PRESENTATION

GCWW Fees for New Developments & Renovations on Streetcar Line

AGENDA

1-201901714  MOTION, submitted by Councilmembers Landsman, Sittenfeld, Pastor, Young, Seelbach and Mann, WE MOVE that the Administration work with the Union Baptist Cemetery on a potential long-term partnership to ensure the future success of the cemetery and submit to the Mayor and Council a report within 30 days that lays out potential options having reviewed the current state and budget of the cemetery as well as the ideal future state and ways in which the City and private-sector partners can play in realizing that ideal future state for the cemetery.

2-201901718  MOTION, submitted by Councilmember Mann and Vice Mayor Smitherman, WE MOVE that the City administration report on the feasibility of creating a low interest (maximum of 3%) revolving loan fund to assist residents who must cover the costs of mandated hillside repairs and retaining walls. WE FURTHER MOVE that the fund be modeled on the revolving fund created to assist residents with sidewalk assessments and streetlight assessments; WE FURTHER MOVE that the City administration include in its report the estimated amount required to start the fund and recommended sources for the start-up costs. (STATEMENT ATTACHED)
ORDINANCE (EMERGENCY), dated 11/14/19, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the City Manager to accept and deposit a donation in an amount up to $229,510 from the Greater Cincinnati Foundation into Parks Private Endowment Fund 430; ESTABLISHING new capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway;” and AUTHORIZING the transfer and appropriation of $229,510 from the unappropriated surplus of Parks Private Endowment Fund 430 to the newly established capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway,” for the purpose of designing the restoration of the Sawyer Point Gateway and entrance area and improving accessibility.

ORDINANCE (EMERGENCY), dated 11/14/19, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the transfer and return to source Capital Funds 858 and 870 the sum of $100,000 from various General Capital Budget capital improvement program project accounts for the purpose of decreasing certain existing capital improvement program project accounts, according to Section A of the attached Schedule of Transfer; AUTHORIZING the transfer and appropriation of the sum of $100,000 from the unappropriated surplus of Capital Funds 858 and 870 to capital improvement program project accounts for the purpose of providing resources for certain capital improvement program project accounts, according to Section B of the attached Schedule of Transfer.

MOTION, submitted by Councilmember Dennard, RECOGNIZING residents face significant financial hardship that impacts their ability to pay fines and penalties and that dealing with unpaid parking tickets poses a disproportionate economic burden on low-income households, WE MOVE the City Administration implement a Parking Amnesty program, taking into consideration recommendations from the City Manager received on June 12, 2019 (report attached), with the exception of a specific recommendation that was provided in the report; amnesty should be made available to all persons with eligible fines/fees, including those who are not current with all parking violation fees and fines incurred in years outside of the program parameters (2018–present); WE FURTHER MOVE that a parking amnesty program should serve the purpose of forgiving late fees and penalties associated with outstanding unpaid parking tickets, in the spirit of forgiveness and to incentivize the payment of outstanding tickets and the collection of outstanding fees otherwise rendered virtually impossible to collect. WE FURTHER MOVE the proposed parking amnesty program should be made available publicly for a period of no more than 90 days and that it should only apply to parking fines and towing/storage fees accrued on or before December 31, 2016. WE FURTHER MOVE for the City Administration to report on progress pertaining to the implementation of a parking amnesty program within 6–8 weeks of passage of this motion, with a recommended program start date of Spring 2020. (ATTACHMENT)
6-201901761 COMMUNICATION, submitted by Councilmember Mann from Stephen L. Black, Past Chair, CET Board of Trustees, regarding CET and the Bridge to Music Hall.

7-201901727 REPORT, dated 11/14/19, submitted by Patrick A. Duhaney, City Manager, regarding responses to questions from Budget and Finance Committee.

8-201901735 ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Northcrown Property LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 1614 Walnut Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building on the property into approximately 5 apartments above a ground-floor commercial 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 $1,340,000.

9-201901736 ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, PROVIDING FOR THE ISSUANCE OF BONDS OR NOTES IN ANTICIPATION OF SUCH BONDS, BY THE CITY OF CINCINNATI, OHIO IN THE PRINCIPAL AMOUNT OF $7,500,000 FOR THE PURPOSE OF MAKING STREET IMPROVEMENTS.

10-201901737 ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the City Manager to accept and appropriate a donation in the amount of up to $30,000 into General Fund 050 from Ohio River Way, Inc. for the purpose of reimbursing the City’s cost of retaining specialized legal counsel to assist with railroad-related rails-to-trails issues in connection with the multi-use recreational trail proposed by Ohio River Way, the City, the Southwest Ohio Regional Transit Authority, and Hamilton County Great Parks along the unused northern track of the Oasis railroad line in Cincinnati.
ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Traction Partners, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 432 Walnut Street in downtown Cincinnati, in connection with the remodeling of an existing building into a hotel and first-floor restaurant, 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 $32,000,000.

ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the City Manager to apply for, accept, and appropriate an Improving Criminal Justice Responses Grant Program (CFDA #16.590) grant in the amount of $281,332 from the United States Department of Justice/Office on Violence Against Women (OVW), which OVW grant will be provided to the Hamilton County Family Justice Center (HCFJC), with the City as one of the subrecipients of the grant, which OVW grant shall serve the purpose of funding an Assistant City Solicitor position within Law's Division of Prosecuting Attorneys for 36 months, which prosecuting attorney will be dedicated to specialized and centralized treatment of cases pertaining to domestic violence, relationship violence, sexual assault, and stalking, and whose duties shall include coordinating with the Hamilton County Prosecutor's Office, Grand Jury Division.

ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Uptown Corryville, LLP, thereby authorizing an 11-year tax exemption for 100% of the value of improvements made to real property located at 60 William Howard Taft Road in the Corryville neighborhood of Cincinnati, in connection with the construction of a 117-room hotel and parking garage, which construction 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 construction cost of approximately $12,000,000.

ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 222 Mohawk LLC, an affiliate of Kunst Development LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 222-226 Mohawk Street in Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 7,000 square feet of residential rental space, at a total construction cost of approximately $1,054,000.
15-201901744 ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with Consolidated Metal Products, Inc., thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 2123 Depot Street in the Lower Price Hill neighborhood of Cincinnati, in connection with the construction of an approximately 35,000 square-foot industrial building, at a total construction cost of approximately $3,300,000.

16-201901746 ORDINANCE , dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, ESTABLISHING priority order of property tax exemptions granted for certain real property located at 1712 Logan Street in Cincinnati’s Over-The-Rhine neighborhood, located within the City’s District 3-Downtown/OTR West District Incentive District, in connection with urban redevelopment activities being undertaken by the City of Cincinnati.

17-201901747 ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, DECLARING improvements to certain real property located at 1712 Logan Street in Cincinnati’s Over-The-Rhine neighborhood 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 and requiring the payment of service payments in lieu of taxes by the owner or owners of such real property.

18-201901750 ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, DECLARING, pursuant to Ohio Revised Code Section 5709.40(B), improvements to real property located at 1744 Dana Avenue in the Evanston neighborhood of Cincinnati to be a public purpose and exempt from real property taxation for a period of time.

19-201901751 ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, DECLARING, pursuant to Ohio Revised Code Section 5709.40(B), improvements to certain parcels of real property located at the northeast quadrant of the intersection of Martin Luther King Jr. Drive and Reading Road in the Avondale neighborhood of Cincinnati, which improvements are to be constructed as part of a multi-phased project to be completed by MLK Investors I, LLC, an affiliate of Neyer Properties, Inc. and Kulkarni Properties, LLC, to be a public purpose and exempt from real property taxation for a period of time.

20-201901767 REPORT, dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, regarding Department of Community and Economic Development Staffing Impact. (SEE DOC. #201901621)
ORDINANCE (EMERGENCY), dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the transfer and appropriation of the sum of $295,100 from the unappropriated surplus of Hazard Abatement Fund 347 to personnel and non-personnel operating budget accounts in the Department of Buildings and Inspections in accordance with the attached Schedule of Transfer, for the purpose of providing resources for staff, training, and equipment to support the newly established Residential Rental Registration program and the Residential Rental Property Inspection Pilot program.

ORDINANCE (EMERGENCY), dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 509 E12 ST LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 509 East 12th Street in the Pendelton neighborhood of Cincinnati, in connection with the remodeling of two existing buildings into seven residential units, at a total construction cost of approximately $839,434.

ORDINANCE (EMERGENCY), dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 1725 ELM STREET, LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 1725 Elm Street in the Over-The-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into 12 residential units and approximately 700 square feet of commercial space, at a total construction cost of approximately $1,234,442.

ORDINANCE (EMERGENCY), dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Sycamore Diner LLC and The Board of Trustees of Woodward Highschool of the City of Cincinnati, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 1203 Sycamore Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing single-story building into approximately 5,000 square feet of commercial space, which remodeling shall be 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 $1,186,843.40.
ORDINANCE (EMERGENCY), dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 1814 Central LLC, thereby authorizing a 10-year tax exemption for 100% of the value of improvements made to real property located at 1814 Central Parkway in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of existing buildings into approximately 18,000 square feet of commercial space and approximately 5,000 square feet of industrial space, at a total construction cost of approximately $2,236,000.

ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the transfer and appropriation of $1,326,535 within Community Health Center Activities Fund 395 from various Cincinnati Health Department personnel operating budget accounts to various non-personnel operating budget accounts for the purpose of realigning resources needed for the primary care health centers and school-based health centers programs; AUTHORIZING the transfer of $52,000 within General Fund 050 appropriations from various Department of Finance personnel operating budget accounts to various Department of Finance non-personnel operating budget accounts for the purpose of realigning resources needed for contractual services related to the completion of the FY 2019 Comprehensive Annual Financial Report; AUTHORIZING the transfer of $50,000 from the Department of Buildings & Inspections’ non-personnel operating budget account to the City Manager’s Office – Office of Performance & Data Analytics personnel operating budget account for the purpose of providing funding for a Management Analyst position dedicated to data analysis of programs within Buildings & Inspections; AUTHORIZING the appropriation of the sum of $25,000 from the unappropriated surplus of the General Fund 050 to the Office of Environment & Sustainability’s non-personnel operating budget account for the purpose of funding an aggregation consultant; and AUTHORIZING the appropriation of $45,000 from the unappropriated surplus of the General Fund 050 to the Law Department’s non-personnel operating budget account for the purpose of funding legal expenses related to the Cincinnati Solar Array project.

ORDINANCE (EMERGENCY), dated 11/20/2019, submitted by Patrick A. Duhaney, City Manager, AMENDING Ordinance 0208-2019 for the purpose of accounting for a reduction of revenue to the City in the amount of $800,000 from the State of Ohio local government fund as part of the Mayor’s FY 2020 General Fund Operating Budget.
ORDINANCE (EMERGENCY), dated 12/02/2019, submitted by Patrick A. Duhaney, City Manager, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 313 West 5th LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 313 West Fifth Street and 310 Perry Street in the Central Business District of Cincinnati, in connection with the remodeling of two existing buildings into seventeen residential units and approximately 1,000 square feet of commercial space, at a total construction cost of approximately $1,359,492.

ORDINANCE (EMERGENCY), dated 12/02/2019, submitted by Patrick A. Duhaney, City Manager, DECLARING improvements to certain real property located at 137 West Seventh Street in Cincinnati’s Central Business District 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 and requiring the payment of service payments in lieu of taxes by owner or owners of such real property.

REPORT, dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, regarding Department of Public Services Staffing Impact. (SEE DOC. # 201901642)

ORDINANCE (EMERGENCY), dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the City Manager to execute and implement the labor management agreement between the City of Cincinnati and Cincinnati Organized and Dedicated Employees Inc., the updated terms of which are reflected in the summary attached hereto.

ORDINANCE (EMERGENCY), dated 12/2/2019, submitted by Patrick A. Duhaney, City Manager, AUTHORIZING the City Manager to execute and implement the labor management agreement between the American Federation of State, County and Municipal Employees, Local 250, representing all Municipal Workers of the City of Cincinnati in the Public Service Department, Recreation Department, and Parking Facilities Division, and the City of Cincinnati, the updated terms of which are reflected in the summary attached hereto.
MOTION

WE MOVE that the Administration work with the Union Baptist Cemetery on a potential long-term partnership to ensure the future success of the cemetery, and submit to the Mayor and Council a report within 30 days that lays out potential options having reviewed the current state and budget of the cemetery as well as the ideal future state, and ways in which the City and private-sector partners can play in realizing that ideal future state for the cemetery.
November 7, 2019

MOTION

WE MOVE that the City administration report on the feasibility of creating a low interest (maximum of 3%) revolving loan fund to assist residents who must cover the costs of mandated hillside repairs and retaining walls.

WE FURTHER MOVE that the fund be modeled on the revolving loan fund created to assist residents with sidewalk assessments and streetlight assessments;

WE FURTHER MOVE that the City administration include in its report the estimated amount required to start the fund and recommended sources for the start-up costs.
STATEMENT

Increased heavy rainfall, less undeveloped ground to absorb the water, and overburdened stormwater infrastructure are all contributing to an increased number of landslides in Cincinnati. In some cases, like along Columbia Parkway, the City administration can proactively address the issue using government funds, but when landslides impact private homeowners, residents responsible for paying for repairs to protect their homes and the public do not always have access to the capital required to address the issues quickly. A revolving loan fund will enable the City to provide low interest repair funds upfront and recoup its expenses by making special assessments on impacted properties, which the property owners can repay over time.

Hillside slippage damaging a home or creating expensive remedial obligations can be a financial tragedy for the average homeowner. The builder or developer responsible for the original construction mistakes usually is long gone and/or protected by applicable statutes of limitation. The costs to correct can be monumental.

If repairs cannot be made, our entire community suffers. A sensible plan of assistance is needed.
To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: Emergency Ordinance – Parks Sawyer Point Park Gateway Donation

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to accept and deposit a donation in an amount up to $229,510 from the Greater Cincinnati Foundation into Parks Private Endowment Fund 430; **ESTABLISHING** new capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway;” and **AUTHORIZING** the transfer and appropriation of $229,510 from the unappropriated surplus of Parks Private Endowment Fund 430 to the newly established capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway,” for the purpose of designing the restoration of the Sawyer Point Gateway and entrance area and improving accessibility.

Approval of this Emergency Ordinance will authorize the City Manager to accept and deposit a donation of up to $229,510 from the Greater Cincinnati Foundation into Parks Private Endowment Fund 430. This Emergency Ordinance also establishes new capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway,” and transfers the aforementioned funds into this account. The project will restore the Sawyer Point Gateway and entrance area and improve accessibility.

Matching funds and new FTEs are not associated with the acceptance of these resources.

The reason for the emergency is the immediate need to transfer funds to the capital improvement program project account in order to avoid project delays.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment
AUTHORIZING the City Manager to accept and deposit a donation in an amount up to $229,510 from the Greater Cincinnati Foundation into Parks Private Endowment Fund 430; ESTABLISHING new capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway,” and AUTHORIZING the transfer and appropriation of $229,510 from the unappropriated surplus of Parks Private Endowment Fund 430 to the newly established capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway,” for the purpose of designing the restoration of the Sawyer Point Gateway and entrance area and improving accessibility.

WHEREAS, acceptance of a donation in an amount up to $229,510 from the Greater Cincinnati Foundation will provide resources for the purpose of designing the restoration of the Sawyer Point Gateway and entrance area and improving accessibility; and

WHEREAS, there is no match requirement associated with the acceptance of this donation; and

WHEREAS, there are no new FTEs associated with this donation; and

WHEREAS, this ordinance is in accordance with the “Live” goal to “Build a robust public life” and strategies to “Develop and maintain inviting and engaging public spaces to encourage social interaction between different types of people” and “Create a more welcoming civic atmosphere,” as described on pages 147 – 155 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to accept and deposit a donation in an amount up to $229,510 from the Greater Cincinnati Foundation into Parks Private Endowment Fund 430, for the purpose of designing the restoration of the Sawyer Point Gateway and entrance area and improving accessibility.

Section 2. That the Finance Director is hereby authorized to establish new capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway,” for said purpose.
Section 3. The City Manager is hereby authorized to transfer and appropriate up to $229,510, an amount representing a donation from the Greater Cincinnati Foundation, from the unappropriated surplus of Parks Private Endowment Fund 430 to the newly established capital improvement program project account no. 980x203x202006, “Sawyer Point Park Gateway.”

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 herein.

Section 5. 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 transfer funds to the capital improvement program project account in order to avoid project delays.

Passed: ___________________________, 2019

______________________________
John Cranley, Mayor

Attest: __________________________
Clerk
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager
Subject: Emergency Ordinance – Wasson Way Trail Reprogramming

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer and return to source Capital Funds 858 and 870 the sum of $100,000 from various General Capital Budget capital improvement program project accounts for the purpose of decreasing certain existing capital improvement program project accounts, according to Section A of the attached Schedule of Transfer; AUTHORIZING the transfer and appropriation of the sum of $100,000 from the unappropriated surplus of Capital Funds 858 and 870 to capital improvement program project accounts for the purpose of providing resources for certain capital improvement program project accounts, according to Section B of the attached Schedule of Transfer.

Section A of the attached Schedule of Transfer authorizes the transfer and return to source of $100,000 from various Uptown Access Improvements West Martin Luther King Drive capital improvement program project accounts. The Uptown Access Improvements West Martin Luther King Drive scope of work is nearly complete and the majority of the Street Improvement Bond Fund balances remaining in these capital improvement program project accounts are no longer needed for the Uptown Access Improvements West Martin Luther King Drive project.

The planned Wasson Way Trail is a shared-use path for bicycles and pedestrians extending from near the intersection of Montgomery Road and Dana Avenue in Evanston eastward through the City of Norwood, the Cincinnati neighborhoods of Evanston, Hyde Park, Oakley, and Mount Lookout, and the Village of Fairfax, and ending east of Wooster Road near its intersection with Red Bank Road in Columbia Township.

The Wasson Way Trail is an eligible use of Street Improvement Bond Funds. Section B of the attached Schedule of Transfer authorizes the transfer and appropriation of the sum of $100,000 from the unappropriated surplus of various Street Improvement Bond Funds to a Wasson Way Trail capital improvement program project account for the purpose of providing resources for the Wasson Way Trail. The sum of $100,000 is anticipated to provide $50,000 for design resources needed for Wasson Way Phase 3 as well as $50,000 for a portion of the resources needed for design of Wasson Way Phase 4 and 5.

The reason for the emergency is the need to have funding immediately in place in order to provide resources for the Capital Improvement Program.

The Wasson Way Trail project is in accordance with the “Connect” goal to “develop an efficient multi-modal transportation system that supports neighborhood livability” as well as the strategies to “expand options for non-automotive travel,” and to “plan, design, and implement a safe and sustainable transportation system,” as described on pages 129-138 of Plan Cincinnati.

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

Attachments
EMERGENCY
City of Cincinnati
An Ordinance No. - 2019

AUTHORIZING the transfer and return to source Capital Funds 858 and 870 the sum of $100,000 from various General Capital Budget capital improvement program project accounts for the purpose of decreasing certain existing capital improvement program project accounts, according to Section A of the attached Schedule of Transfer; AUTHORIZING the transfer and appropriation of the sum of $100,000 from the unappropriated surplus of Capital Funds 858 and 870 to capital improvement program project accounts for the purpose of providing resources for certain capital improvement program project accounts, according to Section B of the attached Schedule of Transfer.

WHEREAS, the planned Wasson Way Trail is a shared-use path for bicycles and pedestrians extending from near the intersection of Montgomery Road and Dana Avenue in Evanston eastward through the City of Norwood, the Cincinnati neighborhoods of Evanston, Hyde Park, Oakley, and Mount Lookout, and the Village of Fairfax, and ending east of Wooster Road near its intersection with Red Bank Road in Columbia Township; and

WHEREAS, resources are needed for labor, materials, and technology necessary to plan, design, acquire right-of-way, build, and inspect the planned Wasson Way Trail and related improvements of the project; and

WHEREAS, the Uptown Access Improvements West Martin Luther King Drive scope of work is nearly complete and the majority of the Street Improvement Bond Fund balances remaining in these capital improvement program project accounts are no longer needed for the Uptown Access Improvements West Martin Luther King Drive project; and

WHEREAS, the Wasson Way Trail is an eligible use of Street Improvement Bond Funds; and

WHEREAS, the Wasson Way Trail project is in accordance with the “Connect” goal to “develop an efficient multi-modal transportation system that supports neighborhood livability” as well as the strategies to “expand options for non-automotive travel,” and to “plan, design, and implement a safe and sustainable transportation system,” as described on pages 129-138 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the transfer and return to source Funds 858 and 870 of the sum of $100,000 from various capital improvement program project accounts is hereby authorized for the purpose
of decreasing certain existing capital improvement program project accounts, according to Section 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 Funds 858 and 870 to certain capital improvement program project accounts is hereby authorized for the purpose of providing resources for certain capital improvement program project accounts, according to Section B of the attached Schedule of Transfer.

Section 3. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the terms of Sections 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 ensure that necessary funding is in place prior to provide resources for the Wasson Way Trail.

Passed: ____________________________, 2019

______________________________
John Cranley, Mayor

Attest: _________________________
Clerk
### Section A.

**Return to Source:** $100,000.00

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### Section B.

**Transfer and Appropriation:** $100,000.00

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November 12, 2019

MOTION

RECOGNIZING residents face significant financial hardship that impacts their ability to pay fines and penalties, and that dealing with unpaid parking tickets poses a disproportionate economic burden on low-income households,

WE MOVE the City Administration implement a Parking Amnesty program, taking into consideration recommendations from the City Manager received on June 12, 2019 (report attached), with the exception of a specific recommendation that was provided in the report: amnesty should be made available to all persons with eligible fines/fees, including those who are not current with all parking violation fees and fines incurred in years outside of the program parameters (2018-present);

WE FURTHER MOVE that a parking amnesty program should serve the purpose of forgiving late fees and penalties associated with outstanding unpaid parking tickets, in the spirit of forgiveness and to incentivize the payment of outstanding tickets and the collection of outstanding fees otherwise rendered virtually impossible to collect.

WE FURTHER MOVE the proposed parking amnesty program should be made available publicly for a period of no more than 90 days, and that it should only apply to parking fines and towing/storage fees accrued on or before December 31, 2016.

WE FURTHER MOVE for the City Administration to report on progress pertaining to the implementation of a parking amnesty program within 6-8 weeks of passage of this motion, with a recommended program start date of Spring 2020.

Councilmember Tamaya Dennard

[Signature]
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager
Subject: Parking Amnesty Program

REFERENCE DOCUMENT #201900135

On January 14, 2019, the Budget & Finance Committee referred the following for report:

MOTION, submitted by Councilmembers Dennard & Young, RECOGNIZING that many residents face significant financial hardship that impacts their ability to pay fines and penalties imposed by the City of Cincinnati, and FURTHER RECOGNIZING that dealing with unpaid parking tickets is a serious burden that should be addressed by municipal government within means reasonable and appropriate, WE MOVE that the City Administration take all actions necessary and proper to implement a citywide Parking Amnesty Program.

WE FURTHER MOVE that the duration of any such Parking Amnesty Program should be for at least one full calendar month and serve the purpose of forgiving late fees and penalties associated with outstanding unpaid parking tickets, the spirit of forgiveness and to incentivize the payment of outstanding tickets, and collection of fees otherwise rendered near to impossible to collect.

WE FURTHER MOVE that the City Administration report to Council on the feasibility and fiscal impact of implementing the following eligibility requirements for this program: 1. Individuals with parking violations issued prior to 2018 that are unpaid or partially unpaid 2. Individuals with towing and storage fees prior to 2016.

WE FURTHER MOVE that the City Administration report to Council regarding any of its own recommendations for the timeline, budget structure and eligibility requirements of a Parking Amnesty Program, as well the status of implementations of the herein proposed framework for such a program, within 90 days of passage of this motion.

WE FURTHER MOVE that the City Administration provide the offices of City Council with a copy of a draft implementation plan by May 1, 2019.

Background
In December 2014, City Council authorized the City Manager to establish terms and conditions for the Holiday Food for Fines Program which would allow citizens to donate canned goods in exchange for forgiveness of the late fee of up to two outstanding parking tickets during a one-week period beginning Monday, December 15, 2014, and ending Friday, December 19, 2014. The Council authorization empowered the City Manager to implement the Holiday Food for Fines Program notwithstanding the provisions of Chapter 515 of the Cincinnati Municipal Code and any other provisions of the Cincinnati Municipal Code which may prohibit the program. During the program, 82 of 4,500 eligible participants took part, raising $13,000 for the City and leading to the collection of 3,500 cans of food for the foodbank.
Considerations

Parking Violations fees

The Department of Community and Economic Development-Parking Division directed Conduent (citation collection service provider) to generate a report on parking citations and related fees. For parking violations issued prior to 2018, there are $3.3 million of parking fines outstanding and $3.3 million of late penalties associated with these fines. The collection rates for these outstanding fines and citations vary by year, but these rates decrease over time. The table below shows the outstanding citations with associated fines by issuance year and the collection rate for 2018 for each citation issuance year. Note that while the 2018 collection rates were used, the collection rate for 2017 citations will likely be closer to 5% for calendar year 2019 due to the age of the citations and the decrease in collection rate with each passing year.

<table>
<thead>
<tr>
<th>Issuance Year</th>
<th>Outstanding Fees</th>
<th>Citations</th>
<th>*Collection Rate in 2018</th>
<th>Potential Fee Revenue</th>
<th>Expected Citation Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$1,013,341</td>
<td>$1,009,881</td>
<td>21.9</td>
<td>$221,921</td>
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<tr>
<td>2016</td>
<td>$953,652</td>
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<tr>
<td>2015</td>
<td>$735,877</td>
<td>$733,172</td>
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<td>$31,642</td>
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<td>2014</td>
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<td>$612,447</td>
<td>2.0</td>
<td>$12,419</td>
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<tr>
<td>Total</td>
<td>$3,323,864</td>
<td>$3,306,580</td>
<td></td>
<td>$312,710</td>
<td>$311,539</td>
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</table>

* Percentage collected on total balances (fine + penalty) as of current

For the successful implementation of a Parking Amnesty Program that does not result in a loss of citation revenue, the program must double the collection rate that would otherwise occur for the citation issue year. For example, a program affecting citations with a normal collection rate of 5% must achieve a collection rate of 10% for that citation year to not result in a decrease in net citation revenue.

