**

**IV. Interim Director**

**V. Director Search**

**VI. Next Regular Meeting Date: May 19, 2022 at 9:00 AM**

**VII. Adjournment\***



BOARD OF PARK

COMMISSIONERS

James Goetz  
*President*

Linda Lee Thomas  
*Vice President*

Susan F. Castellini

Brad Lindner

Molly North

John Neyer  
*Interim Director*

Jenny Mobley  
*Deputy Director*

Crystal Courtney  
*Division Manager*

Rocky Merz  
*Division Manager*

Craig Sherman  
*Division Manager*

Date: March 29, 2022

To: Board of Park Commissioners

From: John Neyer, Interim Director

Subject: Moerlein Lager House (MLH) Lease Amendment

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**Background**

The City and MLH Cincinnati USA LLC (“MLH”) are parties to a ground lease dated August 16, 2010, pursuant to which the City leases an air lot at the Banks on which MLH built its restaurant facility.

**Description**

MLH is refinancing its loan and has requested to amend the ground lease to clarify rights of its new lender. The amendment addresses two items i) it would provide for MLH to share in the proceeds of a condemnation award, if the property were to be appropriated for public use, and ii) extends the cure rights of MLH’s lender in the event of default.

**Recommendation**

Staff respectfully requests the Board approve the MLH Lease Amendment

Attachment A – Third Amendment – Moerlein Lager House (MLH)

Contract No.: 05X0012C

(Moerlein Lager House)

**THIRD AMENDMENT TO  
RESTAURANT LEASE AGREEMENT  
FOR THE CENTRAL RIVERFRONT PARK  
BETWEEN  
THE CITY OF CINCINNATI  
AND  
MLH CINCINNATI USA LLC**

THIS THIRD AMENDMENT TO RESTAURANT LEASE AGREEMENT (this “**Third Amendment**”) 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**”), the address of which is 801 Plum Street, Cincinnati, Ohio 45202, and **MLH CINCINNATI USA LLC**, an Ohio limited liability company (“**Tenant**”), the address of which is 115 Joe Nuxhall Way, Cincinnati, Ohio 45202.

Recitals:

A. The City and Tenant are parties to that certain *Restaurant Lease Agreement* dated August 16, 2010, as amended by a *First Amendment to Restaurant Lease Agreement*, dated November 28, 2011, as amended by a *Second Amendment to Restaurant Lease Agreement*, dated February 17, 2021 (as amended, the “**Lease**”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lease.

B. Tenant has requested to amend the Lease to clarify certain rights of a Permitted Leasehold Mortgagee under the Lease to facilitate loan refinancing. The City is agreeable to amending the Lease, on and subject to the terms and conditions of this Third Amendment.

C. The Cincinnati Board of Park Commissioners approved the execution of this Amendment at its meeting on April 29, 2022.

NOW THEREFORE, the parties agree as follows:

1. **CONDEMNATION**. Subsection (d) of Section 13.2 (captioned, “Condemnation”) of the Lease is hereby deleted and replaced in its entirety with the following:

“(d) Upon the termination of this Lease under this section 13.2, all condemnation awards and proceeds in connection therewith shall be allocated and distributed in the order as follows: (i) to the City, to compensate the City for the value of the land taken (and, in the event of a partial taking, for the cost of clearing and otherwise restoring the Improvements, or remaining portion thereof, to a safe and vacant condition); (ii) to the City, to compensate the City for the Allowance provided to Tenant to construct the Shell Improvements; (iii) to Tenant, to compensate Tenant for the undepreciated value of the Improvements, and; (iii) to the City, for the value of its reversionary interest in the Improvements. Base Rent and other charges under this Lease shall be prorated as of the date of termination. Upon such termination, Tenant shall satisfy and cause to be released any and all mortgages, liens and other encumbrances placed upon or permitted to be placed upon the Property by Tenant.”

2. **PERMITTED LEASEHOLD MORTGAGEE RIGHTS.** Subsection (b) of Section 19.3 (captioned, "Permitted Leasehold Mortgagee Rights") of the Lease is hereby deleted and replaced in its entirety with the following:

"(b) In the event of a default by Tenant under this Lease, each Permitted Leasehold Mortgagee shall have the same period as Tenant has, plus sixty (60) days, to remedy or cause to be remedied or commence to remedy and complete the remedy of the default complained of for such default, and the City shall accept such performance by or at the instigation of such Permitted Leasehold Mortgagee as if the same had been done by Tenant. Each notice of monetary default given by the City will state the amounts of whatever rent are then claimed to be in default."

3. **ENTIRE AGREEMENT.** The Lease, as amended, sets forth all covenants, agreements and understandings between the parties with respect to the subject matter hereof and there are no other covenants, conditions or understandings, either written or oral, between the parties hereto except as set forth in the Lease.
4. **RATIFICATION.** All terms of the Lease not amended hereby or not inconsistent herewith shall remain in full force and effect and by this reference are incorporated herein as if fully rewritten herein, and the Lease, as amended hereby, is hereby ratified by the parties.

[SIGNATURE PAGES FOLLOW]

This Third Amendment 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: \_\_\_\_\_

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

Date: \_\_\_\_\_, 2022

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON        )

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

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Recommended by:

\_\_\_\_\_  
John Neyer, Interim Director,  
Cincinnati Board of Park Commissioners

Approved as to Form:

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

Certified Date: \_\_\_\_\_  
Fund/Code: \_\_\_\_\_  
Amount: \_\_\_\_\_  
By: \_\_\_\_\_  
Karen Alder, City Finance Director

**MLH CINCINNATI USA LLC,**  
an Ohio limited liability company,

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

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2022

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the \_\_\_\_\_ of **MLH CINCINNATI USA LLC**, an Ohio limited liability company, on behalf of the company. 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: \_\_\_\_\_