Nicole L. Crawford
Clerk to the Committee

John Brazina, Director of DOTE
Kelly Carr, Assistant to CM
Drew Marksity, Sr. Asst. Solicitor

PRESENTATIONS

**Flow by Artswave**
Alecia Kintner, President and CEO Artswave

AGENDA

1-202000020  REPORT, dated 1/8/2020, submitted by Patrick A. Duhaney, City Manager, regarding parking citation collections. (SEE DOC. #201901164)

2-202000049  MOTION, submitted by Councilmembers Sittenfeld, Seelbach, Landsman and Mann, WE MOVE that the Clerk of Council begin the process for removal of records held by previous Mayors and Members of Council which are stored in the City's Renaissance Building pursuant to the records retention schedules for the City of Cincinnati. This process will include, but is not limited to, contacting the Ohio Historical Society and the University of Cincinnati for historic interest prior to the removal of this site. (STATEMENT ATTACHED)
To: Mayor and Members of City Council

From: Patrick Duhaney, City Manager

Subject: REPORT – PARKING CITATION COLLECTIONS

Reference Document #201901164

Cincinnati City Council at its session on June 26, 2019 submitted the following related items for report:

MOTION, submitted by Councilmember Landsman, WE MOVE that the Administration produces a report within 60 days on ways in which the City can increase the percentage of people who pay their parking fines. We encourage the Administration to look at best practices in the region, and across the country. The report should include end of year penalty forgiveness programs, which have also, historically, proven to only capture a small percentage of individuals with outstanding fines.

BACKGROUND

The City of Cincinnati has a fair and robust process for issuing and collecting parking citation fines and penalties. All citations are issued in accordance with the Cincinnati Municipal Code and citations written in error are eligible for appeal through the City’s Violation Bureau managed by the Hamilton County Clerk of Courts.

Once a citation is issued, an individual is given 10 days to pay the citation at the original fine amount. After 10 days, if the citation has not been paid, a $10 penalty is added to the citation. If the citation is not paid within 21 days, the original citation fine amount is double.

Citations not paid after 21 days become eligible for submission to the City of Cincinnati’s managed receivable (MR) program currently administered by a third party vendor (Parking Enforcement Services Partner). Once part of the MR program, the collection agency can use all recourse available by law to facilitate the payment of unpaid citations on behalf of the City.

Furthermore, if an individual accumulates three or more unpaid citations or one unpaid handicap violation citation, they become eligible for submission to the State of Ohio’s DETER program (widely used throughout the State of Ohio that creates registration holds). This program blocks individuals from registering a new vehicle or renewing a current registration until all outstanding citations have been paid.
The multiple means of communication and collection action including initial issuance of citations, written notifications of outstanding citations, State of Ohio and/or collection agency notification provide ample notice and encourages prompt payment of citations.

**BEST PRACTICES FOR COLLECTION**

**Managed Receivables (MR) program**
An effective and efficient parking system should have a managed receivables program for its unpaid parking citations. The City of Cincinnati currently has a robust MR program, with automatic and electronic assignment of outstanding parking citations. Unlike some programs that assign past due parking citations periodically or sporadically, Cincinnati’s past due parking citations automatically transfer to a third-party debt collection agency for collection, while simultaneously being available to the City for full payment. The City established its current Managed Receivables program in February 2017 and has collected $1.7 million in past due parking citations.

**Vehicle Registration Holds**
The City of Cincinnati currently participates in the State of Ohio’s Drivers with Excess Tickets Excluding Registration (DETER) program. Drivers with three or more unpaid citations or one or more handicap violation citations are eligible for registration holds from the State of Ohio. This program was established with the decriminalization of the parking infractions and has proven to be effective in collecting past due parking citation debt. Most large cities in Ohio currently participate in the DETER program (Cincinnati, Cleveland, Columbus, Toledo, Akron, et. al.)

**Boot-in-Place Programs**
Some cities currently use a boot-in-place program to incentivize payment of metered-spaces and payment of past due citations. This can either be passive (located during routing patrols or aggressive, using License Plate Recognition (LPR) to search for boot-eligible vehicles). The City of Cincinnati has reviewed this practice and has not established its own program at this time to increase citation payment rates.

**Towing for Unpaid Citations**
Cincinnati does not have a proactive towing program for unpaid citations. Some cities use License Plate Recognition (LPR) to proactive patrol and find tow-eligible vehicles. Towing programs have the added fees for the actual tow and storage on top of the citation costs. The City of Cincinnati may tow for unpaid citations in circumstances where a driver has three or more verified unpaid parking citations. However, tow-eligible vehicles are found via routine patrols and not directed.