Towing and Storage fees

Vehicles impounded for delinquent tickets are processed after 20 days. If a delinquent vehicle is not claimed by the owner within 20 days, the vehicle is considered abandoned and processed as a "junk" motor vehicle or sold at auction.

Due to the outlined City policies for abandoned vehicles, fines for impounded vehicles do not continue to accrue beyond 20 days. There are legal circumstances where vehicles may be held for more than 20 days; however, in those instances the vehicle owner is only required to pay the standard impoundment fees related specifically to the parking violations. If the vehicle is kept as part of a law enforcement investigation, the owner is not responsible for any additional fees.

Conclusion

Pursuant to the Council motion, the Administration has laid out several considerations – financial and otherwise – for implementing a Parking Amnesty Program. Overall, the Administration does not recommend these types of programs. There is a concern that the use of Parking Amnesty Programs communicates to the public that they should avoid paying fines, as the City will eventually put an amnesty program in place. However, if Council does decide to move forward with the implementation of such a program, the Administration requests it apply only to fines accrued before 2017. Additionally, it is recommended that for an individual to be eligible for relief from the accrued fines outlined in the program, they must be current with all parking violation fees and fines for years outside the program parameters (2018 to present).
If a Parking Amnesty Program is approved by Council, the Administration can proceed with implementation within 6-8 weeks of passage. It is expected that the amnesty period could be up to 90 days. The Administration will be in a better position to provide additional details on program parameters closer to the scheduled start date.

Attachments:  Draft Implementation Plan  
Conduent Amnesty Review Report

Copy:  Philip M. Denning, Director, Department of Community and Economic Development  
Dan Bower, Deputy Director, Department of Community and Economic Development  
Daniel Fortinberry, Division Manager, Parking Division  
Eliot K. Isaac, Chief of Police, Cincinnati Police Department
Draft Implementation Plan

The software used by the City's Enforcement Operations contractor (Conduent) is the base platform for all Cincinnati Parking Infraction (CPI) payments (Web, phone, and physical POS cashiering). The Hamilton County Parking Violations Bureau (PVB) is responsible for processing physical CPI payments at their cashiering window. The next couple of paragraphs will address the implementation of the amnesty program.

Upon setting amnesty dates, Conduent can perform a temporary reduction on all CPI's issued on or before 12/31/2017. This reduction would remove late fees associated with failing to pay a CPI. It should be noted that additional fees such as Ohio Bureau of Motor Vehicle registration holds and NSF (bounced check) fees would not be waived, as they must be paid (or have already been paid) by the City to other entities.

Conduent requires approximately six to eight (6-8) weeks to develop and implement the reduction within their system (including time to QA/QC the system prior to launch). The PVB will be informed of the associated amnesty dates (and citation population) at least two weeks prior to the start of the program to allow time for staff training.
05/14/2019

Cincinnati Amnesty Analysis

Updated through 5/13/2019 Including 2018 CY

Parking and Safety Solutions
Conduent State & Local Solutions, Inc.

Base Fines and Escalated Fees Still Open by Issuance Year
Base Fines and Escalated Fees Still Open by Issuance Year - Cumulative

Percentage of Outstanding Tickets Paid by Issuance Year in 2018
Mr. John Juech  
Assistant City Manager  
City Hall Room 104  
801 Plum Street  
Cincinnati, Ohio 45202

Re: CET and the Bridge to Music Hall

Dear John:

Further to my letter of March 12, 2019, the demolition of the walkway between CET’s facility and Music Hall continues to be a source of added expense for CET’s productions which are staged at Music Hall and produced for broadcast at CET. The lack of an interconnection requires the rental of additional camera equipment, additional crew costs and additional logging/post production expenses.

To document these additional expenses, I enclose an invoice dated October 31, 2019, and a detailed listing of the additional costs and the camera equipment rental invoice which CET has paid. The total for the Pops in Space Concert production on January 17-19, 2019, came to $38,154.00. We request that the City of Cincinnati reimburse us this expense.

The basis of our claim for reimbursement lies in the original contract with the City of Cincinnati under which CET purchased the real estate to build its present facility. That contract, dated December 14, 1973, contains a Schedule C related to the land disposition controls. Section I (B)(1)(b)(5)(b) [on page 5 of Schedule C] states that the design of the facility shall acknowledge the public second level pedestrian bridge connecting the Town Center across Central Parkway to Music Hall. Section II(D) [on page 13 of Schedule C] states in regard to utility services that “any disruption to services provided under this agreement shall be restored, replaced or maintained to honor the intent of this agreement.”

CET asks that the City honor the intent of the 1973 land sale contract by restoring the interconnection with Music Hall, which can be achieved under Central Parkway without building a new bridge. CET further asks that the City reimburse the additional production expenses that CET has incurred since the bridge to Music Hall was demolished.

Respectfully yours,

[Signature]
Stephen L. Black  
Past Chair, CET Board of Trustees
CET
1223 Central Parkway
Cincinnati, OH 45214-2860

(513) 381-4033

City of Cincinnati
Attn: Patrick Duhaney, Cty Mgr
Cincinnati City Hall
801 Plum Street, #152
Cincinnati, OH 45202

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Price</th>
<th>Amount</th>
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</thead>
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<tr>
<td>Incurred Expenses Due to Loss of Interconnection Jan 17-19, 2019</td>
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<td></td>
<td>38,154.00</td>
</tr>
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Customer No.: CITCIN
Customer P.O.: 

Ship Via: 
Terms: Net payable upon receipt.

Greater Cincinnati Television Educational Foundation
Additional Production Costs
Pops In Space Concert/Cincinnati Symphony Orchestra
Incurred due to the loss of interconnection between CSO and CET.

Scope
Load-in: Thursday, Jan 17th evening
Rehearsal/Camera Looks Friday 10am
Friday, Jan 18th Night 8PM
Saturday, Jan 19th Night 8PM
Load-Out: Saturday Night 10PM (after show)
(12) Camera’s used in Music Hall to capture the performance over 3 days

Additional Equipment:
Additional Camera Equipment rental $ 5,454.00

Additional Equipment costs $ 5,454.00

Additional Engineering needs
Engineering: (2 engineers x 10 hours each) $ 2,500.00
Additional time to configure and run cable
To incorporate all 12 cameras.

Additional Producer time for planning
Location planning, camera placement for
New positions $ 4,000.00

Production Crew needed for location support
11 camera operators (x 2 days) $ 3,200.00
3 freelance production crew $ 1,750.00
Meals for crew $ 850.00

Total Crew costs $ 12,300.00

Additional Logging/Post production
(Cameras sync’d in post as opposed
To live switching in studio) $ 20,400.00

Total Costs $ 38,154.00
The Camera Department
6851 Steger Drive Suite 100
Cincinnati, OH 45237
Phone: (513) 723-1742

WCET-TV
Attn: Accounts Payable
110 South Jefferson St

Dayton, OH 45402-2402

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<th>Date Booked</th>
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<td>1/16/2020</td>
<td>1/17/2019</td>
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The Camera Dept accepts no responsibility for delivery delays by shipping agent.

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0 10%  -506.00  5454.00

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<tr>
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Pick-Up & Delivery Charge

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TERMS:
- Due upon Pick up
- Misc. Sales Amount Totals
- 12/14/2018 10:36:34 AM Bon Yee
- 5454.00

X. Please sign and return via fax
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager
Subject: Responses to questions from Budget and Finance Committee

This report provides responses to questions from City Council during the September 6, 2019, Budget and Finance Committee. At this meeting, Cincinnati Center City Development Corporation ("3CDC") presented on Downtown Cincinnati Pedestrian Task Force (reference document #201901393), during which a series of questions were asked, below, of 3CDC, the Department of Transportation and Engineering (DOTE) and the Department of Community and Economic Development (DCED).

BACKGROUND
On March 6, 2019, City Council passed Ordinance 80-2019 (reference item 201900343) thereby establishing the Downtown Cincinnati Pedestrian Task Force (Task Force). As ordained, the Task Force is a joint effort of the City of Cincinnati and 3CDC, with the mission of making recommendations to the Mayor and City Council regarding pedestrian and traffic improvements on Court Street, Eighth Street, Ninth Street, and Vine Street. Those recommendations were presented to the Budget and Finance Committee during the September 6, 2019 meeting.

On September 11, 2019, City Council passed Ordinance 340-2019 (reference item 201901382), authorizing the transfer and appropriation of $175,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 for the purpose of providing resources for pedestrian and traffic improvements in the neighborhoods of Downtown and Over-the-Rhine.

As stated in Ordinance 340-2019 these funds are intended for design and engineering related to improvements on Court Street, in the area from Main Street to Race Street; and, for traffic studies, design, and engineering related to two-way street modifications at 8th street, from Central Avenue to Broadway; 9th Street, from Central Avenue to Broadway; and Vine Street, from East Central Parkway to Second Street. These resources were appropriated for the advancement of recommendations from the Task Force; and, since September 2019, DOTE and DCED have worked to support the Task Force in studying the effects of any future changes to the Court Street area parking rules and meters.

QUESTIONS

Question 1. If Court St loses parking spots, aside from the parking garage, where are the closest spots the same number of cars could park in as the number that will be lost?

Response 1. The newly created surface lot at the corner of Central and Walnut Street is essentially a one for one replacement of the surface spaces (the lot has 32 spaces, just over the 30 lost in the current plan). The new Court and Walnut Garage has 421 spaces (not including Kroger spaces). This garage does receive a volume of parkers; however, within the next few weeks greater capacity will be available as spaces allocated to construction crews are returned to operational use. There is also a large surface lot at the southeast corner of Court and Walnut with additional parking.

Question 2. How much revenue will be lost from losing those spots? (Both in parking meter revenue and in tickets.)
Response 2. Currently these 30 spaces average meter revenue at 299K annually, 183k received from daily M-F 8a-5p use and 25K from night and weekend parkers, with citation revenue at 91k.

Question 3. When the garage is at capacity and has absorbed the cars that would have normally parked on Court St, how much money will the city make from the garage?

Response 3. The City’s investment is repaid from cash flow after the garage is stabilized with a reserve fund established, further explained in the garage indenture coming before City Council on Nov 13, 2019.

Question 4. Are there any parking options in this area with parking accommodations for those who have issues with pinch strength and cannot utilize garage parking?

Response 4. The Court St. plan calls for multiple accessible parking spaces along with ample accommodations at the surrounding surface lots.

Question 5. What is the plan for delivery trucks? The back alley is not big enough for deliveries.

Response 5. The back alley is wide enough for deliveries with parking and deliveries as properly managed.

Question 6. Will there be any relief for property owners who will be responsible for the expanded sidewalks? (Example, snow/ice removal.)

Response 6. Yes, DCI will take responsibility for the expanded sidewalk if the plan moves forward.

Question 7. Are the garage prices the same as the prices people would pay at the meters? If so, does 3CDC guarantee that the garage pricing will remain that way?

Response 7. Both the Court & Walnut Garage and Central and Walnut Lot are currently cheaper than parking at the meters for a 2-hour period. For example, at the Central and Walnut Lot the charge is $2, at the Court and Walnut Lot the charge is $5 (with a $4 flat rate on weekday evenings after 4 p.m. and weekends); however, the 30 meters are $5.50 for the same amount of time ($2.75/hr for two hours). Please see the full rate chart as attached.

While 3CDC cannot guarantee that Court and Walnut garage rates will remain at this level indefinitely, 3CDC is committed to providing affordable parking and exceptional service in all its garages and all rate changes are subject to the approval of the City Manager.

In addition, these meters in question are currently the most ticketed in the City. Parking in the lots or garage will ensure that folks attending the Courthouse are not ticketed if they stay longer than two hours.

Question 8. Are there any hybrid plans we could consider that don’t result in the reduction of so many spaces? For example, parking allowed during sometimes of the day, but not allowed during others.

Response 8. The Pedestrian Task Force reviewed several options with a variety of parking possibilities. The current design remains as the Task Force presented, and as agreed by City Council to advance. The Parking Pilot that is currently being implemented is intended to help determine how the loss of parking spaces will affect the adjacent property owners.

Attachment

CC: John Brazina, Director, Department of Transportation and Engineering
Phillip Denning, Director, Department of Community and Economic Development
Affected Garage and Meter Rate Comparison

Court & Walnut Garage
0-9 min. – FREE
10-59 min. – $2
1-2 hours – $5
2-3 hours – $7
3-4 hours – $9
4-5 hours – $11
5-6 hours – $13
6-7 hours – $15
7-24 hours – $17
Weekday evenings after 4pm - $4 flat rate (max 8 hours)
Weekend (Saturday and Sunday) - $4 flat rate (max 8 hours)

35 E Central Pkwy Lot
0-1 hours - $1.00
1-2 hours - $2.00
2-3 hours - $7.00
3-12 hours – 10.00
All day - $12.00

Court Street Meters
$2.75/hour
2-hour max
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager
Subject: EMERGENCY ORDINANCE FOR CRA 1614 WALNUT LEED CREA

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 Northcrown Property LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 1614 Walnut Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building on the property into approximately 5 apartments above a ground-floor commercial 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 $1,340,000.

BACKGROUND/CURRENT CONDITIONS

This property is currently a vacant building in the Over-the-Rhine neighborhood of Cincinnati. The Developer submitted a CRA application to DCED, which was reviewed by DCED.

DEVELOPER INFORMATION

Northcrown Property is a developer that is currently doing work in the northeast quadrant of Over-the-Rhine. They have stabilized and rehabilitated the historic Crown Brewery Building—a mixed-use building that consists of ground floor retail, three, two-bedroom apartments, and an 8,000 square foot office space.

PROJECT DESCRIPTION

Once completed, this project will consist of five, one-bedroom apartments. The apartments will range from 850-1300 square feet at $1,500-$2,100 per month, and the ground floor will have 3,000 square feet of retail. In connection with this project, it is estimated that 25 temporary construction jobs are created at a total annual payroll of
$1,000,000 and 15 full-time equivalent employees will be created at a total annual payroll of $500,000. The building will be LEED certified once completed. Include information on:

**PROPOSED INCENTIVE**

DCED is recommending a 15-year, net 60% LEED CRA.

Pursuant to the LEED CRA policy established by City Council, this project is eligible for a 15-year net 60% CRA Tax Abatement:

<table>
<thead>
<tr>
<th>Incentive Value</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Net Abatement (Savings to Developer)</td>
<td>$25,825</td>
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<tr>
<td>Total Term Net Abatement (Savings to Developer)</td>
<td>$387,375</td>
</tr>
<tr>
<td>City's Portion of Property Taxes Forgone</td>
<td>$70,836</td>
</tr>
</tbody>
</table>

**Public Benefit**

- **CPS PILOT**
  - Annual CPS Pilot                                   | $10,760|
  - Total Term CPS PILOT                                | $161,406|
- **VTICA**
  - Annual VTICA                                       | $6,456 |
  - Total Term VTICA PILOT                              | $96,844 |
- **Income Tax (Max)**                                  | $117,250|
- **New Permanent Jobs**                                | 15    |

**Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)** | $375,500|

The Public's ROI                                         | $5.30 |

**RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance.

Attachment: A. Property location and photographs

Copy: Philip M. Denning, Director, Department of Community & Economic Development
$1,000,000 and 15 full-time equivalent employees will be created at a total annual payroll of $500,000. The building will be LEED certified once completed. Include information on:

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<tr>
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<td>$375,500</td>
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**RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance.

Attachment: A. Property location and photographs

Copy: Philip M. Denning, Director, Department of Community & Economic Development
APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Northcrown Property LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 1614 Walnut Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building on the property into approximately 5 apartments above a ground-floor commercial 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 $1,340,000.

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 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, Northcrown Property LLC (the “Company”) desires to remodel the existing building located on real property at 1614 Walnut Street located within the corporate boundaries
of the City of Cincinnati into approximately 3,000 square feet of commercial space and approximately 7,800 square feet of residential space, consisting of five residential rental units, 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 Northcrown Property 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 1614 Walnut Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing building into approximately 3,000 square feet of commercial space and 7,800 square feet of
residential rental 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 $1,340,000.

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 City School District of the City of Cincinnati, 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: ___________________________, 2019

____________________________
John Cranley, Mayor

Attest: __________________________

Clerk
Contract No. ______________________

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 NORTHCROWN PROPERTY 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, dated September 27, 2017, as amended by Ordinance No. 339-2018, passed by the Council of the City of Cincinnati on October 31, 2018 (as amended, 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 1614 Walnut 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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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. 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 aforementioned 15% VTICA Contribution each year for the full term of the abatement

S. This Agreement has been authorized by Ordinance No. _____-2019, passed by Cincinnati City Council on __________, 2019.

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 an existing three-story building on the Property into approximately 3,000 square feet of commercial space and approximately 7,800 square feet of residential space, consisting of five residential rental units (the “Improvements”). The Company anticipates that the estimated aggregate cost of the remodeling, excluding acquisition costs to be $1,340,000 to commence after the execution of this Agreement and to be completed no later than December 31, 2020; 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, 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 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 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2021 nor extend beyond the earlier of (i) tax year 2035 or (ii) the end of the fifteenth (15th) year of exemption.

Section 3. **Use; Maintenance; Inspections.** The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designee, 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 other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

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

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

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

Section 11. **Small Business Enterprise Program.**

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

(i) Including qualified SBEs on solicitation lists.

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1 Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.
(ii) Assuring that SBEs are solicited whenever they are potential sources. The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

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

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

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 15 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 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.

B. 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) $1,000,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. **False Statements; Penalties; Material Representations.**

A. **Generally.** As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars ($1,000) and/or a term of imprisonment of not more than six (6) months.

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

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

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

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

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

To the City:

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

To the Company:

Northcrown Property LLC
Attention: Jeremiah B. Moore
131 E. McMicken Avenue
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. Wage Enforcement.
(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed $25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.
(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

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

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: ____________________________
    Patrick A. Duhaney, City Manager
Date: ________________, 2019

NORTHCROWN PROPERTY LLC,
an Ohio limited liability company

By: ____________________________
    Printed Name: _____________________
Title: ____________________________
Date: ________________, 2019
Authorized by resolution dated __________

Recommended by:

______________________________
Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

______________________________
Markiea L. Carter, Director
Department of Economic Inclusion

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: 1614 Walnut Street, Cincinnati, Ohio 45202

Auditor's Parcel No.: 094-0007-0188-00

SITUATED IN THE CITY OF CINCINNATI, HAMILTON COUNTY, STATE OF OHIO, AND BEING LOTS 143 AND 144 OF HUGH MOORE'S SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGES 184 AND 185 OF THE PLAT RECORDS OF HAMILTON COUNTY, OHIO.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED]
November 20, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: Emergency Ordinance for Issuance of $7,500,000 Street Improvement Bonds

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 $7,500,000 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 $7,500,000 to fund street infrastructure improvements. These bonds are twenty-year bonds supported by income 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 2020 Capital Improvement Program, as approved by City Council.

This financing is part of the Capital Acceleration Plan and the Administration was planning to enter into interim or short-term financing, as authorized by Ord. No. 232-2019, approved on June 19, 2019. However, due to the favorable interest rate environment, the City will save interest costs on the interim financing by issuing this as long-term general obligation debt this year.

This emergency ordinance is recommended for approval.

Attachment

cc: Karen Alder, Finance Director
EMERGENCY

City of Cincinnati

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 $7,500,000 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 $7,500,000 (income 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 $7,500,000 for the purpose aforesaid. Said bonds shall consist of $7,500,000 (income tax supported). The Series A Bonds are hereafter referred to in this ordinance as the "bonds." Said bonds shall be dated as determined by the Finance Director, and 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 a rate or rates not in excess of six per centum (6.00%) per annum, payable December 1, 2020, 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 hereinbefore specified, said bonds shall bear such rate, or rates, of interest as may be accepted by the Finance Director. The income tax supported bonds shall be designated 19-1-G1401, 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 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 $7,500,000, 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.

In addition to the tax pledge contained above, the Council of the City of Cincinnati 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 bonds.

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 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: ________________________, 2019

____________________________
John Cranley, Mayor

Attest: ________________________
Clerk
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager
Subject: Emergency Ordinance – Ohio River Way, Inc. Donation to Law Department

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate a donation in the amount of up to $30,000 into General Fund 050 from Ohio River Way, Inc. for the purpose of reimbursing the City’s cost of retaining specialized legal counsel to assist with railroad-related rails-to-trails issues in connection with the multi-use recreational trail proposed by Ohio River Way, the City, the Southwest Ohio Regional Transit Authority, and Hamilton County Great Parks along the unused northern track of the Oasis railroad line in Cincinnati.

This Emergency Ordinance authorizes the City Manager to accept and appropriate a donation in the amount of up to $30,000 from Ohio River Way, Inc. for the purpose of funding City costs of retaining specialized legal counsel to assist with railroad-related rails-to-rails issues in connection with the proposed development of the Oasis Trail.

The funds will be deposited into the General Fund and appropriated to the Department of Law’s General Fund non-personnel operating budget account no. 050x111x7200.

The reason for the emergency is the immediate need to retain counsel and allow for third-party reimbursement of City costs not currently budgeted for as part of the Law Department’s operating budget.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment
EMERGENCY

City of Cincinnati

An Ordinance No. __________ 2019

AUTHORIZING the City Manager to accept and appropriate a donation in the amount of up to $30,000 into General Fund 050 from Ohio River Way, Inc. for the purpose of reimbursing the City’s cost of retaining specialized legal counsel to assist with railroad-related rails-to-trails issues in connection with the multi-use recreational trail proposed by Ohio River Way, the City, the Southwest Ohio Regional Transit Authority, and Hamilton County Great Parks along the unused northern track of the Oasis railroad line in Cincinnati.

WHEREAS, Ohio River Way, Inc. (“ORW”) is a local nonprofit agency working to transform a portion of the Ohio River Valley into a system of parks, greenways, and trails linking tourism, recreation, historic, and commercial areas, including a segment known as the Ohio River Trail Oasis Transportation Corridor (the “Oasis Trail”) which is a 4.75 mile segment connecting downtown Cincinnati to Lunken Airport; and

WHEREAS, creation of the Oasis Trail requires working with interested parties along the proposed trail including the Southwest Ohio Regional Transportation Authority and railroads in order to plan and develop the trail along the commercially obsolete and unmaintained northern track of the Oasis railroad line; and

WHEREAS, the City has entered into a binding agreement with ORW (the “ORW Reimbursement Agreement”) by which ORW will reimburse the City in an amount up to $30,000 for the costs of retaining specialized legal counsel to assist with railroad-related rails-to-trails issues in connection with the proposed Oasis Trail; and

WHEREAS, the City Solicitor’s Office has retained outside legal counsel for the above-stated purposes in reliance on the ORW Reimbursement Agreement; and

WHEREAS, this ordinance is in accordance with the “Connect” goal to “develop an efficient multi-modal transportation system that supports neighborhood livability” as well as the strategies to “expand options for non-automotive travel,” and to “plan, design, and implement a safe and sustainable transportation system,” and the “Live” goal to “Create a more livable community, as described on pages 129-38 and 156 of Plan Cincinnati (2012), respectively, as well as the “Transportation” goals of the Green Cincinnati Plan to “Decrease the consumption of fossil fuels, including gas, diesel, and natural gas by 20%” and to “Double lane miles of bike infrastructure,” as described on pages 204-236 of the Plan; 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 the amount of up to $30,000 from Ohio River Way, Inc. for the purpose of reimbursing the City’s cost of retaining specialized legal counsel to assist with railroad-related rails-to-trails issues in connection with the multi-use recreational trail proposed by Ohio River Way, the City, the Southwest Ohio Regional Transit Authority, and Hamilton County Great Parks along the unused northern track of the Oasis railroad line in Cincinnati.

Section 2. That the Director of Finance is hereby authorized to receive and deposit the donation resources into General Fund 050.

Section 3. That the Director of Finance is authorized to appropriate an amount not to exceed $30,000 from the unappropriated surplus of General Fund 050 to the Department of Law’s General Fund non-personnel operating budget account no. 050x111x7200.

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

Section 5. That 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 retain counsel and allow for third-party reimbursement of City costs not currently budgeted for as part of the Law Department’s operating budget.

Passed: _____________________________, 2019

______________________________
John Cranley, Mayor

Attest: ____________________________
Clerk
City of Cincinnati

November 20, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: LEED CRA TAX EXEMPTION AGREEMENT – TRACTION PARTNERS LLC – 432 WALNUT STREET

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 Traction Partners, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 432 Walnut Street in downtown Cincinnati, in connection with the remodeling of an existing building into a hotel and first-floor restaurant, 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 $32,000,000.

Background

Traction Partners, LLC, an affiliate of Parkes Development Group, proposes a complete rehabilitation of the historic 15-story Traction Building located at 432 Walnut Street in the Central Business District.

Development Entity

Traction Partners, LLC is an affiliate of Parkes Development Group, LLC (PDG) out of Franklin, Tennessee. PDG has over 30 years of construction and development experience.

Project Description

The developer will renovate the Traction Building at 432 Walnut Street downtown into a 147-room hotel, with a restaurant, fitness room, ballroom space and rooftop bar. The remodeling will cost an approximate $32,000,000. The project will utilize State & Federal Historic Tax Credits and will achieve at a minimum LEED Silver certification from the U.S. Green Buildings Council. The project will support the creation of 116 FTEs and 125 temporary construction jobs with annual payrolls of $3,592,659 and $6,700,000, respectively.
During the term of the exemption, the City will realize $0.88 in new income taxes for every $1 of real estate taxes foregone by the City.\footnote{Assumes no increase in real estate value or payroll over the life of the exemption.}

This project represents Plan Cincinnati's "Vision to Compete" by making a targeted investment, and its "Vision of Live" to support and stabilize our neighborhoods.

**Proposed Incentive**

The Ordinance provides for a net 60%, 15-year CRA tax exemption. The exemption applies only to the increase in value attributable to the project improvements. Pursuant to the Commercial CRA policy established by Ordinance 275-2017, LEED-certified projects are eligible for real property tax exemptions of up to 100% for up to 15-years in the Streetcar VTICA area and are not subject to gap funding analysis.

<table>
<thead>
<tr>
<th>Incentive Value</th>
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<tr>
<td>Annual Net Abatement (Savings to Developer)</td>
<td>$587,780</td>
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<tr>
<td><strong>Total Term Net Abatement (Savings to Developer)</strong></td>
<td><strong>$8,816,698</strong></td>
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<tr>
<td>City's Portion of Property Taxes Forgone</td>
<td>$1,611,986</td>
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**Public Benefit**

<table>
<thead>
<tr>
<th>CPS PILOT</th>
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<tr>
<td>Annual CPS Pilot</td>
<td>$244,908</td>
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<td>Total Term CPS PILOT</td>
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<td>Annual VTICA</td>
<td>$146,945</td>
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<tr>
<td>Total Term VTICA PILOT</td>
<td>$2,204,175</td>
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<tr>
<td>Income Tax (Max)</td>
<td>$1,413,088</td>
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<tr>
<td>New Permanent Jobs</td>
<td>116</td>
</tr>
<tr>
<td><strong>Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)</strong></td>
<td><strong>$7,290,886</strong></td>
</tr>
</tbody>
</table>

| Total Public Benefit ROI                    |       |
| City's ROI                                  | $4.52 |

**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 photos

Copy: Philip M. Denning, Director, Department of Community & Economic Development
EMERGENCY

City of Cincinnati

An Ordinance No. 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Traction Partners, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 432 Walnut Street in downtown Cincinnati, in connection with the remodeling of an existing building into a hotel and first-floor restaurant, 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 $32,000,000.

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 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, Traction Partners, LLC (the “Company”) desires to remodel the historic 15-story office building on real property at 432 Walnut Street located within the corporate boundaries of the City of Cincinnati into a hotel with approximately 147 standard hotel rooms
and 5 specialty hotel rooms, and a restaurant space on the first floor, containing in aggregate approximately 122,000 square feet of commercial space, 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 Traction 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 432 Walnut Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building into a hotel and first-floor restaurant, 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 $32,000,000.

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 City School District of the City of Cincinnati, 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: _____________________________, 2019

______________________________
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 TRACTION PARTNERS, LLC, a Delaware 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, dated September 27, 2017, as amended by Ordinance No. 339-2018, passed by the Council of the City of Cincinnati on October 31, 2018 (as amended, 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 432 Walnut 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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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 aforementioned 15% VTICA Contribution each year for the full term of the abatement.

S. This Agreement has been authorized by Ordinance No. ______-2019, passed by Cincinnati City Council on ______________, 2019.

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 historic 15-story office building located on the Property into a hotel with approximately 147 standard hotel rooms and 5 specialty hotel rooms, and a restaurant space on the first floor, containing in aggregate approximately 122,000 square feet of commercial space (the “Improvements”) at an estimated aggregate cost of $32,000,000 to commence after the execution of this Agreement and to be completed no later than April 30, 2022; provided, however, that the Director of the Department of Community and Economic Development (the “Housing Officer”) may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director’s judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the “ADA”), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “Contractual Minimum Accessibility Requirements” means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used
in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. **Real Property Tax Exemption.** Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program. ¹

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

(i) Including qualified SBEs on solicitation lists.
(ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to
create (i) 116 full-time equivalent permanent jobs and (ii) 125 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) $3,592,659 of additional annual payroll with respect
to the full-time equivalent permanent jobs and (ii) $6,700,000 of additional annual payroll prior to
the completion of the Project with respect to the 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.

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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 person (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:

Traction Partners, LLC  
Attention: Gary W. Parkes, Manager  
105 Reynolds Drive  
Franklin, Tennessee 37064

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
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.

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: __________________________
   Patrick A. Duhaney, City Manager

Date: ________________, 2019

TRACTION PARTNERS, LLC,
an Delaware limited liability company

By: __________________________
   Printed Name: ________________
   Title: __________________________

Date: ________________, 2019

Authorized by resolution dated ________

Recommended by:

______________________________
Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

______________________________
Markiea L. Carter, Director
Department of Economic Inclusion

Approved as to Form:

______________________________
Assistant City Solicitor

Certified Date: ________________
Fund/Code: ______________________
Amount: _______________________

By: __________________________
   Karen Alder, City Finance Director

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Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 432 Walnut Street, Cincinnati, Ohio 45202

Auditor's Parcel No.: 083-0001-0297-00

SITUATED IN SECTION 18, TOWN 4, FRACTIONAL RANGE 1, MIAMI PURCHASE, CINCINNATI, OHIO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE INTERSECTION OF THE SOUTH LINE OF FIFTH STREET AND THE EAST LINE OF WALNUT STREET, THENCE N. 81° 08' 30" EAST AND A DISTANCE OF 58.12 FEET TO A POINT IN THE WEST LINE OF TRACTION PLACE THENCE ALONG THE WEST LINE OF SAID TRACTION PLACE SOUTH 09° 06' EAST AND A DISTANCE OF 120.20 FEET TO A POINT IN THE NORTH LINE OF SAID MERCANTILE PLACE, THENCE ALONG THE NORTH LINE OF MERCANTILE PLACE, SOUTH 81° 08' 30" WEST AND A DISTANCE OF 58.12 FEET TO A POINT IN THE EAST LINE OF WALNUT STREET, THENCE ALONG THE EAST LINE OF SAID WALNUT STREET NORTH 9° 06' WEST AND A DISTANCE OF 120.20 FEET TO THE POINT OF BEGINNING, CONTAINING 0.160 ACRES OF LAND.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED TO EXECUTION VERSION]
To: Philip Denning, Director, Department of Community and Economic Development

From: Paula Boggs Muething, City Solicitor

Subject: Emergency Ordinance – CRA 432 Walnut Street

Transmitted herewith 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 Traction Partners, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 432 Walnut Street in downtown Cincinnati, in connection with the remodeling of an existing building into a hotel and first-floor restaurant, 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 $32,000,000.
To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: Emergency Ordinance – Law Department Violence Against Women Grant

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate an Improving Criminal Justice Responses Grant Program (CFDA #16.590) grant in the amount of $281,332 from the United States Department of Justice/Office on Violence Against Women (OVW), which OVW grant will be provided to the Hamilton County Family Justice Center (HCFJC), with the City as one of the subrecipients of the grant, which OVW grant shall serve the purpose of funding an Assistant City Solicitor position within Law's Division of Prosecuting Attorneys for 36 months, which prosecuting attorney will be dedicated to specialized and centralized treatment of cases pertaining to domestic violence, relationship violence, sexual assault, and stalking, and whose duties shall include coordinating with the Hamilton County Prosecutor's Office, Grand Jury Division.

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount of $281,332 from the United States Department of Justice/Office on Violence Against Women (OVW). The OVW grant will be provided to the Hamilton County Family Justice Center (HCFJC), with the City as one of the subrecipients of the grant, which OVW grant shall serve the purpose of funding an Assistant City Solicitor position within Law's Division of Prosecuting Attorneys for 36 months. The position will be known as the Domestic Violence Prosecutor, whose duties shall be dedicated to specialized and centralized treatment of cases pertaining to domestic violence, relationship violence, sexual assault, and stalking. There are no local match requirements with the grant.

As the grant deadline was February 26, 2019, the Law Department has already applied for this grant. Should this Emergency Ordinance not be approved, the grant funding will not be accepted.

The reason for the emergency is the immediate need to accept the grant at the earliest opportunity so that the City may fill the new position as quickly as possible.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment
AUTHORIZING the City Manager to apply for, accept, and appropriate an Improving Criminal Justice Responses Grant Program (CFDA #16.590) grant in the amount of $281,332 from the United States Department of Justice/Office on Violence Against Women (OVW), which OVW grant will be provided to the Hamilton County Family Justice Center (HCFJC), with the City as one of the subrecipients of the grant, which OVW grant shall serve the purpose of funding an Assistant City Solicitor position within Law's Division of Prosecuting Attorneys for 36 months, which prosecuting attorney will be dedicated to specialized and centralized treatment of cases pertaining to domestic violence, relationship violence, sexual assault, and stalking, and whose duties shall include coordinating with the Hamilton County Prosecutor's Office, Grand Jury Division.

WHEREAS, there is a grant available in the amount of $281,332 from the United States Department of Justice/Office on Violence Against Women (OVW), which OVW grant will be provided to the Hamilton County Family Justice Center (HCFJC), and for which the City is one of the subrecipients of the grant, and the grant will provide funding for the creation of the Domestic Violence Prosecutor position in the Law Department for a term of 36 months, after which funding period the position will be absorbed within the Law Department through attrition; and

WHEREAS, the single new FTE associated with this grant shall be known as a Domestic Violence Prosecutor, whose duties shall be dedicated to specialized and centralized treatment of cases pertaining to domestic violence, relationship violence, sexual assault, and stalking including: coordinating with Grand Jury Division of the Hamilton County Prosecutor’s Office, screening for high-priority cases, providing education and investigation on such cases, acting as the point person for the HCFJC, and attending regular HCFJC partner meetings for improved collaboration, service delivery, and feedback on the project; and

WHEREAS, the grant also provides funding for a computer, monitors, and cell phone service for the Domestic Violence Prosecutor position, and the grant requires no local matching funds; and

WHEREAS, as the grant application deadline was February 26, 2019, the Law Department applied for this grant prior to the submission of this ordinance for Council consideration, but such grant funds will not be accepted prior to Council approval; now, therefore,

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

Section 1. That the City Manager is authorized to apply for, accept, and appropriate a grant in the amount of $281,332 from the United States Department of Justice/Office on Violence
Against Women (OVW), which OVW grant will be provided to the Hamilton County Family Justice Center (HCFJC), with the City as one of the subrecipients of the grant, which OVW grant shall serve the purpose of funding an Assistant City Solicitor position within Law's Division of Prosecuting Attorneys for 36 months.

Section 2. That the appropriate City officers are thereby 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 accept the grant at the earliest opportunity so that the City may fill the new position as quickly as possible.

Passed: _________________________, 2019

_____________________________________
John Cranley, Mayor

Attest: ____________________________

Clerk
City of Cincinnati

November 20, 2019

To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager

Subject: EMERGENCY ORDINANCE – CRA AGREEMENT FOR 60 WILLIAM HOWARD TAFT ROAD

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Uptown Corryville, LLP, thereby authorizing an 11-year tax exemption for 100% of the value of improvements made to real property located at 60 William Howard Taft Road in the Corryville neighborhood of Cincinnati, in connection with the construction of a 117-room hotel and parking garage, which construction 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 construction cost of approximately $12,000,000.

BACKGROUND/CURRENT CONDITIONS

The developer, Uptown Corryville, LLP will be constructing a 117-room hotel and parking garage at 60 William Howard Taft Road. The parking structure will be constructed on the air parcel(s) above a portion of the Corryville Kroger parking lot.

DEVELOPER INFORMATION

The Uptown Corryville, LLC. is an affiliate of Keystone Hotel Group. The developer has experience constructing and managing hotels in the Greater Cincinnati Area including 106 W. 7th Street in the Central Business District.

PROJECT DESCRIPTION

The developer intends to construct a 117-room hotel and two levels of structure parking above a portion of the Corryville Kroger parking lot. The project will maintain the current parking spaces in the Kroger parking lot, create a two-level parking structure above, and a three-floor hotel. The total project cost is estimated at approximately $12,000,000. The developer has selected Tru Hotel by Hilton as the hotel flag.
**PROPOSED INCENTIVE**

DCED is recommending a net 60%, 11-year CRA tax abatement.

Pursuant to the Commercial CRA policy established by City Council, this project scored 10 points as indicated below which would merit a 11-year net 60% CRA Tax Abatement:

<table>
<thead>
<tr>
<th>&quot;But For&quot; Analysis (0-3 points) *</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED (0-6 points)</td>
<td>2</td>
</tr>
<tr>
<td>Neighborhood VTICA</td>
<td>8</td>
</tr>
<tr>
<td>(1 point for contributions over 1% but less than 15% and 8 points for contributions of 15% or more)</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>10</strong></td>
</tr>
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**SUMMARY**

**Incentive Value**

<table>
<thead>
<tr>
<th>Annual Net Abatement (Savings to Developer)</th>
<th>$252,094</th>
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</thead>
<tbody>
<tr>
<td>Total Term Net Abatement (Savings to Developer)</td>
<td>$2,773,032</td>
</tr>
<tr>
<td>City's Portion of Property Taxes Forgone</td>
<td>$744,077</td>
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</table>

**Public Benefit**

<table>
<thead>
<tr>
<th>CPS PILOT</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Annual CPS Pilot</td>
<td>$105,039</td>
</tr>
<tr>
<td>Total Term CPS PILOT</td>
<td>$1,155,430</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VTICA</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual VTICA</td>
<td>$63,023</td>
</tr>
<tr>
<td>Total Term VTICA PILOT</td>
<td>$693,258</td>
</tr>
<tr>
<td>Income Tax (Max)</td>
<td>$115,500</td>
</tr>
<tr>
<td>New Permanent Jobs</td>
<td>15</td>
</tr>
</tbody>
</table>

| Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax) | $1,964,188 |

| City's ROI | $2.64 |
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance to allow construction to commence at the earliest possible time.

Attachment: A. Property Location & Rendering

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Location & Rendering
EMERGENCY

City of Cincinnati

An Ordinance No. 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Uptown Corryville, LLP, thereby authorizing an 11-year tax exemption for 100% of the value of improvements made to real property located at 60 William Howard Taft Road in the Corryville neighborhood of Cincinnati, in connection with the construction of a new 117-room hotel and parking garage, which construction 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 construction cost of approximately $12,000,000.

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 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, Uptown Corryville, LLP (the “Company”) desires to construct a new 117-room hotel, containing approximately 66,000 square feet of commercial space in aggregate, and parking garage, on real property at 60 William Howard Taft Road 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 Uptown Corryville, LLP (the “Agreement”), thereby authorizing an 11-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 60 William Howard Taft Road in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the construction of a new 117-room hotel and parking garage, 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 construction cost of approximately $12,000,000.

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 City School District of the City of Cincinnati, 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: ____________________________, 2019

_________________________________
John Cranley, Mayor

Attest: ____________________________
Clerk
Attachment A to Ordinance

Community Reinvestment Area Tax Exemption Agreement
(LEED or Living Building Challenge)

SEE ATTACHED
Contract No. ______________________________

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 UPTOWN CORRYVILLE, LLP, an Ohio limited liability partnership (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 (as amended, 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 60 William Howard Taft Road, Cincinnati, Ohio 45219 (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 construction of a building on the Property to LEED Silver standards, 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

{00297981-2}
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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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. The Company acknowledges that the Corryville 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 Corryville 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 Corryville 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 Citywide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

Q. This Agreement has been authorized by Ordinance No. ______-2019, passed by Cincinnati City Council on ______________, 2019.

R. 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 construct a new hotel and parking garage on the Property, consisting of approximately 117 units, containing approximately 66,000 square feet of commercial space in aggregate (the "Improvements") at an estimated aggregate cost of $12,000,000 to commence after the execution of this Agreement and to be completed no later than June 30, 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 construction shall be in compliance with applicable building code requirements and zoning regulations, as well as complying with LEED Silver standards. The Company hereby represents that it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver. 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 11 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, (D) compliance with LBC and/or LEED standards identified in Section 1, 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 construction 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 2032 or (ii) the end of the 11th 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 designee, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4.

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

Section 5.

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

Section 6.

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

Section 7.

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

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

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

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

Section 11. **Small Business Enterprise Program.**

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

(i) Including qualified SBEs on solicitation lists.
(ii) Assuring that SBEs are solicited whenever they are potential sources.

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

(iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.
(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as

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1 Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.
to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 15 full-time equivalent permanent jobs and (ii) 100 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.

B. 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) $1,500,000 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.

{00297981-2}
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:

Uptown Corryville, LLP
8825 Chapel Square Drive, Suite A
Cincinnati, Ohio 45219

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, Ohio 45202. If the City sends a notice to the Company alleging that the Company is in default under this Agreement, the City shall simultaneously send a copy of such notice to: Stagnaro, Saba & Patterson Co., LPA, 7373 Beechmont Avenue, Cincinnati, Ohio 45230.

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.

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(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.

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: ____________________________
    Patrick A. Duhaney, City Manager

Date: ______________________, 2019

UPTOWN CORRYVILLE, LLP, an Ohio limited liability partnership

By: ____________________________
    Subhas Patel, Authorized Agent

Date: ______________________, 2019

Authorized by resolution dated ____________

Recommended by:

_____________________________
Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

_____________________________
Markiea L. Carter, Director
Department of Economic Inclusion

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: 60 William Howard Taft Road, Cincinnati, Ohio 45219

Auditor's Parcel No.: [______________]

Situat in Section 14, Fractional Range 2, Town 3, in the City of Cincinnati, County of Hamilton, State of Ohio, and being part of the same premises conveyed to Anchor Corryville Grocery, LLC, by deed recorded August 14, 2015 and recorded in Official Record 12968, Page 1001 of the Hamilton County, Ohio Records and being more particularly described as follows:

Commencing at the intersection of the North line of Corry Street and the East line of Vine Street; thence along said East line of Vine Street, extended Southwardly, a distance of 71 feet to the South Right of Way of Corry Street; thence along said South Right of Way of Corry Street South 87° 02' 10" East, 355.47 feet to a set cross notch; thence departing the said South Right of Way of Corry Street with the arc of a curve with a radius of 25.00 feet, clockwise, 48.46 feet, (chord of said arc bears South 31° 30' 38" East, 41.22 feet) to a set iron pin and the West Right of Way of Euclid Avenue; thence along said West Right of Way of Euclid Avenue with the arc of a curve with a radius of 213.00 feet, clockwise, 65.81 feet, (chord of said arc bears South 32° 51' 56" West, 65.54 feet); thence South 41° 42' 59" West, 122.76 feet; thence with the arc of a curve with a radius of 287.00 feet, counterclockwise, 155.93 feet, (chord of said arc bears South 26° 09' 09" West, 154.02 feet) to the point of beginning; thence with the arc of a curve with a radius of 287.00 feet, counterclockwise, 83.30 feet, (chord of said arc bears South 02° 16' 24" West, 83.01 feet) to a set iron pin; thence departing the said West Right of Way of Euclid Avenue with the arc of a curve with a radius of 10.00 feet, clockwise, 13.86 feet, (chord of said arc bears South 33° 39' 18" West, 12.77 feet) to a set iron pin and the North Right of Way of Wm. H. Taft Road; thence along said North Right of Way of Wm. H. Taft Road with the arc of a curve with a radius of 335.00 feet, clockwise, 119.68 feet, (chord of said arc bears South 33° 35' 07" West, 119.04 feet); thence with the arc of a curve with a radius of 565.00 feet, clockwise, 80.86 feet, (chord of said arc bears North 82° 04' 50" West, 80.79 feet); thence North 77° 58' 50" West, 66.07 feet; thence departing the said North Right of Way of Wm. H. Taft Road, North 02° 57' 54" East, 96.01 feet; thence South 87° 02' 06" East, 268.70 feet to the West Right of Way of Euclid Avenue and the point of beginning.

The above described tract of land contains: 0.6546 Acres (28,516.2278 Sq. Ft.) above Elevation 856.00 to the Heavens and is subject to all easements and restrictions of record.

North based on bearings contained in Official Record 11001, Page 1510, Hamilton County Recorder's Office.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED TO EXECUTION VERSION]
City of Cincinnati

November 20, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: CRA TAX AGREEMENT WITH 222 MOHAWK, LLC FOR 222-226 MOHAWK STREET

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 222 Mohawk LLC, an affiliate of Kunst Development LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 222-226 Mohawk Street in Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 7,000 square feet of residential rental space, at a total construction cost of approximately $1,054,000.

BACKGROUND/CURRENT CONDITIONS

The properties included in the project are located at 222 and 226 Mohawk Street in the Over-The-Rhine neighborhood of Cincinnati. The two adjacent buildings have been vacant since spring of 1999. To better preserve the deteriorating structures the Hamilton County Land Reutilization Corporation (the “Port”) purchased the properties in 2015. Since then these two vacant historic buildings were included in the newly created Sohn-Mohawk Historic District. In October 2018, the Port awarded the properties to Kunst Development, LLC for redevelopment.

Kunst Development is currently seeking a Commercial CRA Tax Abatement to assist in the redevelopment of these six (6) residential units.

DEVELOPER INFORMATION

222 Mohawk, LLC is a subsidiary of Kunst Development, LLC which is led by John Blatchford. The applicant is a registered general contractor and has been working on historic buildings since 2015. They have completed three historic renovation projects including 1667 Hamer, 205 W. McMicken, and 207 W. McMicken.
PROJECT DESCRIPTION

The Developer is proposing the stabilization and historic renovation of the property located at 222 and 226 Mohawk Street to include six (6) market-rate residential rental units. Each unit will all include the install of all new mechanical systems including heating and cooling, plumbing, and electric. The unit mix includes one-bedrooms and two-bedroom with monthly rents targeted at $1,000 and $1,400 respectively. Total construction cost is estimated to be $1,054,000.

The project represents Plan Cincinnati’s "Vision to Compete" by making a targeted investment, and its "Vision to Live" to support and stabilize our neighborhoods.

PROPOSED INCENTIVE

DCED is recommending a 12-year net 60% CRA Tax Abatement on the improved taxable value on the property. This incentive is consistent with the uniform rules for Community Reinvestment Areas adopted by Council Ordinance 119-2007.

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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: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Location and Photographs

Map of Location of 226 and 222 Mohawk Street Properties

226 Mohawk Street

222 Mohawk Street
EMERGENCY

City of Cincinnati

An Ordinance No. - 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 222Mohawk LLC, an affiliate of Kunst Development LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 222 - 226 Mohawk Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 7,000 square feet of residential rental space, at a total construction cost of approximately $1,054,000.

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 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, 222Mohawk LLC (the “Company”) desires to remodel an existing building into approximately 7,000 square feet of residential rental space, consisting of 6 apartments, on real property at 222 - 226 Mohawk 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 222Mohawk LLC (the “Agreement”), thereby authorizing a 12-year tax exemption for 100% of the assessed value of improvements made to real property located at 222 - 226 Mohawk Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building into approximately 7,000 square feet of residential rental space, to be completed at a total construction cost of approximately $1,054,000.

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 City School District of the City of Cincinnati, 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: __________________________, 2019

________________________________________
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 222MOHAWK LLC, an Ohio limited liability company (the "Company"), an affiliate of Kunst Development LLC.

Recitals:

A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").

B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.

C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017, dated September 27, 2017, as amended by Ordinance No. 339-2018, passed by the Council of the City of Cincinnati on October 31, 2018 (as amended, 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 222-226 Mohawk Street, Cincinnati, Ohio 45214 (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 buildings 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 School District (the "Board of Education"), pursuant to
an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%)
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 aforementioned 15% VTICA Contribution each year for the full term of
the abatement.
R. This Agreement has been authorized by Ordinance No. ______-2019, passed by Cincinnati City Council on ______________, 2019.

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 buildings on the Property into approximately 7,000 square feet of residential rental space, consisting of 6 apartments (the "Improvements") at an estimated aggregate cost of $1,054,000 to commence after the execution of this Agreement and to be completed no later than December 31, 2020; provided, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "Contractual Minimum Accessibility Requirements" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 12 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 2021 nor extend beyond the earlier of (i) tax year 2032 or (ii) the end of the 12th year of exemption.

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

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

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

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

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

Section 8. **City Cooperation.** As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
Section 9. **Continuation of Exemptions.** As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

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

Section 11. **Small Business Enterprise Program.**

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

   (i) Including qualified SBEs on solicitation lists.

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

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

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

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

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

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

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

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1 Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.
enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 1 full-time equivalent permanent job and (ii) 12 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) $40,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) $600,000 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):

{(00291339-2) 8}
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:

222Mohawk LLC
1311 Vine Street
Cincinnati, Ohio 45202
Attention: John Blatchford

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

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

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

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

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

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

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

Section 30. **Non-Assignment.** As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.
Section 31. **Recording.** At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. **Legislative Action Required.** As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. **Wage Enforcement.**

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively “investigative bodies”) to release to the City’s Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City’s request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

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

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: __________________________
    Patrick A. Duhaney, City Manager

Date: ________________, 2019

222MOHAWK LLC,
an Ohio limited liability company

By: __________________________

Printed Name: ______________________

Title: __________________________

Date: ________________, 2019

Authorized by resolution dated __________.

Recommended by:

________________________________________
Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

________________________________________
Markiea L. Carter, Director
Department of Economic Inclusion

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 A:

Property Address: 222 Mohawk Street, Cincinnati, Ohio 45214

Auditor's Parcel No.: 095-0002-0040-00

Situated in the City of Cincinnati, County of Hamilton, State of Ohio, and more particularly described as follows: All of Lot 17 and 18 and the east half of Lot 19 of the Plat of Subdivision of Woodruff and Munson as Recorded in Deed Book 197, page 214 and 215 of the Hamilton County, Ohio Records. Said Lots 17 and 18 are more particularly described as follows: Commencing at a point in the north side of Mohawk Street 325 east of the northeast corner of Hamburg and Mohawk; thence running eastwardly on the north side of Mohawk 32 feet 6 inches to the section line; thence running north on said section line to a 12 foot alley; thence westwardly on the south line of said alley 6 feet to the west line of said Lot No. 18; thence southwardly through the block to the place of beginning.

Said east half of Lot No. 19 is more particularly described as follows: Commencing at a point in the north side of Mohawk 315 feet east of the northeast corner of Hamburg and Mohawk Streets; thence running eastwardly on the north side of Mohawk 10 feet; thence northwardly 90 feet to the alley; thence westwardly on the south side of said alley 10 feet; thence southwardly through the block 90 feet to the place of beginning.

Subject to and together with all easements, conditions, covenants and restrictions of record, if any.

PARCEL B:

Property Address: 226 Mohawk Street, Cincinnati, Ohio 45214

Auditor's Parcel No. 095-0002-0038-00

Situated in the City of Cincinnati, Hamilton County, Ohio and being all of Lot 20 and the west ten (10) feet of Lot 19 as shown on the Plat of Woodruff and Munson's Subdivision as the same is recorded in Deed Book 107, Pages 214 and 215, of the Deed records of Hamilton County, Ohio. Said Lot 20 and the west ten (10) feet of Lot 19, together forming a lot having a frontage of thirty (30) feet on the north line of Mohawk Street, and extending northwardly ninety (90) feet in depth, to the south line of a ten (10) foot alley in the rear.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED TO EXECUTION VERSION]
City of Cincinnati

November 20, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: CRA AGREEMENT FOR CONSOLIDATED METAL PRODUCTS, INC.

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with Consolidated Metal Products, Inc., thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 2123 Depot Street in the Lower Price Hill neighborhood of Cincinnati, in connection with the construction of an approximately 35,000 square-foot industrial building, at a total construction cost of approximately $3,300,000.

BACKGROUND/CURRENT CONDITIONS

Consolidated Metal Products, Inc. ("CMP") plans to acquire approximately 1.4 acres of property adjacent to CMP's existing industrial campus in Lower Price Hill. This acquisition will allow for the expansion of their existing facility.

DEVELOPER INFORMATION

CMP is a locally owned manufacturing company that has been in business for 74 years. CMP is the world's only full line manufacturer of high strength, cold-formed U-bolts for light, medium, and heavy truck and semi-trailer leaf springs and air suspensions. CMP is also a leading producer of high strength cold-formed stabilizer bars and other cold-formed heavy-duty fasteners. CMP is located in Lower Price Hill and has been headquartered there since 1955.

PROJECT DESCRIPTION

CMP plans to construct an approximately 35,000 SF building to house a new cold drawing bar line and to expand cut-off operating capacity. The estimated total project investment is $3.6 million ($3.3 million in hard costs). CMP plans to retain its existing 160 jobs ($9.3 million annual payroll) and to add 10 more ($400,000 annual payroll) by December 2022.
PROPOSED INCENTIVE

DCED is recommending a 12-year, 100% (net 60%) CRA.

The abatement awarded is in accordance with the points system established pursuant to Ordinance No. 275-2017, passed by City Council on September 27, 2017.

<table>
<thead>
<tr>
<th>“But For” Analysis (0-3 points)</th>
<th>3*</th>
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<tbody>
<tr>
<td>LEED (0-6 points)</td>
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<tr>
<td>Neighborhood VTICA (1 point for contributions over 1% but less than 15% and 8 points for contributions of 15% or more)</td>
<td>8</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>11</strong></td>
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</tbody>
</table>

As this project has scored 11 points, it is being recommended for a 12-year, 100% (net 60%) exemption.

* “But For” Analysis explanation: 3 points were awarded for the following reasons:
  - Project is located in a neighborhood that has seen little investment in recent years;
  - The average wages of the created jobs referenced above are greater than 200% of minimum wage;
  - Company will be remediating property.

<table>
<thead>
<tr>
<th>SUMMARY</th>
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<tbody>
<tr>
<td>Incentive Value</td>
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<tr>
<td>Annual Net Abatement (Savings to Developer)</td>
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<tr>
<td><strong>Total Term Net Abatement (Savings to Developer)</strong></td>
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<td>City’s Portion of Property Taxes Forgone</td>
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<tr>
<th>Public Benefit</th>
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<tr>
<td>CPS PILOT</td>
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<tr>
<td>Annual CPS Pilot</td>
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<tr>
<td>Total Term CPS PILOT</td>
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<tr>
<td>VTICA</td>
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<td>Annual VTICA</td>
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<tr>
<td>Total Term VTICA PILOT</td>
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<tr>
<td>New Income Tax (Max)</td>
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<tr>
<td>New Permanent Jobs</td>
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<tr>
<td><strong>Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)</strong></td>
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<tr>
<td>Total Public Benefit ROI</td>
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<tr>
<td>-------------------------</td>
</tr>
<tr>
<td>City's ROI</td>
</tr>
</tbody>
</table>

**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

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Property Location

2123 Gest Street
EMERGENCY
City of Cincinnati
An Ordinance No. ___________ - 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with Consolidated Metal Products, Inc., thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 2123 Depot Street in the Lower Price Hill neighborhood of Cincinnati, in connection with the construction of an approximately 35,000 square-foot industrial building, at a total construction cost of approximately $3,300,000.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati, by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” pursuant to Ohio Revised Code 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, Consolidated Metal Products, Inc., (the “Company”) desires to construct an industrial building at 2123 Depot 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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, half of which funds shall be committed by the third-party organization to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the Lower Price Hill neighborhood and the other half of such contribution is to be committed by the Third-Party Administrator in supporting quality 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 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 Consolidated Metal Products, Inc., (the “Agreement”), thereby authorizing a 12-year tax exemption for 100% of the assessed value of improvements made to real property located at 2123 Depot Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the construction of the industrial building thereon, to be completed at a total construction cost of approximately $3,300,000.

Section 2. That Council authorizes the City Manager:

(i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and

(ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and

(iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the City School District of the City of Cincinnati, 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: __________________________, 2019

________________________________________
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 between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and CONSOLIDATED METAL PRODUCTS, INC., an Ohio corporation (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, dated September 27, 2017, as amended by Ordinance No. 339-2018, passed by the Council of the City of Cincinnati on October 31, 2018 (as amended, 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 2123 Gest Street, Cincinnati, Ohio 45204 (the "Property"), as further depicted on Exhibit A (Site Map 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 construction of a building 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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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. The Company acknowledges that the Lower Price Hill 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 Lower Price Hill 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 Lower Price Hill 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. _____-2019, passed by Cincinnati City Council on ________, 2019.

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 construct an approximately 35,000 square-foot industrial building on the Property (the “Improvements”) at an estimated aggregate cost of $3,300,000 to commence after the execution of this Agreement and to be completed no later than June 30, 2021; provided, however, that the Director of the Department of Community and Economic Development (the “Housing Officer”) may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director’s judgment, the Company is proceeding in good faith towards completion. The 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 12 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 construction 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 2033 or (ii) the end of the twelfth (12th) 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 designee, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

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

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

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

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

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

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

Section 11. Small Business Enterprise Program.¹

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

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

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

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.
enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employees at the Property; however, the Company has 160 existing full-time equivalent employees in the State at a company location within the corporate boundaries of the City of Cincinnati with a total annual payroll of $9,300,000 (the "Existing Jobs"), and that no employees located at another company location elsewhere in the State will be relocated to the Property.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) ten (10) full-time permanent jobs and (ii) ten (10) 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) $400,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) $900,000 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:

Consolidated Metal Products, Inc.  
Attention: John R. Bernloehr  
1028 Depot Street  
Cincinnati, Ohio 45204

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 acknowledgment 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.

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: ___________________________________________________________________
Patiom A. Duhaney, City Manager

Date: ______________, 2019

CONSOLIDATED METAL PRODUCTS, INC. an Ohio corporation

By: ___________________________________________________________________

Printed Name: ______________

Title: ______________

Date: ______________, 2019

Authorized by resolution dated __________

Recommended by:

Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

____________________________________
Markiea L. Carter, Director
Department of Economic Inclusion

Approved as to Form:

____________________________________
Assistant City Solicitor

Certified Date: ______________

Fund/Code: ______________

Amount: ______________

By: ___________________________________________________________________
Karen Alder, City Finance Director
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED]
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager

Subject: ORDINANCE – TIF PRIORITY FOR 1712 LOGAN STREET

Attached is an Ordinance captioned as follows:

ESTABLISHING priority order of property tax exemptions granted for certain real property located at 1712 Logan Street in Cincinnati’s Over-The-Rhine neighborhood, located within the City’s District 3-Downtown/OTR West District Incentive District, in connection with urban redevelopment activities being undertaken by the City of Cincinnati.

BACKGROUND

Subject to approval of a separate Emergency Ordinance to be considered by this Council, the City will establish a Project TIF under O.R.C. 5709.41 on the property generally located at 1712 Logan Street in Over-the-Rhine. Urban Sites is proposing a mixed-use infill development for the City-owned surface parking lot located at 1712 Logan Street. The developer was awarded the right to develop the property through a competitive Request for Proposal process in 2019. The terms of a Sale & Development Agreement for the property are forthcoming and will be considered by Council at a later date.

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: Philip M. Denning, Director of Community and Economic Development
ESTABLISHING priority order of property tax exemptions granted for certain real property located at 1712 Logan Street in Cincinnati's Over-The-Rhine neighborhood, located within the City's District 3-Downtown/OTR West District Incentive District, in connection with urban redevelopment activities being undertaken by the City of Cincinnati.

WHEREAS, by Ordinance No. 413-2002, passed on December 18, 2002 (the "District TIF Ordinance"), City Council created the District 3-Downtown/OTR West District Incentive District (the "District TIF") 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; and

WHEREAS, the City of Cincinnati owns and is engaged in urban redevelopment activities on the real property located at 1712 Logan Street in Cincinnati, as described on Attachment A to this ordinance (the "Property"), which is contained within the District TIF; and

WHEREAS, by separate ordinance passed by this Council in conjunction with this ordinance (the "Project TIF 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, all in furtherance of the City's urban redevelopment activities 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, this 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 certain real property located at 1712 Logan Street in the Over-The-Rhine neighborhood of Cincinnati, as described on Attachment A to this ordinance (the "Property"), shall be subject to exemption from real property taxes in the following order: the exemption granted by the separate ordinance passed by this Council in connection with this ordinance and declaring the Improvement (as defined by Section 5709.41 of the Ohio Revised Code) to the Property to be a public purpose and 100% exempt from real property taxes pursuant to Section 5709.41 of the Ohio Revised Code
shall have priority over the exemption granted by Ordinance No. 413-2002, passed on December 18, 2002.

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 ____________________________, 2019

_______________________________
John Cranley, Mayor

Attest: ___________________________
Clerk
Attachment A

Property Legal Description

Address: 1712 Logan Street, Cincinnati, Ohio 45202
Auditor’s Parcel No. 133-0003-0001-00 (Cons. 133-0003-0001-00, 133-0003-0048-00, 133-0003-0049-00, 133-0003-0050-00, 133-0003-0051-00, 133-0003-0052-00, 133-0003-0053-00, 133-0003-0054-00, 133-0003-0055-00, 133-0003-0056-00, 133-0003-0057-00)

Situated in the County of Hamilton in the State of Ohio and in the City of Cincinnati, and known as 1712 Logan Street, said premises being a part of Lot No. 71, of John McLean’s Subdivision, a plat of said subdivision being recorded in Deed Book 112, page 42 of the Hamilton County, Ohio Deed Records, and being more particularly described as follows:

Beginning on the east line of Logan Street at the northwest corner of said Lot No. 71 of said subdivision, said corner being one hundred seventy (170) feet south of West Elder Street as shown on said recorded plat of said subdivision; thence east with the north line of said lot eighty and 30/100 (80.30) feet to a brick wall; thence south with said brick wall four and 94/100 (4.94) feet; thence east thirty one and 20/100 (31.20) feet to Campbell Street at a point five and 05/100 (5.05) feet south or the northeast corner of said Lot 71; thence south with Campbell Street twenty and 04/100 (20.04) feet, more or less, to the north line of Lot No. 70 of said subdivision, thence west one hundred and eleven and 50/100 (111.50) feet to the east line of Logan Street; thence north with the east line of Logan Street, twenty-five (25.00) feet to the place of beginning.

AND

Situated in the City of Cincinnati, Hamilton County, Ohio and being Lots 72, 73, 74 of John McLean’s Subdivision of Blocks “K” and “L” of Findlay and Garrard’s Subdivision as recorded in Deed Book 112, page 42 and also the following part of Lot 71 of said John McLean’s Subdivision; Beginning at the Northeast corner of said Lot 71; thence south with Campbell Street 5.05 feet; thence westwardly 31.20 feet and northwardly 4.94 feet to the north line of said Lot 71; thence eastwardly along said north line 31.20 feet to the place of beginning.

AND

Situated in the City of Cincinnati, County of Hamilton and State of Ohio, and being Lots 75, 76 and 78 in Square K of John McLean’s Subdivision of lands in the Northern Parishes recorded in Deed Book 112, page 42, Hamilton County, Ohio Records. Said lots fronting 111.50 feet on Elder Street and extending back Southwardly for a depth of 80 feet, lying between Campbell Alley and Logan Street.
City of Cincinnati

November 20, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: EMERGENCY ORDINANCE – TAX INCREMENT FINANCING (TIF) EXEMPTION– 1712 LOGAN STREET

Attached is an Emergency Ordinance captioned as follows:

DECLARING improvements to certain real property located at 1712 Logan Street in Cincinnati’s Over-The-Rhine neighborhood 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 and requiring the payment of service payments in lieu of taxes by the owner or owners of such real property.

Background

Urban Sites has been awarded the right to develop the City-owned surface parking lot located at 1712 Logan Street in Over-the-Rhine through a competitive Request for Proposal process held during 2019. The developer is proposing a mixed-use infill development within the TIF Exemption Area, as shown in Attachment A.

Current Status of Property

The TIF Exemption Area is located at 1712 Logan Street. Today the City-owned property serves as a surface parking lot.

Project Description

This Emergency Ordinance will establish a TIF Exemption Area under O.R.C. 5709.41. The details of the Project and the City’s intended financial or incentive contribution, including the anticipated sale, will be formalized in a forthcoming Development Agreement. Until that time, no City resources will be committed to the Project.

Recommendation

The Administration recommends approval of this Emergency Ordinance. The reason for the emergency clause is the immediate need to declare the improvements to parcels within the TIF Exemption Area to be a public purpose and exempt from real property taxation to enable construction of improvements to commence at the earliest possible time and improve the welfare of the people of the City of Cincinnati.

Attachment: A. Property Location & TIF Exemption Area

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Property Location & TIF Exemption Area

Property Location

TIF Exemption Area
DECLARING improvements to certain real property located at 1712 Logan Street in Cincinnati’s Over-The-Rhine neighborhood 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 and requiring the payment of service payments in lieu of taxes by the owner or owners of such real property.

WHEREAS, Council adopted Plan Cincinnati (2012), pursuant to Ordinance No. 441-2012 passed on November 21, 2012, as a comprehensive city-wide master plan to guide urban redevelopment of the City of Cincinnati (“Plan Cincinnati”);

WHEREAS, in order to 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 to enhance the availability of adequate housing, consistent with Section 16 of Article VIII of the Ohio Constitution, the City of Cincinnati is engaged in urban redevelopment;

WHEREAS, in furtherance of such urban redevelopment and pursuant to Article XVIII, Section 3 of the Ohio Constitution; the Charter and ordinances of the City; and Plan Cincinnati, the City of Cincinnati acquired fee title to the real property located at 1712 Logan Street, Cincinnati, Ohio 45202, as such real property is further described in Attachment A to this ordinance (the “Property”), and the City intends to lease or convey the fee of the Property to a third party for redevelopment activities after adoption of this ordinance; and

WHEREAS, Ohio Revised Code Sections 5709.41, 5709.42, and 5709.43 provide that Council may, in furtherance of its urban 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 or parcels 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 or parcels; 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 urban redevelopment activities, and in the best interests of the City, to provide for exemption of the Improvement to the Property from real property taxation and require the payment of semiannual service payments in lieu of taxes with respect to the Property, pursuant to Ohio Revised Code Sections 5709.41 to 5709.43; and
WHEREAS, the Property is located within the boundaries of Tax Increment Financing District 3, known as the "District 3-Downtown OTR West District Incentive District"; 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 the Improvement (as defined in Ohio Revised Code Section 5709.41) to the real property located at 1712 Logan Street, Cincinnati, Ohio 45202, as further described on Attachment A to this ordinance (the "Property"), is a public purpose and is 100% 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 to 5709.43 inclusive.

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 to that portion of the Property.

Section 3. That any and all Service Payments received by the City in connection with the Property shall be deposited into Fund No. 763, Urban Redevelopment Tax Increment Equivalent Fund II, established by Ordinance No. 217-2015.

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 used in accordance with Ordinance No. 217-2015.
Section 5. That Council hereby authorizes the City Manager 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 hereby confirms that the obligation of the owner or owners of the Property to pay Service Payments is a covenant running with the land.

Section 7. That the proper City officials are hereby authorized to take all necessary and appropriate actions to fulfill the terms of this ordinance, 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 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 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 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 urban redevelopment activities on the Property to commence at the earliest possible time, as to improve the economic welfare of the people of the City of Cincinnati.

Passed: _______________________, 2019

______________________________
John Cranley, Mayor

Attest: _______________________
Clerk
Attachment A

Property Legal Description

Address: 1712 Logan Street, Cincinnati, Ohio 45202
Auditor's Parcel No. 133-0003-0001-00 (Cons. 133-0003-0001-00, 133-0003-0048-00, 133-0003-0049-00, 133-0003-0050-00, 133-0003-0051-00, 133-0003-0052-00, 133-0003-0053-00, 133-0003-0054-00, 133-0003-0055-00, 133-0003-0056-00, 133-0003-0057-00)

Situated in the County of Hamilton in the State of Ohio and in the City of Cincinnati, and known as 1712 Logan Street, said premises being a part of Lot No. 71, of John McLean's Subdivision, a plat of said subdivision being recorded in Deed Book 112, page 42 of the Hamilton County, Ohio Deed Records, and being more particularly described as follows:

Beginning on the east line of Logan Street at the northwest corner of said Lot No. 71 of said subdivision, said corner being one hundred seventy (170) feet south of West Elder Street as shown on said recorded plat of said subdivision; thence east with the north line of said lot eighty and 30/100 (80.30) feet to a brick wall; thence south with said brick wall four and 94/100 (4.94) feet; thence east thirty one and 20/100 (31.20) feet to Campbell Street at a point five and 05/100 (5.05) feet south or the northeast corner of said Lot 71; thence south with Campbell Street twenty and 04/100 (20.04) feet, more or less, to the north line of Lot No. 70 of said subdivision, thence west one hundred and eleven and 50/100 (111.50) feet to the east line of Logan Street; thence north with the east line of Logan Street, twenty-five (25.00) feet to the place of beginning.

AND

Situated in the City of Cincinnati, Hamilton County, Ohio and being Lots 72, 73, 74 of John McLean's Subdivision of Blocks "K" and "L" of Findlay and Garrard's Subdivision as recorded in Deed Book 112, page 42 and also the following part of Lot 71 of said John McLean's Subdivision; Beginning at the Northeast corner of said Lot 71; thence south with Campbell Street 5.05 feet; thence westwardly 31.20 feet and northwardly 4.94 feet to the north line of said Lot 71; thence eastwardly along said north line 31.20 feet to the place of beginning.

AND

Situated in the City of Cincinnati, County of Hamilton and State of Ohio, and being Lots 75, 76, 77 and 78 in Square K of John McLean's Subdivision of lands in the Northern Liberties recorded in Deed Book 112, page 42, Hamilton County, Ohio Records. Said lots fronting 111.50 feet on Elder Street and extending back Southwardly for a depth of 80 feet, lying between Campbell Alley and Logan Street.
City of Cincinnati

November 20, 2019

To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager

Subject: EMERGENCY ORDINANCE – PUBLIC PURPOSE AND EXEMPTION FROM REAL PROPERTY TAXATION – UNIVERSITY STATION PHASE TWO

Attached is an Emergency Ordinance captioned as follows:

DECLARING, pursuant to Ohio Revised Code Section 5709.40(B), improvements to real property located at 1744 Dana Avenue in the Evanston neighborhood of Cincinnati to be a public purpose and exempt from real property taxation for a period of time.

Background
DanaMont Square LLC and Terrex, LLC (jointly, “Developer”), own and/or control, and are redeveloping real property in Cincinnati located at 1744 Dana Avenue (“TIF Exemption Area”), as shown in Attachment A.

Current Status of Property
The TIF Exemption Area constitutes Phase Two of the University Station mixed-use development located in the northwest quadrant of Montgomery Road and Dana Avenue, adjacent to Xavier University. This phase of University Station is anticipated to include new construction of office space and public infrastructure improvements.

Project Description
This Emergency Ordinance will establish a TIF Exemption Area under O.R.C 5709.40(B). The details of the office development and supportive public infrastructure are still being determined, with the hope that a development agreement with the Developer will be negotiated and brought before City Council in spring 2020 or sooner. Until that time, no City resources will be committed to the Project.

Recommendation
The Administration recommends approval of this Emergency Ordinance.

The reason for the emergency is to enable construction of the improvements described herein to commence at the earliest possible time in order to advance development of the Property in a timely and financially efficient manner, for the economic welfare of the people of the City.

Attachment: A. Property Location & TIF Exemption Area

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Property Location & TIF Exemption Area

Property Location

TIF Exemption Area
DECLARING, pursuant to Ohio Revised Code Section 5709.40(B), improvements to real property located at 1744 Dana Avenue in the Evanston neighborhood of Cincinnati to be a public purpose and exempt from real property taxation for a period of time.

WHEREAS, DanaMont Square LLC and Terrex, LLC (jointly, "Developer") own and/or control, and are redeveloping real property in Cincinnati located at 1744 Dana Avenue, as more particularly described in Attachment A attached hereto, which redevelopment Developer currently anticipates will include office space and other commercial development (the "Project," and the "Property," as applicable); and

WHEREAS, the Project necessitates the construction of various public infrastructure improvements, including, without limitation, public parking; and

WHEREAS, ORC Sections 5709.40, et seq., provide that City Council may (i) declare any Improvement (as defined in Section 5709.40 of the Ohio Revised Code) to one or more parcels of real property located in the City to be a public purpose, thereby exempting such Improvement from real property taxation for a period of time, (ii) designate public infrastructure improvements that directly benefit the parcels for which such Improvement is declared to be a public purpose, (iii) require the payment of service payments in lieu of taxes by the owner or owners of such parcel or parcels, and (iv) provide for the distribution of the applicable portion of those service payments to the overlapping city, local, or exempted village school district; and

WHEREAS, City Council wishes to use the authority granted pursuant to such ORC Sections in connection with certain improvements in the City, in order to encourage development of the Property; and

WHEREAS, ORC Section 5709.40(A)(4) and (8) define certain terms as follows:

"Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance;

"Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such
projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and the enhancement of public waterways through improvements that allow for greater public access; and

WHEREAS, the Board of Education of the City School District of the City of Cincinnati (the “School Board”), by Agreement with the City of Cincinnati dated July 2, 1999, as amended (the “School Board Agreement”), has approved tax exemptions of up to 100% for periods not to exceed 30 years and has waived the statutory notification requirements for such exemptions; and

WHEREAS, the City has determined that it is necessary and appropriate, and in the best interest of the City, to provide for (i) exemption of Improvements to the Property from real property taxation under ORC Section 5709.40, et seq., and (ii) the payment of semiannual service payments in lieu of taxes with respect to the Property; and

WHEREAS, ORC Section 5709.43 requires that the city council of a city that receives service payments in lieu of taxes under ORC Section 5709.40, et seq., establish a municipal public improvement tax increment equivalent fund into which shall be deposited such service payments in lieu of taxes; now, therefore,

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

Section 1. That pursuant to Section 5709.40(B) of the Ohio Revised Code (“ORC”), this Council hereby finds and declares the Improvement (as defined in Ohio Revised Code (“ORC”) Section 5709.40(A)(4)) to the real property located at 1744 Dana Avenue in the City of Cincinnati, as described in Attachment A to this ordinance (the “Property”), to be a public purpose and exempt from real property taxation for the time and in the amount set forth in Section 4 below.

Section 2. That this Council hereby finds and determines that: (i) additional public infrastructure, including construction and maintenance of street improvements, water improvements, sewer improvements, parking facilities, and/or related improvements, is necessary as a result of and for the further development of the Property for creating jobs, increasing property values, providing adequate public services, and to preserve the health, safety, and welfare of the current citizens of Cincinnati; (ii) the project(s) being, or to be, undertaken that place additional demand on the public infrastructure improvements designated in this
ordinance include the commercial development being undertaken by DanaMont Square LLC and Terrex, LLC (including any affiliates thereof, jointly, "Developer"); and (iii) the proposed use of the Property includes commercial uses.

Section 3. That pursuant to and in accordance with the provisions of ORC Section 5709.40(B), this Council hereby declares Improvements to the Property will place direct additional demand on the public infrastructure improvements described in Section 2 hereof when such public infrastructure improvements are completed; therefore, such public infrastructure improvements will directly benefit the Property.

Section 4. That this Council finds and determines that 100% of the Improvements to each parcel subsequent to the effective date of this ordinance is hereby declared to be a public purpose, and shall be exempt from real property taxes commencing, as to each parcel, on the first day of the tax year in which an Improvement of at least one million dollars ($1,000,000.00) resulting from construction on that parcel, which is the result of redevelopment activities with respect to the parcel, first appears on the tax duplicate of real and public utility property, and ending on the earlier to occur of (i) 30 years after such date or (ii) the date on which the City can no longer require service payments to be paid with respect to the Improvements in accordance with ORC Section 5709.40, et seq.

Section 5. That this Council hereby designates the public infrastructure improvements identified in Attachment B to this ordinance as the "public infrastructure improvements" made (or to be made) that benefit or serve the Property pursuant to ORC Section 5709.40(B).

Section 6. That this Council hereby expresses its intention to enter into such agreements as may be necessary or appropriate to construct such public infrastructure improvements (including, without limitation, (i) Service Agreement(s) between the City and Developer or its successor(s)-in-interest as to the Property ("Owner"), and (ii) a cooperative agreement among the City, Owner, and the Port of Greater Cincinnati Development Authority (the "Port"), and further
hereby requires the owners of the Property to make semiannual service payments in lieu of taxes to the County Treasurer on or before the final dates for payment of real property taxes. Such requirements, along with such other provisions as are deemed appropriate by this Council and as are agreed to by the owners of the Property, may be included in Service Agreements which may (but are not required to) be entered into between the City and the respective owners of the Property. To the extent necessary to secure such obligations, this Council hereby pledges such service payments to secure any obligations of the City or the Port issued to finance the public infrastructure improvements described in Sections 2 and 5 hereof. The payments in lieu of taxes provided for in ORC Section 5709.42 shall be paid to the County Treasurer, for payment by the County Treasurer to the City.

Section 7. That there has previously been established the City, Municipal Public Improvement Tax Increment Equivalent Fund (the “Fund”), into which Fund all service payments in lieu of taxes made by the owners of the affected parcels of land pursuant to this ordinance shall be deposited.

Section 8. That moneys deposited in the Fund shall be used only for the purposes set forth in ORC Section 5709.43, with respect to the public infrastructure improvements described in Attachment B to this ordinance, and for making compensation payments to the affected school districts as provided in ORC Section 5709.40, et seq., and in the Agreement between the City and the Board of Education of the City School District of the City of Cincinnati dated July 2, 1999, as amended.

Section 9. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the actions contemplated herein, including, without limitation, filing any required applications for tax exemption with the Hamilton County Auditor and State Tax Commissioner.
Section 10. That, pursuant to ORC Section 5709.40(l), the Clerk is hereby directed to deliver a copy of this ordinance to the Director of the Department of Development Services of the State of Ohio within 15 days after its adoption, and, on or before March 31 of each year that the exemption set forth herein remains in effect, the Clerk or other authorized officer of this City shall prepare and submit to the Director of the Department of Development Services of the State of Ohio the status report required under ORC Section 5709.40(l).

Section 11. 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 ORC Section 121.22.

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 enable construction of the improvements described herein to commence at the earliest possible time in order to advance development of the Property in a timely and financially efficient manner, for the economic welfare of the people of the City.

Passed: ____________________________, 2019

__________________________
John Cranley, Mayor

Attest: ____________________________
Clerk
ATTACHMENT A

to Ordinance

Legal Description
3.746 Acres Consolidation

Situated in Section 3, Town 3, Fractional Range 2, City of Cincinnati, Hamilton County, Ohio, being part of the lands conveyed to XUPROP Co. in O.R. 8225 Pg 1886 and all of the lands conveyed to XUPROP Co.-Cincinnati in O.R. 8225 Pg 1867, the boundary of which being more particularly described as follows:

Beginning at a 5/8" iron pin set at the intersection of the west right of way line of Montgomery Road with the north right of way line of Dana Avenue;

Thence along said north right of way line, N89°32'00"W a distance of 694.17 feet to a 5/8" iron pin set at the southeast corner of a tract of land conveyed to XUPROP Co. in O.R. 10707 Pg 1765;

Thence along the east line of said XUPROP Co. tract, N00°28'00"E a distance of 216.08 feet to a 5/8" iron pin set in the south right of way line of the Norfolk Southern Corporation Railroad;

Thence along said south right of way line, S89°26'00"E a distance of 600.00 feet to a 5/8" iron pin set;

Thence continuing along said south right of way line, S88°32'00"E a distance of 220.67 feet to a 5/8" iron pin found in the aforementioned west right of way line of Montgomery Road;

Thence along said west right of way line, S30°56'00"W a distance of 249.48 feet to the point of beginning.

Containing 3.746 acres, more or less and being subject to easements, restrictions and rights of way of record.

Bearings are based on a plat of survey by McGill, Smith and Punshon, Inc. dated 2/04/2008.

The above description is based on a field survey performed by The Kleingers Group under the direct supervision of Adam B. Clouse, Ohio Professional Surveyor No. 8417.
ATTACHMENT B

to Ordinance

The public infrastructure improvements that directly benefit the Property include public street improvements and parking facilities, and may also include but are not limited to water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; and the provision of and/or relocation of gas, electric, and communications service facilities.
To: Mayor and Members of City Council  
From: Patrick A. Duhaney, City Manager  
Subject: EMERGENCY ORDINANCE – PUBLIC PURPOSE AND EXEMPTION FROM REAL PROPERTY TAXATION – NORTHEAST CORNER OF READING AND MLK  

November 20, 2019  

Attached is an Emergency Ordinance captioned as follows:

DECLARING, pursuant to Ohio Revised Code Section 5709.40(B), improvements to certain parcels of real property located at the northeast quadrant of the intersection of Martin Luther King Jr. Drive and Reading Road in the Avondale neighborhood of Cincinnati, which improvements are to be constructed as part of a multi-phased project to be completed by MLK Investors I, LLC, an affiliate of Neyer Properties, Inc. and Kulkarni Properties, LLC, to be a public purpose and exempt from real property taxation for a period of time.

Background  
MLK Investors I, LLC ("Developer"), an affiliate of Neyer Properties, Inc. and Kulkarni Properties, LLC, is proposing to construct a mixed-use commercial development within a portion of the TIF Exemption Area, as shown in Attachment A.

Current Status of Property  
The TIF Exemption Area is located in the northeast quadrant of the Reading Road and MLK Jr. Drive intersection area of Avondale. The TIF Exemption Area consists of approximately 23 acres of land and right-of-way bounded by Reading Road, MLK Jr. Drive, I-71, Whitter Street, and also consisting of some parcels on the north side of Whittier Street.

The TIF Exemption Area consists mostly of properties controlled by the Developer, the City, and Uptown Consortium. Much of the site consists of deteriorated residential and commercial property that has been assembled and cleared for redevelopment as part of the Uptown Innovation Corridor initiative. Subject to a 2018 Purchase Option Agreement (POA) between the City and the Developer, the City granted the Developer an exclusive option to purchase certain City-owned property located with the TIF Exemption Area for development purposes. The POA contemplates that the Developer would construct a minimum of 500,000 square feet of office space.
Project Description
This Emergency Ordinance will establish a TIF Exemption Area under O.R.C 5709.40(B).

The details of the Project and the City's intended financial or incentive contribution will be formalized in a forthcoming Development Agreement. Until that time, no City resources will be committed to the Project.

Recommendation
The Administration recommends approval of this Emergency Ordinance.

The reason for the emergency is to enable construction of the improvements described herein to commence at the earliest possible time in order to advance development of the Property in a timely and financially efficient manner, for the economic welfare of the people of the City.

Attachment: A. Property Location & TIF Exemption Area

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Property Location & TIF Exemption Area

Property Location

TIF Exemption Area
DECLARING, pursuant to Ohio Revised Code Section 5709.40(B), improvements to certain parcels of real property located at the northeast quadrant of the intersection of Martin Luther King Jr. Drive and Reading Road in the Avondale neighborhood of Cincinnati, which improvements are to be constructed as part of a multi-phased project to be completed by MLK Investors I, LLC, an affiliate of Neyer Properties, Inc. and Kulkarni Properties, LLC, to be a public purpose and exempt from real property taxation for a period of time.

WHEREAS, MLK Investors I, LLC ("Developer"), an affiliate of Neyer Properties, Inc. and Kulkarni Properties, LLC, is redeveloping real property in Cincinnati located at the northeast quadrant of Martin Luther King Jr. Drive and Reading Road, as more particularly described in Attachment A, attached hereto, and depicted in Attachment B, attached hereto (the "Property" or the "Project Site", as applicable), a majority of which Developer currently owns and/or controls; and

WHEREAS, pursuant to Ordinance No. 336-2017, passed by Council on December 6, 2017, the City and Developer are parties to that certain Purchase Option Agreement dated February 23, 2018 (the "POA"), wherein the City granted to Developer an exclusive option to purchase certain City-owned property located within the Project Site for development of the Project (as defined below), subject to the terms and conditions of the POA; and

WHEREAS, as more particularly described in the POA, Developer currently anticipates completing the Project in multiple phases, which are collectively anticipated to include at least 500,000 square feet of office space, a hotel, residential space, and retail and other commercial development (the "Project"); and

WHEREAS, the Project necessitates the construction of various public infrastructure improvements, including, without limitation, public parking and right-of-way improvements; and

WHEREAS, ORC Sections 5709.40, et seq., provide that City Council may (i) declare any Improvement (as defined in Section 5709.40 of the Ohio Revised Code) to one or more parcels of real property located in the City to be a public purpose, thereby exempting those Improvements from real property taxation for a period of time, (ii) designate public infrastructure improvements that directly benefit the parcels for which such Improvement is declared to be a public purpose, (iii) require the payment of service payments in lieu of taxes by the owner or owners of such parcel or parcels, and (iv) provide for the distribution of the applicable portion of those service payments to the overlapping city, local, or exempted village school district; and
WHEREAS, City Council wishes to use the authority granted pursuant to such ORC Sections in connection with certain improvements in the City, in order to encourage development of the Property; and

WHEREAS, ORC Section 5709.40(A)(4) and (8) define certain terms as follows:

“Improvement” means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance;

“Public infrastructure improvement” includes, but is not limited to, public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of: gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and the enhancement of public waterways through improvements that allow for greater public access; and

WHEREAS, the Board of Education of the City School District of the City of Cincinnati (the “School Board”), by Agreement with the City of Cincinnati dated July 2, 1999, as amended (the “School Board Agreement”), has approved tax exemptions of up to 100% for periods not to exceed 30 years and has waived the statutory notification requirements for such exemptions; and

WHEREAS, the City has determined that it is necessary and appropriate, and in the best interest of the City, (i) to provide for exemption of Improvements to the Property from real property taxation under ORC Section 5709.40, et seq., and (ii) provide for the payment of semiannual service payments in lieu of taxes with respect to the Property; and

WHEREAS, ORC Section 5709.43 requires that the city council of a city that receives service payments in lieu of taxes under ORC Section 5709.40, et seq., establish a municipal public improvement tax increment equivalent fund into which shall be deposited such service payments in lieu of taxes; now, therefore,

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

Section 1. That pursuant to Section 5709.40(B) of the Ohio Revised Code ("ORC"), this Council hereby creates the “Northeast MLK/Reading Quadrant TIF,” the boundaries of which shall be coextensive with the boundaries of the parcels and shall include the parcels as
specifically identified and/or described in Attachment A and depicted in Attachment B to this ordinance (the “Property”), which Property is located in the incorporated area of the City.

Section 2. That this Council hereby finds and determines that (i) additional public infrastructure including construction and maintenance of street improvements, water improvements, sewer improvements, parking facilities, and/or related improvements, is necessary as a result of and for the further development of the Property for creating jobs, increasing property values, providing adequate public services, and to preserve the health, safety, and welfare of the current citizens of Cincinnati; (ii) the project(s) being, or to be, undertaken that place additional demand on the public infrastructure improvements designated in this ordinance include the mixed-use development being undertaken by MLK Investors I, LLC (including any affiliates thereof or applicable affiliates of Neyer Properties, Inc. and/or Kulkarni Properties, LLC, “Developer”); and (iii) the proposed use of the Property includes commercial uses.

Section 3. That pursuant to and in accordance with the provisions of ORC Section 5709.40(B), this Council hereby declares Improvements (as defined in Section 5709.40 of the Ohio Revised Code) to the Property to be a public purpose and exempt from taxation for the time and in the amount set forth in Section 4 hereof and declares that the Improvements made to the Property will place direct additional demand on the public infrastructure improvements described in Section 2 hereof when such public infrastructure improvements are completed; therefore, such public infrastructure improvements will directly benefit the Property.

Section 4. That this Council finds and determines that 100% of the Improvements to each parcel subsequent to the effective date of this ordinance is hereby declared to be a public purpose, and shall be exempt from real property taxes commencing, as to each parcel, on the first
day of the tax year in which an Improvement of at least one million dollars ($1,000,000.00) resulting from the construction of a structure on that parcel which is the result of redevelopment activities with respect to the parcel first appears on the tax duplicate of real and public utility property and ending on the earlier to occur of (i) 30 years after such date or (ii) the date on which the City can no longer require service payments to be paid with respect to the Improvements in accordance with ORC Section 5709.40, et seq.

Section 5. That this Council hereby designates the public infrastructure improvements identified in Attachment C to this ordinance as the "public infrastructure improvements" made (or to be made) that benefit or serve the Property pursuant to ORC Section 5709.40(B).

Section 6. That this Council hereby expresses its intention to enter into such agreements as may be necessary and appropriate to construct such public infrastructure improvements (including, without limitation, (i) Service Agreement(s) between the City and Developer or its successor(s)-in-interest as to the Property ("Owner"), and (ii) a cooperative agreement among the City, Owner, and the Port of Greater Cincinnati Development Authority (the "Port Authority")), and further hereby requires the owners of the Property to make semiannual service payments in lieu of taxes to the County Treasurer on or before the final dates for payment of real property taxes. Such requirements, along with such other provisions as are deemed appropriate by this Council and as are agreed to by the owners of the Property, may be included in Service Agreements which may (but are not required to) be entered into between the City and the respective owners of the Property. To the extent necessary to secure such obligations, this Council hereby pledges and assigns such service payments to secure any obligations of the City or the Port Authority issued to finance the public infrastructure improvements described in
Sections 2 and 5 hereof. The payments in lieu of taxes provided for in ORC Section 5709.42 shall be paid to the County Treasurer, for payment by the County Treasurer to the City.

Section 7. That there has previously been established the City, Municipal Public Improvement Tax Increment Equivalent Fund (the "Fund"), into which Fund all service payments in lieu of taxes made by the owners of the affected parcels of land pursuant to this ordinance shall be deposited.

Section 8. That moneys deposited in the Fund shall be used only for the purposes set forth in ORC Section 5709.43, with respect to the public infrastructure improvements described in Attachment C to this ordinance, and for making compensation payments to the affected school districts as provided in ORC Section 5709.40, et seq., and in the Agreement between the City and the Board of Education of the City School District of the City of Cincinnati dated July 2, 1999, as amended.

Section 9. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the actions contemplated herein, including, without limitation, filing any required applications for tax exemption with the Hamilton County Auditor and State Tax Commissioner.

Section 10. That, pursuant to ORC Section 5709.40(I), the Clerk is hereby directed to deliver a copy of this ordinance to the Director of the Department of Development Services of the State of Ohio within 15 days after its adoption, and, on or before March 31 of each year that the exemption set forth herein remains in effect, the Clerk or other authorized officer of this City shall prepare and submit to the Director of the Department of Development Services of the State of Ohio the status report required under ORC Section 5709.40(I).
Section 11. 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 ORC Section 121.22.

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 enable construction of the improvements described herein to commence at the earliest possible time in order to advance development of the Property in a timely and financially efficient manner, for the economic welfare of the people of the City.

Passed: __________________________, 2019

John Cranley, Mayor

Attest: __________________________

Clerk
ATTACHMENT A

to Ordinance

[SEE ATTACHED]
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ATTACHMENT B

to Ordinance

[SEE ATTACHED]
ATTACHMENT C

to Ordinance

The public infrastructure improvements that directly benefit the Property include public street improvements and parking facilities, and may also include but are not limited to water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; and the provision of and/or relocation of gas, electric, and communications service facilities.
TO: Members of Budget and Finance Committee  
FROM: Patrick A. Duhaney, City Manager  
SUBJECT: Report - Department of Community and Economic Development Staffing Impact

REFERENCE DOCUMENT #201901637

The following Emergency Ordinance submitted by Councilmember Pastor was held by the Budget and Finance Committee and referred for a report:

AUTHORIZING the transfer and appropriation of the sum of $171,000 from the balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the Department of Community and Economic Development’s personnel operating budget account no. 050x164x7100 and the transfer and appropriation of the sum of $50,000 from the balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the Department of Law’s personnel operating budget account no. 050x111x7100, for the purpose of providing one-time operating budget funding for the remainder of FY 2020 to create five new economic development-related positions in order to improve and streamline the development approval process.

This report focuses on the history of staffing in the Department of Community and Economic Development (DCED), the impact of hiring four economic development staff and one attorney in DCED, and the Law Department respectively and the related budget impacts.

History of Staffing in DCED

The chart below shows the summary of the ten-year historical staffing levels for DCED. For further details related to the specific staffing changes, please refer to the attachment.

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Impact of Additional Staff in DCED

If four additional staff are added to DCED, the following is a list of assignments and duties:

*Housing Division (Agency 162) – One additional Development Officer:*
  - Increase DCED capacity to attend recurring Community Council and Community Development Council (CDC) meetings to discuss neighborhood housing projects/concerns. Current capacity limits staff attendance at these meetings.
  - Undertake review and recommendation for requests for assistance for housing development projects.
  - Initiate requests for proposals (RFP) to sell vacant land owned by the City and marketable for housing. DCED’s goal for this was missed this year due to staff constraints.

*Economic Development Division (Agency 164) – Two additional Development Officers:*
  - Increase DCED capacity to attend recurring Community Council and CDC meetings to discuss neighborhood development projects/concerns. Current capacity limits staff attendance at these meetings.
  - Undertake business retention and expansion visits to businesses outside of the urban core. This would increase DCED’s capacity to visit businesses and assist them in concerns affecting local operations and assist in the retention and expansion of our income tax base (especially as neighborhoods begin to experience more interest from businesses as locations to locate or expand).
  - Undertake review and recommendation for requests for assistance for commercial & industrial development projects, including proactively identifying neighborhood opportunities.
  - Craft and implement DCED’s strategy to train a cohort of minority & disadvantaged businesses for real estate development.

*Major Projects Division (Agency 164) – One additional Development Officer:*
  - Increase DCED capacity to attend recurring Community Council and CDC meetings to discuss neighborhood development projects/concerns. Current capacity limits staff attendance at these meetings.
  - Undertake business retention and expansion visits to businesses inside of the urban core. This would increase DCED’s capacity to visit businesses and assist them in concerns affecting local operations and assist in the retention and expansion of our income tax base.
  - Undertake review and recommendation for requests for assistance for commercial development projects within the Central Business District.

Impact of Adding One Attorney in Law

If one additional attorney is added to the Law Department for economic development responsibilities, the following is a list of assignments and duties:
  - Increase response time for contracts related to DCED’s neighborhood business district improvement program and Notice of Funding Availability process which presently have longer contracting timelines.
• Increase Law Department capacity to provide advice and counsel on legal matters related to incentives, development, real estate and land use, right of way, relevant federal and state regulations, and other elements of transactional practice
• Enhance Law Department’s ability to draft and negotiate a higher volume of economic and community development transactions
• Expand Law Department’s ability to respond to DCED and developer desires to move projects quickly when necessary

FY 2020 and FY 2021 Budget Impact of Adding Positions

The cost of adding five positions to the FY 2020 Budget with a January 1st, 2020 start date is $221k in the General Fund. The FY 2021 impact is $455k. Any position hired could be offset by as much as 10% to 15% with fees generated by DCED. However, that percentage is widely variant, and could be 1% or 20%, based on which division the position would be placed in and what types of work the position would be doing. The cost shown above is the total cost of the positions due to the uncertainty of the impact on revenue.

The FY 2020 Budget projects a deficit of $7.1 million for FY 2021. While revenue has increased during FY 2020, expenditures have also increased resulting in a projected budget deficit in FY 2021. The Tentative Tax Budget will be submitted to the City Council in December 2019 and the document will detail the projected deficit. The FY 2021 Budget process will then commence with the FY 2021 Recommended Budget being delivered to the Mayor in early May 2020. Any additional expense added in FY 2020 that continues into FY 2021 will result in a larger deficit to close through the combination of revenue increases and/or expenditure reductions.

The budget process also allows the Administration to weigh the needs of all departments to strategically add or reduce staff, so that a structurally balanced budget reflects the best use of General Fund dollars.

cc: Christopher A. Bigham, Assistant City Manager
Philip M. Denning, Director, Department of Community and Economic Development

Attachment: DCED Staffing History FY 2009 to Present
For more details regarding the year over year staffing changes, please see below. Please note that the name/organization of the departments, programs, and agencies may have changed over the past 10 years. Please refer to the footnotes for their current names and/or agency consolidation.

**FY 2009 – FY 2010 FTE Adjustments (-2.00 FTE):** See pages 51-52 in Approved FY 2010 Budget Update.

**FY 2010 – FY 2011 FTE Adjustments (1.00 FTE):** The Housing Development Program increased by 1.00 FTE due to the creation of a Community Development Analyst position to assist with monitoring, reporting, and record keeping to ensure the Program is in compliance with federal, state, and local regulations.

**FY 2011 – FY 2012 FTE Adjustments (-1.00 FTE):**

- **City Manager’s Office (12.00 FTE)** – The Economic Development Division Program increased by 12.00 FTE primarily attributable to the transfer of 11.00 FTE from the Department of Community Development* to the Economic Development Division Program. The transfer reflects the merger of the Business Development program with Economic Development program. The remaining 1.00 FTE represents personnel for a combined Economic Development/Business Development function.

- **Community Development* (-13.00 FTE)** – The Community Development Operations Program decreased by 2.00 FTE primarily due to the elimination of an Administrative Technician and a Senior Community Development Analyst. The Business Development
Program decreased by 11.00 FTE due to the transfer of the program to the Economic Development Program in the Office of the City Manager.

**FY 2012 – FY 2013 FTE Adjustments (0.00 FTE):**

- **City Manager's Office (-2.40 FTE)** – The Office of Budget and Evaluation decreased by 2.40 FTE due to the transfer of HUD Compliance and Monitoring Program to the Department of Community Development*.

- **Community Development* (2.40 FTE)** – The Operations – Human Services Program** decreased by 1.0 FTE due to the transfer of a position to another Department Program. The Community Development Operations Program** increased by 3.40 FTE due to the transfer of 1.0 FTE from another Department Program and the transfer of 2.40 FTE from the Office of Budget an Evaluation Program.

**FY 2013 – FY 2014 FTE Adjustments (-1.00 FTE):**

- **City Manager's Office (-19.00 FTE)** – The Economic Development Division Program decreased by 19.00 FTE primarily due to the transfer of 18.00 FTE from the Economic Development Division Program to the newly established Department of Trade and Development*. The remaining 1.00 FTE decrease represents the transfer of an Administrative Specialist from the Economic Development Division Program to the Office of the City Manager.

- **Trade and Development* (18.00 FTE)** – The Housing Development Program increased by 2.00 FTE. The newly established Economic Development Program increased by 16.00 FTE due to the transfer of personnel from Economic Development from the Department of the City Manager.

**FY 2014 – FY 2015 FTE Adjustments (1.00 FTE):** The Human Services Program** decreased by 1.00 FTE due to the elimination of an Administrative Specialist position. The Economic Development Program increased by 2.0 FTE due to the addition of a Development Officer position and the transfer of 1.00 FTE from the Compliance and Operations Program** to the Economic Development Program.

**FY 2015 – FY 2016 FTE Adjustments (8.60 FTE):** The Major/Special Projects Division Program increased by a net 2.00 FTE due to the elimination of 1.0 FTE and the creation of a Senior Community Development Analyst, a Division Manager, and a Development Officer. The Fiscal & Operations Division Program** increased by 7.00 FTE due to the transfer of 6.0 FTE from other Department Programs and the creation of a Senior Community Development Analyst. The Oversight Monitoring Division Program** increased by 1.60 FTE due to the transfer of positions from other Department Programs. The Housing Division decreased by a net 3.00 FTE due to the transfer of 3.00 FTE to other Department Programs, the elimination of a Senior Community Development Analyst, and the creation of a Development Officer. The Director/Administration Program increased by a net 3.00 FTE due to the transfer of 3.00 FTE from other Department Programs, the transfer of 1.00 FTE to another Department Program, and the creation of a Senior Community Development and Planning Analyst position. The Economic
Development Division Program decreased by 2.00 FTE due to the transfer of positions to other Department Programs.

FY 2016 – FY 2017 FTE Adjustments (-1.00 FTE): The Oversight Monitoring Division Program** decreased by 2.00 FTE due to the elimination of unfilled positions. The Housing Division Program decreased by 1.0 FTE due to the transfer of a position to another Department Program. The Director/Administration Program increased by 1.0 FTE due to the transfer of a position to this program. The Economic Development Division Program increased by 1.0 FTE due to the creation of a position.

FY 2017 – FY 2018 FTE Adjustments (0.00 FTE): The Major/Special Project Division Program increased by 1.00 FTE while the Fiscal & Operational Division Program** decreased 1.00 FTE due to a position transfer. No net impact.

FY 2018 – FY 2019 FTE Adjustments (-5.27 FTE): The Major/Special Projects Division Program and the Fiscal & Operational Division Program each decreased by 1.0 FTE due to departmental reorganization. The Housing Division Program also decreased by 4.00 FTE due to departmental reorganization. The Director/Administration Program increased by 1.0 FTE due to the departmental reorganization. The Economic Development Division Program decreased by 0.27 FTE to more accurately reflect part-time employees.

FY 2019 – FY 2020\(^1\) FTE Adjustments (-12.73 FTE): The Director’s Office and Administration Agency decreased by 7.0 FTE due to the transfer of 1.0 FTE to Enterprise Services, the elimination of a filled Division Manager, a filled Supervising Management Analyst, a vacant Clerk Typist 3, a vacant Senior Community Development Analyst, a vacant Senior Management Analyst, and a vacant Deputy Director. The Housing Division Agency decreased by 1.0 FTE due to the elimination of a vacant Supervising Community Development Analyst. The Economic Development and Major/Special Projects Division Agency decreased by 4.73 FTE due to the elimination of a Co-Op/Student Intern 3 position, as well as a vacant Development Manager, a vacant Development Officer 4, and two vacant Senior Community Development Analysts.

*Department currently known as Department of Community and Economic Development (160).
** Program consolidated into Agency currently known as Director’s Office & Administration (161).

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\(^{1}\) Starting in FY 2020, the Budget Document outlines budgets based on Agency rather than Program.
To: Member of the Budget and Finance Committee
From: Patrick A. Duhaney, City Manager
Subject: Emergency Ordinance – Hazard Abatement Fund 347 Budget Adjustment (B Version)

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer and appropriation of the sum of $295,100 from the unappropriated surplus of Hazard Abatement Fund 347 to personnel and non-personnel operating budget accounts in the Department of Buildings and Inspections in accordance with the attached Schedule of Transfer, for the purpose of providing resources for staff, training, and equipment to support the newly established Residential Rental Registration program and the Residential Rental Property Inspection Pilot program.

Compared to the previous version, this B Version Ordinance reflects the ordinance number assigned to the Ordinance that expands the revenue sources and permissible uses of Hazard Abatement Fund 347, which was passed by the City Council on November 14, 2019.

This Emergency Ordinance authorizes the transfer and appropriation of the sum of $295,100 from the unappropriated surplus of Hazard Abatement Fund 347 to personnel and non-personnel operating budget accounts in the Department of Buildings and Inspections for the purpose of providing resources for staff, training, and equipment to support the newly established Residential Rental Registration program and the Residential Rental Property Inspection Pilot program.

The reason for the emergency is the immediate need to transfer and appropriate the resources needed to implement the Residential Rental Registration program and the Residential Rental Property Inspection Pilot previously authorized by Council.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment
EMERGENCY
City of Cincinnati
An Ordinance No. - 2019

AUTHORIZING the transfer and appropriation of the sum of $295,100 from the unappropriated surplus of Hazard Abatement Fund 347 to personnel and non-personnel operating budget accounts in the Department of Buildings and Inspections in accordance with the attached Schedule of Transfer, for the purpose of providing resources for staff, training, and equipment to support the newly established Residential Rental Registration program and the Residential Rental Property Inspection Pilot program.

WHEREAS, Ordinance No. 0405-2019 and Ordinance No. 0406-2019, passed by Council on October 30, 2019, amended the Cincinnati Municipal Code to establish the Residential Rental Registration program and the Residential Rental Property Inspection Pilot program, the purpose of which is to remediate substandard rental housing or hazardous conditions in rental housing by ensuring compliance with minimum standards, preventing blight, and ensuring that persons who live in rental housing units are provided decent, safe, and sanitary housing; and

WHEREAS, Ordinance No. 0436-2019, passed by Council on November 14, 2019, expanded the revenue sources and permissible uses of Hazard Abatement Fund 347 by directing that all fees and charges collected through the Residential Rental Registration program and the Residential Rental Property Inspection Pilot program be deposited into the fund, and further expanded permissible uses of the fund's resources to include costs related to the Residential Rental Registration program and the Residential Rental Property Inspection Pilot program; and

WHEREAS, there is an immediate need to provide resources to the Department of Buildings and Inspections so that these programs can properly be implemented upon their effective dates; now, therefore,

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

Section 1. That the transfer and appropriation of the sum $295,100 from the unappropriated surplus of Hazard Abatement Fund 347 to personnel and non-personnel operating budget accounts in the Department of Buildings and Inspections in accordance with the attached Schedule of Transfer, by this reference made a part hereof, is hereby authorized for the purpose of providing resources for staff, training, and equipment to support the newly established Residential Rental Registration program and the Residential Rental Property Inspection Pilot program.
Section 2. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Section 1 according to 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 transfer and appropriate the resources needed to implement the Residential Rental Registration program and the Residential Rental Property Inspection Pilot previously authorized by Council.

Passed: ____________________________ , 2019

__________________________________________
John Cranley, Mayor

Attest: _________________________________
Clerk
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City of Cincinnati

December 2, 2019

To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager

Subject: CRA TAX EXEMPTION AGREEMENT FOR 509 E 12TH STREET

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 509 E12 ST LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 509 East 12th Street in the Pendleton neighborhood of Cincinnati, in connection with the remodeling of two existing buildings into seven residential units, at a total construction cost of approximately $839,434.

BACKGROUND/CURRENT CONDITIONS

509 E 12th Street is a multifamily property in the Pendleton neighborhood containing two severely blighted, historic buildings. The buildings have been vacant for over twenty years and one building has suffered extensive fire damage. The current property owner, 509 E12 St LLC, acquired the property in 2019 and submitted their initial application for a CRA Tax Exemption in October 2019.

DEVELOPER INFORMATION

509 E12 St LLC is a subsidiary of Cincinnati-based Kunst Development. Managed by John Blatchford, Kunst has completed two historic rehabilitation projects in Over-the-Rhine at 205 and 207 W McMicken. Kunst also serves as a general contractor and a historic tax credit consultant on projects in Over-the-Rhine and surrounding neighborhoods.

PROJECT DESCRIPTION

This project consists of the renovation of two vacant, multifamily buildings at 509 E 12th Street. Each building is severely blighted and will undergo a total gut rehab with attention to historic detail. The renovation will create seven (7) total units: one (1) one-bedroom apartment unit and six (6) two-bedroom units. Rents will range from $1,380 to $1,480 for two-bedroom units and the one-bedroom unit will be priced at $1,080. Total project cost
is estimated at $1,258,210 and construction is expected to be completed by December 2021. The project will be funded by private equity ($1,061,710) and State Historic Tax Credits ($196,500).

One (1) full-time permanent job with an annual payroll of $40,000 and twelve (12) temporary construction jobs with an annual payroll of $360,000 will be created. This project will help achieve Plan Cincinnati’s goals of improving housing quality and stabilizing our communities by expanding quality housing and activating a currently vacant building in the Pendleton neighborhood.

PROPOSED INCENTIVE

DCED is recommending a twelve-year net 60% CRA tax exemption. The exemption applies only to the increase in value attributable to the renovation.

Pursuant to the Commercial CRA policy established by City Council, this project is located in the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms. The project merits a 12-year net 60% CRA Tax Abatement based on the following criteria:
- Net 15% Streetcar VTICA contribution totals $37,793 over 12 years
- Project will create 1 full-time job with an annual payroll of $40,000
- Project provides a $4.42 return for each dollar of City investment

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RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is required in order for the developer to maintain a strict project schedule now that all sources of financing have been secured.

Attachment: A. Property location and photographs

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Location and Photographs

Property Location

Front Building

Project Elevations
EMERGENCY
City of Cincinnati
An Ordinance No. 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 509 E12 ST LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 509 East 12th Street in the Pendleton neighborhood of Cincinnati, in connection with the remodeling of two existing buildings into seven residential units, at a total construction cost of approximately $839,434.

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 Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, 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, 509 E12 ST LLC (the “Company”) desires to remodel two existing buildings into seven residential units, totaling approximately 7,454 square feet, on real property at 509 East 12th Street, Cincinnati, Ohio 45202 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 509 E12 ST LLC (the "Agreement"), thereby authorizing a 12-year tax exemption for 100% of the assessed value of improvements made to real property located at 509 East 12th Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of two existing buildings into seven residential units, totaling approximately 7,454 square feet, to be completed at a total construction cost of approximately $839,434.

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 City School District of the City of Cincinnati, 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: ________________________, 2019

______________________________________________
John Cranley, Mayor

Attest: ____________________________
Clerk
Exhibit 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 509 E12 ST 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, dated September 27, 2017 (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 509 E. 12th 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 two buildings 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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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 aforementioned 15% VTICA Contribution each year for the full term of the abatement.
R. This Agreement has been authorized by Ordinance No. ______-2019, passed by Cincinnati City Council on ______________, 2019.

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 renovate the existing buildings on the Property into 7 residential units totaling approximately 7,454 square feet (the "Improvements") at an estimated aggregate cost of Eight Hundred Thirty-Nine Four Hundred Thirty-Four Dollars ($839,434) to commence after the execution of this Agreement and to be completed no later than December 31, 2021; provided, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director’s judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the “ADA”), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "Contractual Minimum Accessibility Requirements" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of twelve (12) 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 2023 nor extend beyond the earlier of (i) tax year 2034 or (ii) the end of the twelfth (12th) 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 designee, 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 this Project.

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

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

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

Section 11. Small Business Enterprise Program.¹

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

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

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

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.
Section 12. **Jobs.** The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. **Job Creation and Retention.**

A. **Jobs to be Created by Company.** The Company agrees to use its best efforts to create (i) 1 full-time permanent jobs, (ii) 12 full-time temporary construction jobs, (iii) 0 part-time permanent jobs, and (iv) 0 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.

B. **Company’s Estimated Payroll Increase.** The Company’s increase in the number of employees will result in approximately (i) $40,000 of additional annual payroll with respect to the full-time permanent jobs, (ii) $360,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs, (iii) $0 of additional annual payroll with respect to the part-time permanent jobs, and (iv) $0 of additional annual payroll prior to the completion of the Project with respect to the part-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 18B 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:

509 E12 ST LLC
Attention: John Blatchford
207 W. McMicken Avenue
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.

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, 509 E12 ST LLC,
an Ohio municipal corporation an Ohio limited liability company

By: ___________________________ By: ___________________________
    Patrick A. Duhaney, City Manager Printed Name: ___________________________
Date: ________________, 2019 Title: ___________________________

Date: ________________, 2019

Authorized by resolution dated ________

Recommended by:

______________________________

Phillip M. Denning, Director
Department of Community and Economic Development

Approved by:

______________________________

Markiea Carter, Director
Department of Economic Inclusion

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 I - 075-0003-0216-00

Situate in the City of Cincinnati, County of Hamilton, State of Ohio and being more particularly described as follows:

Beginning at the intersection of the south right of way line of E. Twelfth Street with the east right of way line of Widdell Alley, thence N.89°57'00"E. along the south right of way line of E. Twelfth Street a distance of 25.00 feet to a point at the northwest corner of property conveyed to Those Are My Everyday Balloons, LLC. as recorded in O.R. 12585, Page 1733; thence S.00°01'00"E. along the west line of Those Are My Everyday Balloons, LLC. property a distance of 68.00 feet to a point; thence S.89°57'00"W. a distance of 25.00 feet to a point in the east right of way line of Widdle Alley; thence N.00°01'00"W. along the east right of way line of Widdle Alley a distance of 68.00 feet to a point the Place of Beginning.

Containing 0.04 Acres
1700 Square Feet

This description is based on a survey performed by Jeffrey C. Heyl, P.S. 7792 dated October 5, 2017.

PARCEL II - 075-0003-0217-00

Situate in the City of Cincinnati, County of Hamilton, State of Ohio and being more particularly described as follows:

From the intersection of the south right of way line of E. Twelfth Street with the east right of way line of Widdell Alley, thence S.00°01'00"E. along the east right of way line of Widdle Alley a distance of 68.00 feet to a point for the true place of beginning; thence from the true place of beginning N.89°57'00"E. a distance of 25.00 feet to a point in the west line of property conveyed to Those Are My Everyday Balloons, LLC. as recorded in O.R. 12585, Page 1733; thence S.00°01'00"E. along the west line of Those Are My Everyday Balloons, LLC. property a distance of 54.42 feet to a point at the southwest corner of Those Are My Everyday Ballons, LLC., said point being also in the northerly line of Dodt Alley; thence S.70°50'00"W. along Dodt Alley a distance of 26.46 feet to a nail set at the intersection of the northerly right of way line with the east right of way line of Widdle Alley; thence N.00°01'00"W. along the east right of way line of Widdle Alley a distance of 63.09 feet to a point the Place of Beginning.

Containing 0.03 Acres
1468.93 Square Feet

This description is based on a survey performed by Jeffrey C. Heyl, P.S. 7792 dated October 5, 2017.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED TO EXECUTION VERSION]
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager
Subject: CRA TAX EXEMPTION AGREEMENT – 1725 ELM STREET 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 1725 ELM STREET, LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 1725 Elm Street in the Over-The-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into 12 residential units and approximately 700 square feet of commercial space, at a total construction cost of approximately $1,234,442.

Background
1725 Elm Street, LLC, an affiliate of Kunst Development, proposes a complete rehabilitation of the historic building located at 1725 Elm Street in Over-the-Rhine just south of Findlay Market.

Development Entity
1725 Elm Street, LLC is an affiliate of Kunst Development, who has renovated historic buildings throughout Over-the-Rhine for the last five years including projects completed at 1667 Hamer, 205 and 207 W. McMicken Street. Kunst is also currently renovating the historic building at 1733 Elm Street.

Project Description
1725 Elm Street is a vacant historic building in Over-the-Rhine located just south of Findlay Market. The developer proposes to renovate the building to include 12 residential apartments units and 700 square feet of ground-floor commercial space, which the developer anticipates filling with a restaurant or café tenant. The building will receive all new mechanical systems, including new electric, plumbing, water, and HVAC. Residential rents will range from $840 to $1,020 per unit per month. Total development cost is estimated to be $1,234,442.

The project will support the creation of 12 FTEs and 14 temporary construction jobs with annual payrolls of $464,000 and $630,000, respectively. During the term of the
exemption, the City will realize $3.20 in new income taxes for every $1 of real estate taxes foregone by the City.¹

This project represents Plan Cincinnati’s "Vision to Compete" by making a targeted investment, and its "Vision of Live" to support and stabilize our neighborhoods.

**Proposed Incentive**

The Ordinance provides for a net 60%, 12-year CRA tax exemption. The exemption applies only to the increase in value 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 project has demonstrated a financial need for the proposed CRA due to substantial stabilization and renovation costs associated with saving this historic building.

<table>
<thead>
<tr>
<th>SUMMARY</th>
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<tbody>
<tr>
<td><strong>Incentive Value</strong></td>
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<tr>
<td>Annual Net Abatement (Savings to Developer)</td>
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<td><strong>Total Term Net Abatement (Savings to Developer)</strong></td>
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<td>City’s Portion of Property Taxes Forgone</td>
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<td><strong>Public Benefit</strong></td>
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<td>CPS PILOT</td>
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<td>Annual CPS Pilot</td>
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<td>Total Term CPS PILOT</td>
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<td>VTICA</td>
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<td>Annual VTICA</td>
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<td>Total Term VTICA PILOT</td>
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<td>Income Tax (Max)</td>
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<td>New Permanent Jobs</td>
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<td><strong>Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)</strong></td>
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<tr>
<td>Total Public Benefit ROI</td>
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<td>City’s ROI</td>
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</table>

**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 photos

Copy: Philip M. Denning, Director, Department of Community & Economic Development

¹ Assumes no increase in real estate value or payroll over the life of the exemption.
APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 1725 Elm Street, LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 1725 Elm Street in the Over-The-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into 12 residential units and approximately 700 square feet of commercial space, at a total construction cost of approximately $1,234,442.

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 Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, 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, 1725 Elm Street, LLC (the “Company”) desires to remodel an existing building into 12 residential units and approximately 700 square feet of commercial space on real property at 1725 Elm Street, Cincinnati, Ohio 45202 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 1725 Elm Street, LLC (the “Agreement”), thereby authorizing a 12-year tax exemption for 100% of the assessed value of improvements made to real property located at 1725 Elm Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building into 12 residential units and approximately 700 square feet of commercial space, to be completed at a total construction cost of approximately $1,234,442.

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 City School District of the City of Cincinnati, 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: _______________________________ 2019

_________________________
John Cranley, Mayor

Attest: ____________________________

Clerk
Exhibit 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 1725 ELM STREET, LLC, an Ohio limited liability (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, dated September 27, 2017 (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 1725 Elm 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 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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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 aforementioned 15% VTICA Contribution each year for the full term of the abatement.
R. This Agreement has been authorized by Ordinance No. _____-2019, passed by Cincinnati City Council on ________________, 2019.

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 into 12 residential units and approximately 700 square feet of commercial space (the “Improvements”) at an estimated aggregate cost of One Million Two Hundred Thirty-four Thousand Four Hundred Forty-two Dollars ($1,234,442) to commence after the execution of this Agreement and to be completed no later than June 30, 2021; provided, however, that the Director of the Department of Community and Economic Development (the “Housing Officer”) may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director’s judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the “ADA”), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “Contractual Minimum Accessibility Requirements” means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of twelve (12) 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 2033 or (ii) the end of the twelfth (12th) 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 designee, 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.

{00301014-1}
Section 9. **Continuation of Exemptions.** As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

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

Section 11. **Small Business Enterprise Program.**¹

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

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

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

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.
enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company: The Company agrees to use its best efforts to create (i) 12 full-time permanent jobs, (ii) 14 full-time temporary construction jobs, (iii) 0 part-time permanent jobs, and (iv) 0 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.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) $464,000 of additional annual payroll with respect to the full-time permanent jobs, (ii) $630,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs, (iii) $0 of additional annual payroll with respect to the part-time permanent jobs, and (iv) $0 of additional annual payroll prior to the completion of the Project with respect to the part-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:

1725 Elm Street, LLC  
Attention: John Blatchford  
207 W. McMicken Avenue  
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

Section 32. **Legislative Action Required.** As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. **Wage Enforcement.**

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

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

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.
(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City’s Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City’s request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

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

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: ________________________________
    Patrick A. Duhaney, City Manager

Date: _________________, 2019

1725 ELM STREET, LLC, an Ohio limited liability company

By: ________________________________
    Printed Name: ____________________

Title: ______________________________

Date: _________________, 2019

Authorized by resolution dated __________

Recommended by:

______________________________
Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

______________________________
Markiea Carter, Director
Department of Economic Inclusion

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

1725 Elm Street, Cincinnati, Ohio 45202

Parcel ID No.: 133-0003-0063-00

Situated in the City of Cincinnati, County of Hamilton and State of Ohio and being further described as Lot No. 14 of John McClean's Subdivision of Lots, recorded in Deed Book 112, Page 42, Hamilton County, Ohio Records.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED TO EXECUTION VERSION]
City of Cincinnati

December 2, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: EMERGENCY ORDINANCE – CRA 1203 SYCAMORE STREET

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 Sycamore Diner LLC and The Board of Trustees of Woodward Highschool of the City of Cincinnati, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 1203 Sycamore Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing single-story building into approximately 5,000 square feet of commercial space, which remodeling shall be 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 $1,186,843.40.

BACKGROUND/CURRENT CONDITIONS

This property is currently a vacant building in the Over-the-Rhine neighborhood of Cincinnati. The Developer submitted a CRA application to DCED, which was reviewed by DCED.

DEVELOPER INFORMATION

Sycamore Diner, LLC is a subsidiary of the Mayerson Company. The Mayerson Company currently owns the original Sugar n’ Spice location on Reading Road. The Mayerson Company began in 1949 and has done dozens of developments in the Cincinnati area since then, including Downtown Cincinnati.

PROJECT DESCRIPTION

Once completed, this project will be Sugar n’ Spice’s second location. The rehabilitated diner building will result in 5,000 square feet of restaurant space. In connection with this project, it is estimated that 58 temporary construction jobs will be created at a total annual
payroll of $2,200,00 and 24 full-time equivalent employees will be created at a total annual payroll of $563,560. The building will be LEED certified once completed.

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 60%), 15-year CRA tax exemption. The exemption applies only to the increase in value attributable to the project improvements. Pursuant to the LEED CRA policy established by City Council, this project is eligible for a 15-year net 60% CRA Tax Abatement:

<table>
<thead>
<tr>
<th>Incentive Value</th>
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<tbody>
<tr>
<td>Annual Net Abatement (Savings to Developer)</td>
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<tr>
<td>Total Term Net Abatement (Savings to Developer)</td>
<td>$126,687</td>
</tr>
<tr>
<td>City’s Portion of Property Taxes Forgone</td>
<td>$23,166</td>
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<tr>
<td><strong>Public Benefit</strong></td>
<td></td>
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<tr>
<td><strong>CPS PILOT</strong></td>
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<tr>
<td>Annual CPS Pilot</td>
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<td>Total Term CPS PILOT</td>
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<tr>
<td><strong>VTICA</strong></td>
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<tr>
<td>Annual VTICA</td>
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<td>Total Term VTICA PILOT</td>
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<td>Income Tax Over Term</td>
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<tr>
<td>New Permanent Jobs</td>
<td>24</td>
</tr>
<tr>
<td><strong>Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)</strong></td>
<td>$324,348</td>
</tr>
<tr>
<td>The City’s ROI</td>
<td>$11.31</td>
</tr>
</tbody>
</table>

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. This is an Emergency Ordinance to allow for expedient commencement of construction.
Attachment: A. Property location and photographs

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Location and Photographs
EMERGENCY
City of Cincinnati
An Ordinance No. 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Sycamore Diner LLC and The Board of Trustees of Woodward High School of the City of Cincinnati, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 1203 Sycamore Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing single-story building into approximately 5,000 square feet of commercial 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 $1,186,843.40.

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 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, Sycamore Diner LLC and The Board of Trustees of Woodward High School of the City of Cincinnati (the “Owner”) desires to remodel the existing building located on real
property at 1203 Sycamore Street located within the corporate boundaries of the City of Cincinnati into approximately 5,000 square feet of commercial space consistent with 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 City School District of the City of Cincinnati (the "Cincinnati School District"); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 Owner has entered into (or will enter into) an agreement with the Board of Education requiring the Owner to pay the Board of Education amounts equal to 25% of the exempt real property taxes; and

WHEREAS, the Owner 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 Owner’s operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per ORC 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 Sycamore Diner LLC and The Board of Trustees of Woodward High School of the City of Cincinnati (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 1203 Sycamore Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing building into approximately
5,000 square feet of commercial 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 $1,186,843.40.

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 City School District of the City of Cincinnati, 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: ________________, 2019

___________________________________________
John Cranley, Mayor

Attest: ________________________________
Clerk
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 The Board of Trustees of Woodward High School of the City of Cincinnati (the "Woodward Trust"), and SYCAMORE DINER LLC, an Ohio limited liability company (the "Company", and jointly with the Woodward Trust, the "Owner").

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, dated September 27, 2017, as amended by Ordinance No. 339-2018, passed by the Council of the City of Cincinnati on October 31, 2018 (as amended, 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 Owner is the sole owner of certain real property within the City, located at 1203 Sycamore 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 Owner 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.

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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 Owner 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 Owner with the tax exemption incentives stated herein, available under the Statute, for development of the Project.

I. The Owner 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 Owner 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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 Owner to pay the Board of Education amounts equal to twenty-five percent (25%) of the full amount of exempt 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. 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 aforementioned 15% VTICA Contribution each year for the full term of the abatement.

S. This Agreement has been authorized by Ordinance No. _____-2019, passed by Cincinnati City Council on __________, 2019.

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 Owner’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 an existing single-story building on the Property into approximately 5,000 square feet of commercial space (the “Improvements”). The Company anticipates that the estimated aggregate cost of the remodeling, excluding acquisition costs to be $1,186,843.40 to commence after the execution of this Agreement and to be completed no later than October 1, 2020; 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, 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 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 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City’s Housing Officer), the Company must file the appropriate application for tax exemption with the City’s Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2021 nor extend beyond the earlier of (i) tax year 2035 or (ii) the end of the fifteenth (15th) year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designee, 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 Owner to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Owner 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 Owner 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. Owner Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Owner certifies that at the time this Agreement is executed, the Owner 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 Owner is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Owner 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 Owner. 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 Owner 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 Owner authorizes the City and/or the State to inspect the personal financial statements of the Owner, including tax records and other similar information not ordinarily open to public inspection; and (C) the Owner 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 Owner 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 Owner’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 Owner, 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 Owner 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 Owner acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Owner acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Owner agrees that in no event shall the Owner seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. **Small Business Enterprise Program.**

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

(i) Including qualified SBEs on solicitation lists.
(ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority

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1 Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.
publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

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

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

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 24 full-time permanent jobs and (ii) 58 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.

B. Company’s Estimated Payroll Increase. The Company’s increase in the number of employees will result in approximately (i) $563,560 of additional annual payroll with respect to the full-time permanent jobs and (ii) $2,200,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

Section 14. Equal Employment Opportunity. This Agreement is subject to the City’s Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term “Owner” 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 Owner 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 Owner 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 Owner prior to finding the Owner in default under this section. The notice shall provide the Owner 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 Owner 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 Owner'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 Owner'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 Owner 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 Owner, the housing officer may revoke the exemption at any time after the first year of exemption. If the Owner 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 Owner 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 Owner 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 Owner has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Owner fails to provide any information expressly required under the Application, the Owner 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 Owner 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 Owner 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:

Sycamore Diner LLC  
Attention: Adam Mayerson  
312 Walnut Street, Suite 3600  
Cincinnati, Ohio 45202

To the Woodward Trust:

The Board of Trustees of the Woodward High School of the City of Cincinnati  
Attention: Roger K. Smith, Executive Director  
P.O. Box 428541  
Cincinnati, Ohio 45242

If the Owner sends a notice to the City alleging that the City is in default under this Agreement, the Owner 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 Owner 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 Owner 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 Owner 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 Owner 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 Owner 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 Owner.** The Owner 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 Owner.

Section 34. **Certification as to Non-Debarment.** The Owner 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 Owner 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 Owner or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the Owner 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 Owner 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 parties comprising the Owner 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 all entities.

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: 

Patrick A. Duhaney, City Manager
Date: ________________, 2019

SYCAMORE DINER LLC,
an Ohio limited liability company

By: __________________________

Printed Name: __________________________
Title: __________________________
Date: ________________, 2019

Authorized by resolution dated ____________

THE BOARD OF TRUSTEES OF THE WOODWARD HIGH SCHOOL OF THE CITY OF CINCINNATI

By: __________________________

Printed Name: __________________________
Title: __________________________
Date: ________________, 2019

Recommended by:

Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

Markiea L. Carter, Director
Department of Economic Inclusion

Approved as to Form:

Assistant City Solicitor

Certified Date: ________________
Fund/Code: __________________________
Amount: __________________________
By: __________________________
Karen Alder, City Finance Director

{00299385-2}
Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 1203 Sycamore Street, Cincinnati, Ohio 45202

Auditor's Parcel No. 075-0004-0018:
8th Series: Book 85, Page 218-B

Situate in the City of Cincinnati, Hamilton County, Ohio, and beginning at the Northwest corner of East Twelfth Street (formerly Abigail Street) and Sycamore Street; thence South 73°37' West, 90 feet to the Northeast corner of East Twelfth Street and Cogswell Alley; thence North 16°24'30" West, 90.14 feet to the Southeast corner of Cogswell Alley and Grear Alley; thence North 73°45'30" East, 90 feet to the Southwest corner of Grear Alley and Sycamore Street; thence South 16°24'30" East, 89.92 feet to a point and the place of beginning for the property described herein.

The above described property was formerly known as lots 9, 10, 11, 12A and 12B of Woodward High School Subdivision, as recorded in Plat Book 2, Page 74 of the Hamilton County, Ohio Recorder's Office.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED]
City of Cincinnati

December 2, 2019

To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager

Subject: EMERGENCY ORDINANCE – CRA 1814 CENTRAL PARKWAY

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 1814 Central LLC, thereby authorizing a 10-year tax exemption for 100% of the value of improvements made to real property located at 1814 Central Parkway in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of existing buildings into approximately 18,000 square feet of commercial space and approximately 5,000 square feet of industrial space, at a total construction cost of approximately $2,236,000.

BACKGROUND/CURRENT CONDITIONS

1814 Central, LLC owns the property located at 1820 Central Parkway. Currently the property is mostly vacant although a company that is associated with 1814 Central LLC, OTR Stillhouse, is doing some brewing and distilling on the site already.

DEVELOPER INFORMATION

1814 Central, LLC is the property owner and developer of 1814 Central Parkway. This LLC is associated with the brewery and distillery known as the OTR Stillhouse. OTR Stillhouse is owned and managed by Michele Hobbes, a local entrepreneur who started Pet Wants at Findlay Market in 2010, which has since then expanded to 28 states. OTR Stillhouse is already brewing and distilling alcohol in a portion of the building.

PROJECT DESCRIPTION

OTR Stillhouse is a unique business in Over the Rhine that produces beer, wine, and liquor at 1820 Central Parkway. This project will include the complete renovation of the site into about 18,000 square feet of commercial space and 5,000 square feet of industrial space for production. Once completed, this site will not only be a beer, liquor, and wine producer, it will also be a bar, event space, and concert venue. This rehabilitation will
cost about $2,900,000 and will create 30 full time equivalent employees at an annual payroll of $584,531. The project will be completed by the Spring of 2020.

This project is consistent with Plan Cincinnati’s goal to remain competitive economically and fostering a climate conducive to growth by focusing on retention and expansion of our existing businesses.

**PROPOSED INCENTIVE**

The Ordinance provides for a 100% (net 60%), 10-year CRA tax exemption. The exemption applies only to the increase in value 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 project has demonstrated a financial need for the proposed CRA due to substantial stabilization and renovation costs associated with remodeling this commercial space. This incentive will support the development of a small, woman-owned business in an area of Over-the-Rhine that has not seen significant investment. Moreover, it will allow for OTR Stillhouse to stabilize and keep their expenses low during the first several years of their operation.

| **SUMMARY** |
|-------------------|----------------------|
| **Incentive Value** |                      |
| Annual Net Abatement (Savings to Developer) | $19,182 |
| Total Term Net Abatement (Savings to Developer) | $191,825 |
| City’s Portion of Property Taxes Forgone | $35,078 |
| **Public Benefit** |                      |
| CPS PILOT |                      |
| Annual CPS Pilot | $7,993 |
| Total Term CPS PILOT | $79,927 |
| VTICA |                      |
| Annual VTICA | $4,796 |
| Total Term VTICA PILOT | $47,956 |
| Income Tax | $125,916 |
| **Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)** | $253,800 |
| City’s ROI | $7.23 |
RECOMMENDATION
The Administration recommends approval of this Emergency Ordinance. This is an Emergency Ordinance to allow for expedient commencement of construction.

Attachment: A. Property location and photographs

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Location and Photographs
EMERGENCY

City of Cincinnati

An Ordinance No. - 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 1814 Central LLC, thereby authorizing a 10-year tax exemption for 100% of the value of improvements made to real property located at 1814 Central Parkway in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of existing buildings into approximately 18,000 square feet of commercial space and approximately 5,000 square feet of industrial space, at a total construction cost of approximately $2,236,000.

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 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, 1814 Central LLC, (the “Company”) desires to remodel existing buildings at 1814 Central Parkway into commercial and industrial space, 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 1814 Central LLC, (the “Agreement”), thereby authorizing a 10-year tax exemption for 100% of the assessed value of improvements made to real property located at 1814 Central Parkway in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of buildings thereon into approximately 18,000 square feet of commercial space and approximately 5,000 square feet of industrial space, to be completed at a total construction cost of approximately $2,236,000.

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 City School District of the City of Cincinnati, 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: _____________________________, 2019

___________________________________
John Cranley, Mayor

Attest: _____________________________
Clerk
ATTACHMENT A
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 1814 CENTRAL 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, dated September 27, 2017, as amended by Ordinance No. 339-2018, passed by the Council of the City of Cincinnati on October 31, 2018 (as amended, 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 1814 Central Parkway, Cincinnati, Ohio 45214 (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 buildings 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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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 aforementioned 15% VTICA Contribution each year for the full term of the abatement.
R. This Agreement has been authorized by Ordinance No. _____-2019, passed by Cincinnati City Council on _______, 2019.

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 existing buildings into approximately 18,000 square feet of commercial space and approximately 5,000 square feet of industrial space on the Property (the "Improvements") at an estimated aggregate cost of approximately $2,236,000.00 to commence after the execution of this Agreement and to be completed no later than October 30, 2020; provided, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director’s judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "Contractual Minimum Accessibility Requirements" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 10 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 2021 nor extend beyond the earlier of (i) tax year 2030 or (ii) the end of the tenth (10th) 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 9.68, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and/or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
Section 9. **Continuation of Exemptions.** As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

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

Section 11. **Small Business Enterprise Program.**

A. **Compliance with Small Business Enterprise Program.** The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code ("CMC") Section 323-1-S, "SBE") 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:

1. Including qualified SBEs on solicitation lists.
2. Assuring that SBEs are solicited whenever they are potential sources.
3. 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.
4. When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
5. 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.
6. Prior to the commencement of work under any subcontract, 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.
7. 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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1 Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

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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 two existing employees at the Property with an existing payroll of $142,000.00 (the "Existing Jobs"), and that no employees located at another company location elsewhere in the State will be relocated to the Property.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) thirty (30) full-time permanent jobs and (ii) twenty (20) full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with 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) $584,531 of additional annual payroll with respect to the full-time permanent jobs and (ii) $328,800 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 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. §§ 1324(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:

1814 Central LLC  
Attention: Michelle Hobbs  
456 Milton Street  
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. Wage Enforcement.

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

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

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.
(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

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

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: __________________________
    Patrick A. Duhaney, City Manager
Date: _________________, 2019

1814 CENTRAL LLC,
an Ohio limited liability company

By: __________________________
Printed Name: __________________________
Title: __________________________
Date: _________________, 2019
Authorized by resolution dated ____________

Recommended by:

__________________________
Philip M. Denning, Director
Department of Community and Economic Development

Approved by:

__________________________
Markiea L. Carter, Director
Department of Economic Inclusion

Approved as to Form:

__________________________
Assistant City Solicitor

Certified Date: _________________
Fund/Code: __________________________
Amount: __________________________
By: __________________________
Karen Alder, City Finance Director
Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Parcel No. 96-5-21

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

Parcel 1:

All of Lot No. 13, as shown on the plat recorded in Deed Book 122, page 364 of the deed records of the Recorder of Hamilton County, Ohio of John Mears and George W. Phillips Subdivision of a tract of land in Section 19, Township 3, Fractional Range 2 of the Miami Purchase. Said Lot No. 13 fronts 30 feet on the east line of Central Parkway (formerly Canal Street) and extends eastwardly between parallel lines to the west line of Branch Street.

Excepting from said Lot No. 13 the following described parcel:

Beginning in the south line of said Lot No. 13 at a point 131.75 feet west of the west line of Branch Street; thence West 23 feet, more or less, along the south line of said Lot No. 13 to the west line of said Lot No. 13, said west line of Said Lot No. 13 being the east state line of Miami and Erie Canal lands; thence North 30 feet along the west line of said Lot No. 13 to the north line of said Lot No. 13; thence East 24.56 feet, more or less, along the north line of said Lot No. 13 to a point which is 130 feet west of the west line of Branch Street; thence South 30.5 feet, more or less, to the south line of said Lot No. 13 at the place of beginning.

Parcel 2:

All of Lots No. 11, 12, 14, 15 and 16, as shown on the plat recorded in Deed Book 122, page 364 of the deed records of the Recorder of Hamilton County, Ohio, of John Mears and George W. Phillips Subdivision of a tract of land in Section 19, Township 3, Fractional Range 2 of the Miami Purchase. Each of said lots fronts 30 feet on the east line of Central Parkway (formerly Canal Street) and each extends eastwardly between parallel lines to the west line of Branch Street.

Excepting from said Lots No. 14, 15 and 16 the following described parcel:

Beginning in the south line of said Lot No. 16 at a point 137 feet west of the west line of Branch Street; thence West 18.32 feet, more or less, along the south line of said Lot No. 16 to the west line of said Lot No. 16, said west line of said Lot No. 16 and also of said Lots No. 15 and 14, being the east state line of the Miami and Erie Canal lands; thence North 90 feet along said west line of said Lots No. 16, 15 and 14, to the north line of said Lot No. 14; thence East 23 feet, more or less.
along the north line of said Lot No. 14 to a point which is 131.75 feet west of the west line of Branch Street; thence South 91.5 feet, more or less, to the south line of said Lot No. 16 at the place of beginning.

Excepting from said Lots Nos. 11 and 12 the following described parcel:

Beginning in the south line of Lot No. 12 at a point 130 feet west of the west line of Branch Street; thence West 24.56 feet, more or less, along the south line of Lot No. 12 to the west line of Lot No. 12, said west line of said Lot No. 12 and also of said Lot No. 11, being the east side line of the Miami and Erie Canal lands; thence North 60 feet along the west line of said Lots No. 12 and 11 to the north line of said Lot No. 11; thence East 27.18 feet, more or less, along the north line of said Lot No. 11 to a point 127 feet west of the west line of Branch Street; thence South 61 feet, more or less, to the south line of said Lot No. 12 to the place of beginning, being the same more or less, but subject to all legal highways.
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED]
To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager
Subject: Emergency Ordinance – FY 2020 Budget Adjustment Ordinance (City Manager’s Office, Finance, Health, and Law)

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer and appropriation of $1,326,535 within Community Health Center Activities Fund 395 from various Cincinnati Health Department personnel operating budget accounts to various non-personnel operating budget accounts for the purpose of realigning resources needed for the primary care health centers and school-based health centers programs; AUTHORIZING the transfer of $52,000 within General Fund 050 appropriations from various Department of Finance personnel operating budget accounts to various Department of Finance non-personnel operating budget accounts for the purpose of realigning resources needed for contractual services related to the completion of the FY 2019 Comprehensive Annual Financial Report; AUTHORIZING the transfer of $50,000 from the Department of Buildings & Inspections’ non-personnel operating budget account to the City Manager’s Office – Office of Performance & Data Analytics personnel operating budget account for the purpose of providing funding for a Management Analyst position dedicated to data analysis of programs within Buildings & Inspections; AUTHORIZING the appropriation of the sum of $25,000 from the unappropriated surplus of the General Fund 050 to the Office of Environment & Sustainability’s non-personnel operating budget account for the purpose of funding an aggregation consultant; and AUTHORIZING the appropriation of $45,000 from the unappropriated surplus of the General Fund 050 to the Law Department’s non-personnel operating budget account for the purpose of funding legal expenses related to the Cincinnati Solar Array project.

This Emergency Ordinance authorizes the following FY 2020 budget adjustments:

1) The transfer within appropriations of $1,326,535 in Community Health Center Activities Fund 395 from various Cincinnati Health Department personnel operating budget accounts to various non-personnel operating budget accounts, for the purpose of realigning resources needed for contractual services and medical supplies in various primary care health centers and school-based health centers.

2) The transfer within appropriations of $52,000 in General Fund 050 from various Department of Finance personnel operating budget accounts to various non-personnel operating budget accounts, for the purpose of realigning resources needed for the completion of the FY 2019 Comprehensive Annual Financial Report (CAFR) in a timely manner.

3) The transfer within appropriations in the General Fund of $50,000 from the Department of Buildings & Inspections non-personnel operating budget account to the City Manager’s Office
Office of Performance & Data Analytics personnel operating budget account, for the purpose of providing resources for a Management Analyst devoted to data analysis of B&I programs.

4) The City received $70,000 from Hecate Energy LLC related to the Cincinnati Solar Array project which was deposited into the General Fund causing an increase to the unappropriated surplus. A portion of these funds ($25,000) is appropriated from the unappropriated surplus of General Fund 050 to the City Manager’s Office – Office of Environment & Sustainability’s non-personnel operating budget account, for the purpose of providing resources for an electricity aggregation consultant.

5) The remaining portion ($45,000) of the $70,000 received from Hecate Energy LLC is appropriated from the unappropriated surplus of General Fund 050 to the Law Department’s non-personnel operating budget account, for the purpose of providing resources for legal expenses related to the Cincinnati Solar Array project.

A Schedule of Transfer is attached providing the details of the various transfers and appropriations.

The reason for the emergency is the immediate need to accomplish the authorized transfers and appropriations so that funding is in place to continue to provide necessary services through Fiscal Year 2020.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment
EMERGENCY
City of Cincinnati
An Ordinance No. _______ - 2019

AUTHORIZING the transfer and appropriation of $1,326,535 within Community Health Center Activities Fund 395 from various Cincinnati Health Department personnel operating budget accounts to various non-personnel operating budget accounts for the purpose of realigning resources needed for the primary care health centers and school-based health centers programs; AUTHORIZING the transfer of $52,000 within General Fund 050 appropriations from various Department of Finance personnel operating budget accounts to various Department of Finance non-personnel operating budget accounts for the purpose of realigning resources needed for contractual services related to the completion of the FY 2019 Comprehensive Annual Financial Report; AUTHORIZING the transfer of $50,000 from the Department of Buildings & Inspections’ non-personnel operating budget account to the City Manager’s Office – Office of Performance & Data Analytics personnel operating budget account for the purpose of providing funding for a Management Analyst position dedicated to data analysis of programs within Buildings & Inspections; AUTHORIZING the appropriation of the sum of $25,000 from the unappropriated surplus of the General Fund 050 to the Office of Environment & Sustainability’s non-personnel operating budget account for the purpose of funding an aggregation consultant; and AUTHORIZING the appropriation of $45,000 from the unappropriated surplus of the General Fund 050 to the Law Department’s non-personnel operating budget account for the purpose of funding legal expenses related to the Cincinnati Solar Array project.

WHEREAS, the Cincinnati Health Department has non-personnel expenditure needs related to the primary health care centers and school-based health centers which can be offset by personnel savings due to vacant positions; and

WHEREAS, the Department of Finance has non-personnel expenditure needs related to contractual services necessary for the completion of the Comprehensive Annual Financial Report which can be offset by personnel savings due to vacant positions; and

WHEREAS, the Department of Buildings & Inspections ("B&I") has non-personnel savings in contractual services that can be transferred to the Office of Performance & Data Analytics to fund a Management Analyst position that will be dedicated to analyzing data for B&I programs; and

WHEREAS, the City received $70,000 from Hecate Energy LLC related to the Cincinnati Solar Array project which was deposited into the General Fund causing an increase to the unappropriated surplus; and

WHEREAS, the Office of Environment & Sustainability has a $25,000 need for an electricity aggregation consultant; and
WHEREAS, the Law Department has a $45,000 need for legal expenses related to the Cincinnati Solar Array project; now therefore,

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

Section 1. That the sum of $1,326,535 is hereby transferred within the Community Health Center Activities Fund 395 from various Cincinnati Health Department personnel operating budget accounts to various non-personnel operating budget accounts, according to the attached Schedule of Transfer, for the purpose of realigning resources needed for primary care health centers and school-based health centers.

Section 2. That the sum of $52,000 is hereby transferred within the General Fund appropriations from various Department of Finance personnel operating budget accounts to various non-personnel operating budget accounts, according to the attached Schedule of Transfer, for the purpose of realigning resources needed for the completion of the FY 2019 Comprehensive Annual Financial Report.

Section 3. That the sum of $50,000 is hereby transferred within the General Fund appropriations from the Department of Buildings & Inspections ("B&I") non-personnel operating budget account to the City Manager's Office – Office of Performance & Data Analytics personnel operating budget account, according to the attached Schedule of Transfer, for the purpose of providing resources for a Management Analyst devoted to analysis of B&I programs.

Section 4. That the sum of $25,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the City Manager's Office – Office of Environment & Sustainability's non-personnel operating budget account, according to the attached Schedule of Transfer, for the purpose of providing resources for an electricity aggregation consultant.

Section 5. That the sum of $45,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Law Department’s non-personnel operating budget account, according
to the attached Schedule of Transfer, for the purpose of providing resources for legal expenses related to the Cincinnati Solar Array project.

Section 6. That the proper City officials are hereby authorized to do all things necessary and proper to implement the provisions of Sections 1 to 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 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accomplish the authorized transfers and appropriations so that funding is in place to continue to provide necessary services through Fiscal Year 2020.

Passed: __________________________, 2019

____________________________________
John Cranley, Mayor

Attest: ______________________________
Clerk
# Schedule of Transfer

**FY 2020 Mid-Year Adjustment Ordinance**

**Fund 050 General Fund**

## Transfers within Appropriations

<table>
<thead>
<tr>
<th>Source Accounts</th>
<th>Fund</th>
<th>Agency</th>
<th>Appropriation Unit</th>
<th>$ Amount</th>
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<tbody>
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**Total Fund 050 Reductions** 172,000

## Supplemental Appropriations

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**Total Fund 050 Increases** 172,000

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**Fund 395 Community Health Center Activities**

## Transfers within Appropriations

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<th>Agency</th>
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**Total Fund 395 Reductions** 1,326,535

## Supplemental Appropriations

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<th>Agency</th>
<th>Appropriation Unit</th>
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</table>

**Total Fund 395 Increases** 1,326,535
November 20, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: Emergency Ordinance – Amending Ordinance No. 0208-2019

Attached is an Emergency Ordinance captioned:

**AMENDING** Ordinance 0208-2019 for the purpose of accounting for a reduction of revenue to the City in the amount of $800,000 from the State of Ohio local government fund as part of the Mayor’s FY 2020 General Fund Operating Budget.

This Emergency Ordinance amends Ordinance No. 0208-2019 which utilized $1.9 million of estimated local government fund revenue from the State of Ohio to support leveraged support programming as part of the Mayor's FY 2020 General Fund Operating Budget. While additional local government fund revenue from the State of Ohio in FY 2020 was estimated to be $1.9 million, actual receipts for FY 2020 will be $1.1 million leaving a shortfall of $800,000. This amendment would address the $800,000 shortfall with an increase to the City’s income from Treasury investments which was not realized until after the FY 2020 Operating Budget was passed. There are no changes to the appropriations; nor are there any changes to the leveraged support programs or the positions funded in the original Ordinance.

The reason for the emergency is the immediate need to implement the amended revenue source as part of the FY 2020 Approved General Fund Operating Budget.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager

Karen Alder, Finance Director

Attachment
AMENDING Ordinance 0208-2019 for the purpose of accounting for a reduction of revenue to the City in the amount of $800,000 from the State of Ohio local government fund as part of the Mayor’s FY 2020 General Fund Operating Budget.

WHEREAS, City Council approved Ordinance 0208-2019 in June 2019 for the purpose of transferring and appropriating $1,900,000 estimated to be received from the State of Ohio local government fund as part of the Mayor’s FY 2020 General Fund Operating Budget; and

WHEREAS, after Ordinance 0208-2019 was approved, the City Administration was advised that the actual revenue from the local government fund would be $1,100,000, which is $800,000 less than anticipated; and

WHEREAS, City Administration has identified additional income from the City’s Treasury investments which was not realized until after the FY 2020 Operating Budget was passed, such that $800,000 from said investments will be used to replace the $800,000 shortfall from the local government fund revenue; and

WHEREAS, while the funding authorizations enacted by Ordinance 0208-2019 were contingent on receipt of the full $1,900,000 from the local government fund from the State of Ohio, the additional revenue from the City’s Treasury investments means the funding authorization does not have to be rescinded; and

WHEREAS, it is not necessary to change the appropriations implemented by Ordinance 0208-2019, nor to the leveraged support programs or the positions funded in Ordinance 0208-2019; now, therefore,

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

Section 1. That Section 1 of Ordinance No. 0208-2019, passed by City Council on June 19, 2019, is hereby amended as follows:

Section 1. That the transfer and appropriation of $1,750,000, of which $950,000 is additional local government fund revenue the City anticipates receiving from the State of Ohio in FY 2020 and $800,000 is additional City Treasury investment revenue, from the unappropriated surplus of the General Fund to various personnel and non-personnel accounts according to the attached Schedule of Appropriation, is hereby authorized for the
purpose of implementing the Mayor’s FY 2020 General Fund Operating Budget to provide funding for leveraged support programs and positions according to the attached Exhibit A and Exhibit B and to restore one full-time equivalent position in the City Manager's Office.

Section 2. That Section 2 of Ordinance No. 0208-2019, passed by City Council on June 19, 2019, providing that the funding authorized by said Ordinance would be rescinded if the full $1,900,000 from the State of Ohio local government fund was not received, is hereby repealed.

Section 3. All terms of Ordinance No. 0208-2019 not expressly amended by this ordinance remain in full force and effect.

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

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of 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 implement the amended a revenue source as part of the FY 2020 Approved General Fund Operating Budget.

Passed: ___________________________, 2019

______________________________
John Cranley, Mayor

Attest: ___________________________
Clerk

Deletions are struck through. Additions are underlined.
City of Cincinnati

December 2, 2019

To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager

Subject: CRA TAX EXEMPTION AGREEMENT – 313 WEST FIFTH STREET 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 313 West 5th LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 313 West Fifth Street and 310 Perry Street in the Central Business District of Cincinnati, in connection with the remodeling of two existing buildings into seventeen residential units and approximately 1,000 square feet of commercial space, at a total construction cost of approximately $1,359,492.

Background

313 West Fifth Street, LLC, an affiliate of Kunst Development, proposes a complete rehabilitation of the historic building located at 313 W. Fifth Street and 310 Perry Street within the West Fourth Street Historic District of Downtown. The building is currently uninhabitable, lacking any working safe mechanical systems.

Development Entity

313 West Fifth Street, LLC is an affiliate of Kunst Development, who has renovated historic buildings throughout Over-the-Rhine for the last five years including projects completed at 1667 Hamer, 205 and 207 W. McMicken Street. Kunst is also currently renovating the historic buildings at 1725 and 1733 Elm Street.

Project Description

The developer plans to renovate the property into 17 residential apartments units and 1,000 square feet of commercial space, which the developer anticipates filling with a restaurant or café tenant. The property will receive all new mechanical systems, including new electric, plumbing, water, and HVAC. Monthly residential rents will range from $700 for a studio unit to $1,250 for a two-bedroom unit. Total development cost is estimated to be $1,774,575.

The project will support the creation of 12 FTEs and 25 temporary construction jobs with annual payrolls of $464,000 and $1,125,000, respectively. During the term of the
exemption, the City will realize $3.92 in new income taxes for every $1 of real estate taxes foregone by the City.¹

This project represents Plan Cincinnati’s “Vision to Compete” by making a targeted investment, and its “Vision of Live” to support and stabilize our neighborhoods.

**Proposed Incentive**

The Ordinance provides for a net 60%, 12-year CRA tax exemption. The exemption applies only to the increase in value 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 project has demonstrated a financial need for the proposed terms due to substantial stabilization and renovation costs associated with saving these historic buildings.

| SUMMARY |
|------------------------|------------------------|
| **Incentive Value**    |                        |
| Annual Net Abatement (Savings to Developer) | $17,696 |
| Total Term Net Abatement (Savings to Developer) | $212,353 |
| City's Portion of Property Taxes Forgone | $38,825 |
| **Public Benefit**     |                        |
| CPS PILOT              |                        |
| Annual CPS Pilot       | $7,373 |
| Total Term CPS PILOT   | $88,480 |
| VTICA                  |                        |
| Annual VTICA           | $4,424 |
| Total Term VTICA PILOT | $53,088 |
| Income Tax (Max)       | $152,366 |
| New Permanent Jobs     | 12 |
| **Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)** | $293,934 |
| Total Public Benefit ROI | $1.38 |
| City's ROI             | $7.57 |

**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 photos

**Copy:** Philip M. Denning, Director, Department of Community & Economic Development

¹ Assumes no increase in real estate value or payroll over the life of the exemption.
EMERGENCY
City of Cincinnati
An Ordinance No. 2019

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 313 West 5th LLC thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 313 West Fifth Street and 310 Perry Street in the Central Business District of Cincinnati, in connection with the remodeling of two existing buildings into seventeen residential units and approximately 1,000 square feet of commercial space, at a total construction cost of approximately $1,359,492.

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 Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, 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, 313 West 5th LLC (the “Company”) desires to remodel two existing buildings into seventeen residential units and approximately 1,000 square feet of commercial space on real property at 313 West Fifth Street and 310 Perry 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 City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as 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 25% 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 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 313 West 5th LLC (the “Agreement”), thereby authorizing a 12-year tax exemption for 100% of the assessed value of improvements made to real property located at 313 West Fifth Street and 310 Perry Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of two existing buildings into seventeen residential units and approximately 1,000 square feet of commercial space, to be completed at a total construction cost of approximately $1,359,492.

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 City School District of the City of Cincinnati, 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: __________________________, 2019

_______________________________
John Cranley, Mayor

Attest: _________________________
Clerk
Exhibit 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 313 WEST 5TH 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, dated September 27, 2017 (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 313 West Fifth Street and 310 Perry 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 two existing buildings 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

{00301522-2}
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 School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), 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 twenty-five percent (25%) 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 aforementioned 15% VTICA Contribution each year for the full term of the abatement.
R. This Agreement has been authorized by Ordinance No. _____-2019, passed by Cincinnati City Council on ______________, 2019.

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 two existing buildings on the Property into seventeen residential units and approximately 1,000 square feet of commercial space (the "Improvements") at an estimated aggregate cost of one million three hundred fifty-nine thousand four hundred ninety-two dollars ($1,359,492) to commence after the execution of this Agreement and to be completed no later than January 1, 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 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 twelve (12) 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 2035 or (ii) the end of the twelfth (12th) year of exemption.

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

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

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

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

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

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

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

Section 11. Small Business Enterprise Program. A.

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

   (i) Including qualified SBES on solicitation lists.

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

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

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

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

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

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

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 12 full-time permanent jobs, (ii) 25 full-time temporary construction jobs, (iii) 0 part-time permanent jobs, and (iv) 0 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.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) $464,000 of additional annual payroll with respect to the full-time permanent jobs, (ii) $1,125,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs, (iii) $0 of additional annual payroll with respect to the part-time permanent jobs, and (iv) $0 of additional annual payroll prior to the completion of the Project with respect to the part-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:

313 WEST 5TH LLC  
Attention: John Blatchford  
207 W. McMicken Avenue  
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.

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: ____________________________  
    Patrick A. Duhaney, City Manager  
Date: ________________, 2019

313 WEST 5TH LLC,  
an Ohio limited liability company

By: ____________________________  
    Printed Name: ____________________  
    Title: ____________________________  
Date: ________________, 2019  
Authorized by resolution dated __________

Recommended by:

______________________________  
Philip M. Denning, Director  
Department of Community and Economic Development

Approved by:

______________________________  
Markiea Carter, Director  
Department of Economic Inclusion

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 I
Address: 313 W FIFTH ST
Parcel ID: 145-0001-0008-00

Situate in the City of Cincinnati, Hamilton County, Ohio, and being part of Inlot 367, to-wit:

Beginning at a point on the south side of Fifth Street which is 133 feet 5-1/2 inches westwardly from the intersection of Fifth Street and Plum Street; thence easterly along the south line of Fifth Street, 37 feet 5-1/2 inches to a point; thence extending backward from said two points between parallel lines at right angles to Fifth Street, southwardly 89 feet.

ST

Hamilton County Auditor's Parcel: 145-0001-0008-00
Address: 313-315 West Fifth Street, Cincinnati, OH 45202

Parcel II
Address: 310 PERRY ST
Parcel ID: 145-0001-0024-00

Situate in the City of Cincinnati, County of Hamilton and State of Ohio, being part of Inlot Number 366 on the general plan of the City of Cincinnati commencing 133 feet 5-1/2 inches from the northwest corner of Plum Street and Perry Street, on the north side of Perry Street; thence running easterly with the north line of Perry Street, 33 feet; thence northwardly on a line parallel with Plum Street, 90 feet more or less to the south line of Powell's lot; thence westwardly on a line parallel with Perry Street, 33 feet; thence southwardly on a line parallel with Plum Street, 90 feet, more or less to the place of beginning.

Said premises being also known as 315 West Fifth Street, Cincinnati, Ohio.

ST

Hamilton County Auditor's Parcel: 145-0001-0024-00
Address: 313-315 West Fifth Street, Cincinnati, OH 45202 / 310 Perry Street
Exhibit B to CRA Agreement

APPLICATION FOR TAX EXEMPTION

[TO BE ATTACHED TO EXECUTION VERSION]
City of Cincinnati

December 2, 2019

To: Mayor and Members of City Council

From: Patrick A. Duhaney, City Manager

Subject: EMERGENCY ORDINANCE – PUBLIC PURPOSE AND EXEMPTION FROM REAL PROPERTY TAXATION – SHILLITOS WEST

Attached is an Emergency Ordinance captioned as follows:

DECLARING improvements to certain real property located at 137 West Seventh Street in Cincinnati’s Central Business District 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 and requiring the payment of service payments in lieu of taxes by owner or owners of such real property.

Background
The Department of Community and Economic Development is working in partnership with Neyer Properties to redevelop the City-owned Shillitos West property within the TIF Exemption Area, as shown in Attachment A.

Current Status of Property
The TIF Exemption Area is located at 137 W. 7th street. The property is currently vacant.

Project Description
This Emergency Ordinance will establish a TIF Exemption Area under O.R.C 5709.41.

The details of the Project and the City’s intended financial or incentive contribution will be formalized in a forthcoming Development Agreement. Until that time, no City resources will be committed to the Project.

Recommendation
The Administration recommends approval of this Emergency Ordinance.

The reason for the emergency clause is the immediate need to declare the improvements to parcels within the TIF Exemption Area to be a public purpose and exempt from real property taxation to enable construction of improvements to commence at the earliest possible time and improve the welfare of the people of the City of Cincinnati.
Attachment: A. Property Location & TIF Exemption Area

Copy: Philip M. Denning, Director, Department of Community & Economic Development
Attachment A: Property Location & TIF Exemption Area
DECLARING improvements to certain real property located at 137 West Seventh Street in Cincinnati’s Central Business District 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 and requiring the payment of service payments in lieu of taxes by the owner or owners of such real property.

WHEREAS, Council adopted Plan Cincinnati (2012), pursuant to Ordinance No. 441-2012 passed on November 21, 2012, as a comprehensive city-wide master plan to guide urban redevelopment of the City of Cincinnati ("Plan Cincinnati");

WHEREAS, in order to 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 to enhance the availability of adequate housing, consistent with Section 16 of Article VIII of the Ohio Constitution, the City of Cincinnati is engaged in urban redevelopment;

WHEREAS, in furtherance of such urban redevelopment and pursuant to Article XVIII, Section 3 of the Ohio Constitution; the Charter and ordinances of the City; and Plan Cincinnati, the City of Cincinnati acquired fee title to the real property located at 137 West Seventh Street, Cincinnati, Ohio 45202, as such real property is further described in Attachment A to this ordinance (the “Property”), and the City intends to lease or convey the fee of the Property to a third party for redevelopment activities after adoption of this ordinance; and

WHEREAS, Ohio Revised Code Sections 5709.41, 5709.42, and 5709.43 provide that Council may, in furtherance of its urban 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 or parcels 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 or parcels; 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 urban redevelopment activities, and in the best interests of the City, to provide for exemption of the Improvement to the Property from real property taxation and require the payment of semiannual service payments in lieu of taxes with respect to the Property, pursuant to Ohio Revised Code Sections 5709.41 to 5709.43; and
WHEREAS, the Property is located within the boundaries of Tax Increment Financing District 3, known as the "District 3-Downtown OTR West District Incentive District"; 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 the Improvement (as defined in Ohio Revised Code Section 5709.41) to the real property located at 137 West Seventh Street, Cincinnati, Ohio 45202, as further described on Attachment A to this ordinance (the "Property"), is a public purpose and is 100% 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 to 5709.43 inclusive.

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 to that portion of the Property.

Section 3. That any and all Service Payments received by the City in connection with the Property shall be deposited into Fund No. 763, Urban Redevelopment Tax Increment Equivalent Fund II, established by Ordinance No. 217-2015.

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 used in accordance with Ordinance No. 217-2015.
Section 5. That Council hereby authorizes the City Manager 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 hereby confirms that the obligation of the owner or owners of the Property to pay Service Payments is a covenant running with the land.

Section 7. That the proper City officials are hereby authorized to take all necessary and appropriate actions to fulfill the terms of this ordinance, 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 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 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 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 urban redevelopment activities on the Property to commence at the
earliest possible time, as to improve the economic welfare of the people of the City of Cincinnati.

Passed: __________________________, 2019

________________________________________
John Cranley, Mayor

Attest: _________________________________
Clerk
Attachment A

Legal Description

[ATTACHED]
Address: 137 Seventh Street, Cincinnati, Ohio 45202
Auditor Parcel ID: 145-0002-0240-00

Sitatue in the City of Cincinnati, County of Hamilton, State of Ohio, and being more particularly described as follows:

Beginning at the intersection of the southerly line of Seventh Street (a 66 foot street) and the easterly line of Elm Street (a 66 foot street) thence, with the southerly line of Seventh Street, measure North 81° 03' 10" East a distance of 127.15 feet to a point; thence, leaving the southerly line of Seventh Street, measure South 9° 07' 56" East a distance of 176.54 feet to a point; thence measure North 81° 04' 30" East a distance of 28.67 feet to a point, said point being in the northerly line of Shillito Place and the westerly line of Rusconi Place; thence, with the westerly line of Rusconi Place (a 38.19 foot street), measure South 8° 55' 30" East a distance of 120.14 feet to a spike in the northerly line of Morand Alley (a 10 foot street); thence, with the northerly line of Morand Alley, measure South 81° 04' 30" West a distance of 156.00 feet to a spike in the easterly line of Elm Street (a 66 foot street); thence, with the easterly line of Elm Street, measure North 8° 56' 00" West a distance of 120.14 feet to an angle point; thence, continuing with the easterly line of Elm Street, measure North 9° 04' 00" West a distance of 176.50 feet to a point in the southerly line of Seventh Street and the Place of Beginning for this description.

The above described Tract "B" contains 41,204.74 square feet (0.946 acres) more or less and is subject to all legal highways and the following 15 foot wide easement for maintenance:

Beginning at the northeasterly corner of the above described Tract "B", measure South 9° 07' 56" East a distance of 176.54 feet to a point; thence measure North 81° 04' 30" East a distance of 28.67 feet to a point; thence measure South 8° 55' 30" East a distance of 15.00 feet to a point; thence measure South 81° 04' 30" West a distance of 43.61 feet to a point; thence measure North 9° 07' 56" West a distance of 191.54 feet to a point; thence measure North 81° 03' 10" East a distance of 15.00 feet to a point and the Place of Beginning for this description.
TO: Members of Budget and Finance Committee
FROM: Patrick A. Duhaney, City Manager
SUBJECT: Report - Department of Public Services Staffing Impact

REFERENCE DOCUMENT #201901642

The Budget and Finance Committee at its session on November 12, 2019 referred the following motion for a report:

"WE MOVE that the Administration provide a report on Public Services staffing levels.

Included in the report, please provide the following:
• Historical staffing levels over a 10 year period
• How may FTEs are needed for Public Services to deliver optimal levels of Basic Services?
• Cost for additional staffing to meet optimal level
• Potential sources for funding additional staffing levels"

This report will provide the staffing history since FY 2008 within the Department of Public Services (DPS), and the cost and impact of hiring additional FTEs for optimal levels of basic services with funding options.

History of Staffing in DPS

The chart below shows the summary of the historical staffing levels for DPS since FY 2008:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>FTE Total*</th>
<th>Fiscal Year</th>
<th>FTE Total*</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2008</td>
<td>535.75</td>
<td>FY 2015</td>
<td>399.00</td>
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<td>FY 2009</td>
<td>506.75</td>
<td>FY 2016</td>
<td>407.00</td>
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<td>FY 2010</td>
<td>455.50</td>
<td>FY 2017</td>
<td>412.00</td>
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<tr>
<td>FY 2012</td>
<td>397.50</td>
<td>FY 2019</td>
<td>425.00</td>
</tr>
<tr>
<td>FY 2013</td>
<td>405.00</td>
<td>FY 2020</td>
<td>444.00</td>
</tr>
<tr>
<td>FY 2014</td>
<td>402.00</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*FTE Total does not include employees assigned to the Traffic Services Bureau (TSB) which was moved to the Department of Transportation & Engineering (DOTe) during FY 2020.
Staffing within DPS since FY 2008 has decreased by an overall total of 91.75 FTE.

In FY 2009, positions were eliminated due to service reductions in the Department which included the elimination of the Private Lot Abatement Program (PLAP), and reductions to the White Goods program, the Neighborhood Right-of-Way Cleaning program, and the Central Business District (CBD) Cleaning program.

In FY 2010, various positions were eliminated in the Department of Public Services. The majority of these position eliminations were the result of reductions to the Neighborhood Right-of-Way Cleaning program (corner can service reductions), the Dumpster program, and reductions in the Customer Service Center.

In FY 2011, the Yard Waste Collection program was eliminated in addition to service reductions for greenspace maintenance and reduced hours for the Dumpster program. As such, positions were eliminated in the Department as part of these cost-savings measures.

In FY 2012, positions were eliminated in the Solid Waste Collections program in the Neighborhood Operations Division (NOD) due to route optimization procedures which projected a reduction in necessary labor.

A net increase in the FY 2013 Stub Budget was due to the restoration of the Yard Waste Collection program.

In FY 2014, a net decrease in positions is due to more reductions in the Solid Waste Collections program from both further route optimization and the implementation of fully automated trash trucks reducing the need for two-person truck teams.

A net reduction of positions occurred in FY 2015 as a result of position eliminations in the Right-of-Way Maintenance program in order to meet budget reduction targets.

A net increase of positions occurred in FY 2016 due to the transfer of the Private Lot Abatement Program (PLAP) from the Health Department to DPS.

In FY 2017, DPS experienced a net increase in positions due to the expansion of the Street Sweeping program (funded by the Stormwater Management Fund).

There were no substantive FTE changes made in DPS in FY 2018.

Significant FTE increases occurred in both FY 2019 and FY 2020. In FY 2019, the creation of four new litter pickup crews funded by the Stormwater Management Fund accounted for the 15.0 FTE increase.

In FY 2020, an additional 19.0 FTEs were added to the DPS budget. Of that amount, 12.0 additional FTEs were budgeted as part of service enhancements designed to allow DPS to maintain local roadways with greater speed and efficiency. These enhancements were funded by a $5.00 per motor vehicle license tax increase. These increases were funded in both the Municipal Motor Vehicle License Tax Fund and the Street Construction, Maintenance and Repair Fund. An
additional 5.0 FTEs were added to the DPS budget for additional litter pickup crews funded by the Stormwater Management Fund. DPS also added a Fleet Services Manager position.

Impact of Additional Staff in DPS

The Department of Public Services has provided a prioritized list of additional staffing based on their functional areas of service. Because the Department is often in a reactionary mode addressing issues that arise and become pressing on any given day, the Department has a continual backlog of work that needs to be completed, including regular maintenance activities. Additional staffing would be required across all three Divisions within DPS: City Facilities Management (CFM), the Neighborhood Operations Division (NOD), and the Transportation and Road Operations Division (TROD).

1) **Collections – 13.0 FTEs Additional Staffing**

For optimal service in NOD, the Solid Waste Curbside Collections program would benefit from six additional Sanitation Specialists, six additional Sanitation Helpers, and one additional Administrative Specialist. On an annual basis, these additional thirteen positions would have a budgetary impact of $897k.

2) **Greenspace Maintenance**

Greenspace maintenance activities are conducted within NOD. For optimal service levels, DPS estimates that twelve additional Laborers, eight additional Truck Drivers, two additional Service Crew Leaders, and one additional Service Area Coordinator are needed. On an annual basis, these additional twenty-three positions would have a budgetary impact of $1.5 million.

3) **Roadway Pavement General Repair and Maintenance**

Within TROD, the general repair of roadway pavement (including potholes) would be enhanced with an additional Motor Equipment Operator, four additional Truck Drivers, two additional Laborers, and eight additional Service Crew Leaders. On an annual basis, these additional fifteen positions would have a budgetary impact of $1.0 million.

4) **Information Technology Services**

In order to provide support for the additional activities and staff, DPS estimates that two Computer Systems Analysts would be required to support the Maximo work order system and other Oracle databases. On an annual basis, these additional two positions would have a budgetary impact of $288k.

5) **Roadway Structure Repairs and Maintenance (Guardrails/Attenuators)**

Within TROD, the repair and maintenance of roadway structures (guardrails and attenuators) would be enhanced with two additional Electrical Maintenance Workers. On an annual basis, these additional two positions would have a budgetary impact of $166k.

6) **Roadway Hard Surface Repairs (Curbs)**

Within TROD, repairs to hard surfaces related to roadway maintenance (curbs) would be enhanced with an additional Laborer and an additional Cement Finisher. On an annual basis, these additional two positions would have a budgetary impact of $142k.
7) Administrative/Supervisory – 3.0 FTEs Additional Staffing
With additional staffing across all Divisions within DPS, additional supervisory staff will be required to oversee the additional work being performed. DPS estimates that three Assistant Superintendents would be required, one each in CFM, NOD, and TROD. On an annual basis, these additional three positions would have a budgetary impact of $377k.

8) Call Center
In order to handle an increasing volume of calls related to service requests, DPS estimates that three Senior Customer Service Representatives are needed in the Department’s Call Center. On an annual basis, these additional three positions would have a budgetary impact of $214k.

FY 2020 and FY 2021 Budget Impact of Adding Positions

The cost of adding 63 positions would have an annual impact of $4.6 million starting in FY 2021. There may be some reimbursable work performed by the additional positions, but it is unknown as to the quantity of work that would be eligible for reimbursement in any given year. Therefore, the cost shown above is the total cost of the positions due to the uncertainty of reimbursements.

Please keep in mind that these costs only reflect the personnel and benefits costs related to the 63 additional positions. Additional non-personnel costs for fleet expenses, supplies, and materials will be required to complete the work assigned to the additional personnel. Further research will be done to gather an estimate.

The FY 2020 Budget projects a General Fund deficit of $7.1 million for FY 2021. While revenue has increased during FY 2020, expenditures have also increased resulting in a projected budget deficit in FY 2021. The Tentative Tax Budget (TTB) will be submitted to the City Council in December and the document will detail the projected deficit. The FY 2021 Budget Update process will then commence with the FY 2021 Recommended Budget Update being delivered to the Mayor in early May. Any additional expense added in FY 2020 that continues into FY 2021 will result in a larger deficit to close through the combination of revenue increases and expenditure reductions.

Public Services also relies on several restricted funds which have also seen revenue increases. As the FY 2021 Budget Update is developed, additional positions may be eligible to be budgeted in the various restricted funds. It is difficult to project mid-year, but there will be an updated estimate presented as part of the FY 2021 budget process.

The FY 2021 budget process also allows the Administration to weigh the needs of all departments to strategically add or reduce staff, so the structurally balanced budget reflects the best use of General Fund dollars.

cc: Christopher A. Bigham, Assistant City Manager
    Jerry Wilkerson, Public Services Director
City of Cincinnati

December 2, 2019

To: Members of the Budget and Finance Committee

From: Patrick A. Duhaney, City Manager

Subject: Emergency Ordinance – Authorizing the Implementation of the CODE Labor Management Agreement

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to execute and implement the labor management agreement between the City of Cincinnati and Cincinnati Organized and Dedicated Employees Inc., the updated terms of which are reflected in the summary attached hereto.

This agreement provides the employees with a 2.0% wage increase (effective March 24, 2019) in this year of the contract, a 2.0% wage increase (effective March 22, 2020) for the second year of the contract, and a 2.0% wage increase (effective March 21, 2021) for the third year of the contract. All CODE employees will be eligible to purchase up to 80 hours of vacation time and eligible CODE employees will be able to convert up to 80 hours of unused sick leave to 53 hours of cash. Eligible CODE employees shall have Holidays counted toward the 40-hour Overtime eligibility threshold. Shift Differential will be increased to $0.80 for CODE employees assigned to second shift and $0.95 for CODE employees assigned to third shift. Eligible CODE employees will receive an automatic salary step-up if their performance review is untimely. CODE employees will be eligible to receive a pensionable lump sum payment of $350 upon ratification of the 2019-2022 Labor Management Agreement, effective the Pay Period beginning on March 22, 2020, and effective the Pay Period beginning March 21, 2021. Employees will have their monthly health insurance premium cap of $70 for a single plan increased to $85 per month, and the $150 cap for family plan increased to $200 per month. The parties agreed to additional operational and language changes. A summary of the agreement is attached hereto.

The Administration recommends approval of this Emergency Ordinance.

cc: William M. Brown, Human Resources Director
EMERGENCY

City of Cincinnati

An Ordinance No. ______________ - 2019

AUTHORIZING the City Manager to execute and implement the labor management agreement between the City of Cincinnati and Cincinnati Organized and Dedicated Employees, Inc., the updated terms of which are reflected in the summary attached hereto.

WHEREAS, the current labor management agreement ("Agreement") between the City of Cincinnati and the Cincinnati Organized and Dedicated Employees, Inc. ("CODE") expired on March 23, 2019; and

WHEREAS, the City and CODE, through their respective negotiating teams, have reached tentative agreement on the terms of a successor Agreement, the updated terms of which are reflected in the summary attached hereto; and

WHEREAS, the tentative Agreement has a duration of three years beginning on March 24, 2019, and expiring on March 21, 2022; and

WHEREAS, all employees in the CODE bargaining unit ("CODE employees") will receive a 2.0% increase to their base wage effective March 24, 2019, a 2.0% increase to their base wage effective March 22, 2020, and a 2.0% increase to their base wage effective March 21, 2021; and

WHEREAS, all CODE employees will be eligible to purchase up to 80 hours per year of vacation time; and

WHEREAS, all CODE employees will be eligible to cash out up to 80 hours per year of unused sick leave for 53 hours paid; and

WHEREAS, all CODE employees eligible to earn overtime shall have holidays counted toward the 40-hour overtime eligibility threshold; and

WHEREAS, the Shift Differential will be increased to $0.80 per hour for CODE employees working on second shift and $0.95 per hour for CODE employees working on third shift; and

WHEREAS, CODE employees will receive an automatic salary step-up if their performance review is untimely; and

WHEREAS, CODE employees will be eligible to receive three pensionable lump sum payments of $350, the first made available upon ratification of the Agreement, with the others effective in pay periods beginning March 22, 2020, and March 21, 2021; and
WHEREAS, CODE employees' medical insurance premium caps will increase from $70 per month to $85 per month for a single plan, and from $150 per month to $200 per month for a family plan; and

WHEREAS, the terms and conditions of the successor Agreement as agreed to by the parties represent fair and equitable gains for both parties; and

WHEREAS, the membership of the CODE bargaining unit ratified the terms of the negotiated labor management agreement on November 26, 2019; 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 and implement the labor management agreement between the City of Cincinnati and the Cincinnati Organized and Dedicated Employees, Inc., the updated terms of which are reflected in the summary attached hereto.

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 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 implement a successor labor management agreement between the City and the Cincinnati Organized and Dedicated Employees, Inc., to replace the agreement which expired on March 23, 2019.

Passed: _____________________________, 2019

__________________________________
John Cranley, Mayor

Attest:______________________________
Clerk
ATTACHMENT A
Summary of Tentative Agreement with CODE

Article 4: CODE Representation
- Subtracted 100 hours from CODE's 2019-2020 Chargeable Union Time
- Updated CODE Union time rate to $36.13

Article 10: Layoff/Recall
- Struck conflict with AFSCME contract

Article 11: Vacation
- Added language for payment upon death to be credited within 60 days to designated beneficiary
- Increased maximum vacation purchase to 80 hours

Article 13: Sick Leave
- Changed cash-out rate from 60 hours for 40 hours paid to cash-out rate 80 hours for 53 hours paid

Article 15: Hours of Work & Overtime
- Added holidays to count towards overtime threshold (reference Article 12.1)

Article 16: Wages and Compensation
- 2% effective in the first year of the contract (March 24, 2019)
- 2% effective in the second year of the contract (March 22, 2020)
- 2% effective in the third year of the contract (March 21, 2021)
- Added language to include an automatic step up if the employee review is untimely
- Added pensionable lump-sum payments
  - $350 upon ratification of Agreement
  - $350 effective beginning pay period March 22, 2020
  - $350 effective beginning pay period March 21, 2021
- Increased Shift Differential for second shift to $0.80
- Increased Shift Differential for third shift to $0.95
**Article 17: Insurance**

- Increased caps on employee monthly premium share from $70/month to $85/month for a single plan, and from $150/month to $200/month for a family plan

**Article 18: General Provisions**

- Changed “Rule of 10” to Rule of 15

**Article 22: Length of Agreement**

- 3-year agreement (March 24, 2019 – March 19, 2022)

**Miscellaneous**

- Made additional housekeeping updates, with the balance of the contract language remaining unchanged
To: Members of the Budget and Finance Committee

From: Patrick A. Duhaney, City Manager

Subject: Emergency Ordinance – Authorizing the Implementation of the AFSCME Municipal Workers Labor Management Agreement

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to execute and implement the labor management agreement between the American Federation of State, County and Municipal Employees, Local 250, representing all Municipal Workers of the City of Cincinnati in the Public Service Department, Recreation Department, and Parking Facilities Division, and the City of Cincinnati, the updated terms of which are reflected in the summary attached hereto.

This agreement provides the employees with a wage increase to $15.00 per hour, effective upon ratification of the contract, to $15.30 (effective August 9, 2020) for the second year of the contract, and to $15.60 (effective August 8, 2021) for the third year of the contract. The parties agreed to additional operational and language changes. A summary of the agreement is attached hereto.

The Administration recommends approval of this Emergency Ordinance.

cc: William M. Brown, Human Resources Director

December 2, 2019
EMERGENCY
City of Cincinnati
An Ordinance No. _________ - 2019

AUTHORIZING the City Manager to execute and implement the labor management agreement between the American Federation of State, County and Municipal Employees, Local 250, representing all Municipal Workers of the City of Cincinnati in the Public Service Department, Recreation Department, and Parking Facilities Division, and the City of Cincinnati, the updated terms of which are reflected in the summary attached hereto.

WHEREAS, the current labor management agreement ("Agreement") between the American Federation of State, County and Municipal Employees, Local 250, representing all Municipal Workers of the City of Cincinnati in the Public Service Department, Recreation Department, and Parking Facilities Division ("AFSCME") and the City of Cincinnati ("City") expired on August 10, 2019; and

WHEREAS, the City and AFSCME, through their respective negotiating teams, have reached tentative agreement on the terms of a successor agreement ("Successor Agreement"), the updated terms of which are reflected in the summary attached hereto; and

WHEREAS, the Successor Agreement has a duration of three years beginning on August 11, 2019, and expiring on August 6, 2022; and

WHEREAS, all Municipal Workers in the AFSCME bargaining unit will receive an hourly wage of $15.00, effective upon ratification by both parties, an hourly wage of $15.30, effective August 9, 2020, and an hourly wage of $15.60, effective August 8, 2021; and

WHEREAS, the terms and conditions of the Successor Agreement represent fair and equitable gains for both parties; and

WHEREAS, the membership of the American Federation of State, County and Municipal Employees, Local 250, representing all Municipal Workers of the City of Cincinnati in the Public Service Department, Recreation Department, and Parking Facilities Division ratified the terms of the negotiated labor management agreement on November 25, 2019; 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 and implement the labor management agreement between the American Federation of State, County and Municipal Employees, Local 250, representing all Municipal Workers of the City of Cincinnati in the Public
Service Department, Recreation Department, and Parking Facilities Division and the City of Cincinnati, the updated terms of which are reflected in the summary attached hereto.

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 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 implement a successor labor management agreement between the American Federation of State, County and Municipal Employees, Local 250, representing all Municipal Workers of the City of Cincinnati in the Public Service Department, Recreation Department, and Parking Facilities Division and the City of Cincinnati, to replace the agreement, which expired on August 10, 2019.

Passed: ____________________________, 2019

__________________________________
John Cranley, Mayor

Attest: ____________________________
Clerk
ATTACHMENT A
Summary of Tentative Agreement with
AFSCME Municipal Workers
Local 250

Article 3: Non-Discrimination

- Updated protected classes to reflect Administrative Regulation 25 and Ordinance 0379-2019.

Article 4: Union Dues Deductions

- Updated dues language to reflect compliance with the Supreme Court’s Janus v. AFSCME decision.

Article 9: Probation Seniority and the Filling of Full-Time Vacancies and Promotions

- Added language providing for Recreational Municipal Workers to opt-in to promotional opportunities in the Department of Public Services
- Added language clarifying the application of the seniority list

Article 10: Hours of Work and Overtime

- Added language allowing employees to work in excess of eight hours per day if the operational need exists.

Article 16: Residency

- Removed this article to ensure compliance with O.R.C. 9.481.

Article 18: Wages and General Wage Increases

- $15.00 per hour upon ratification by both parties
- $15.30 per hour effective August 9, 2020
- $15.60 per hour effective August 8, 2021

Article 27: Duration

- Effective August 11, 2019-August 6, 2022

The remaining articles will stay as current contract language.