**PENALTY FORGIVENESS PROGRAMS**
Numerous cities administer parking ticket amnesty programs and the parameters vary greatly regarding the following:
- What citations are eligible (past years, current, etc.)
- Length of program
- Time of year (some coincide with the period leading up to the end of their fiscal year; some occur around the holiday seasons)
- Frequency of programs (sporadic or regular)

Each municipality develops programs based on the intent of the program, budget impacts and legal considerations. For example, New Orleans’ last amnesty program was intended to “wipe the slate clean” for persons with overdue citations and generate needed current year revenue for the City. Although the long-term impact was a loss of total potential revenue over the long term, the
program was considered a success for the two stated goals. It is critical to note that parking industry experts agree parking amnesty programs must be infrequent and random to deter individuals from holding payment for scheduled or known amnesty periods. Annual or regular amnesty programs discourage payment of past due parking citations. Cincinnati's Parking Division receives regular calls from persons with past due parking citations asking when the next amnesty period will be, we assume such inquiries are used to determine a delay of past due payments.

The information provided in the Parking Amnesty Program FYI to Council (item 3907) shows the potential financial impact of the program minus any revenue generated from the program (e.g. increased payments on aged citations). Forecasted program revenue is based on the amount of outstanding parking citation debt, eligibility requirements (not setting an expectation of program frequency) and length of program.

CONCLUSIONS
The Administration recommends continued participation in both the City’s managed receivable (MR) program and the State of Ohio’s DETER program.

Council may also be interested in exploring a booting program or a more targeted towing program as additional opportunities for increased revenue. As such measures may incentivize parkers to make more prompt payments for outstanding parking fines and fees and decrease the amount of outstanding parking citation debt owed to the City. If Council chooses to implement a Parking Amnesty Program, the Administration recommends that such parameters include eligibility requirements (such as low-income, license suspension, or applied payments on old traffic tickets) to ensure parking citation revenue is not impacted by the loss of current citations, while maintaining policy objectives.

Copy: Philip M. Denning, Director, Department of Community and Economic Development
Office of the Clerk
January 9, 2020

Motion

We move that the Clerk of Council begin the process for removal of records held by previous Mayors and Members of Council which are stored in the City’s Renaissance Building pursuant to the records retention schedules for the City of Cincinnati. This process will include, but is not limited to, contacting the Ohio Historical Society and the University of Cincinnati for historic interest prior to the removal of the files.

Statement Attached
Renaissance Project (Clerk of Council)
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Renaissance Project (Clerk of Council)
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Is it recorded information stored on a fixed medium?

NO → Not a Record

YES ↓ Was it created by your office?

YES → Is it an original document related to government business that does not exist elsewhere?

NO ← Does it document the organization, functions, policies, decisions, procedures, operations, or other activities of the office?

NO ← Does it require action?

NO → Not a Record

YES ↓ Is it a copy of document or correspondence kept only for convenience or reference on which no action is taken?

YES ↓ If in doubt, don’t throw it out, treat it as a record. Consult ORC 149.011 (G) and speak with your legal counsel.

NO → Not a Record

Record
AUTHORIZING the City Manager to execute a Property Sale and Development Agreement with Cincinnati Public Radio, Inc. for the sale of City-owned property located at the northwest corner of 9th Street and Plum Street in downtown Cincinnati, for the construction of its headquarters, a public plaza, and a private parking garage.

WHEREAS, the City of Cincinnati owns the property located at the northwest corner of 9th Street and Plum Street in Cincinnati, consisting of a parking lot currently used by City employees, which is under the management and control of the City’s Department of Community and Economic Development, and an adjacent 2-story building currently used for storage and maintenance by the City, which is under the management and control of the City’s Department of Public Services (the “Property”); and

WHEREAS, the City desires that the Property be put to its highest and best use; and

WHEREAS, Cincinnati Public Radio, Inc. ("CPR") desires to purchase the Property from the City in order to construct its headquarters, consisting of approximately 12,391 square feet of office space, 18,543 square feet of recording space, a public plaza, and a two-level parking garage, at an estimated project cost of $23,575,907, and without any loans or grants from the City, with construction to commence by June 30, 2022 and to be completed within two years after on-site commencement of construction, as more particularly described in the Property Sale and Development Agreement attached to this ordinance as Attachment A (the “Project”); and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research; and

WHEREAS, the City has determined that the Property is no longer needed for municipal purposes because the City is able to provide suitable alternative parking for City employees, and suitable alternative space for the City’s storage and maintenance of materials currently housed in the building on the Property; and

WHEREAS, the City’s Real Estate Services Division has determined, by appraisal, that the fair market value of the Property is approximately $1,526,000, which CPR has agreed to pay; and

WHEREAS, pursuant to Section 331-5, Cincinnati Municipal Code, Council may authorize the sale of City-owned real property without competitive bidding in those cases in which it determines that it is in the best interest of the City; and
WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Property at its meeting on January 18, 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 a Property Sale and Development Agreement with Cincinnati Public Radio, Inc. ("CPR"), in substantially the form attached to this ordinance as Attachment A, for the sale of City-owned property located at the northwest corner of 9th Street and Plum Street in Cincinnati (the "Property"), for the construction of CPR’s headquarters, a public plaza, and a two-level parking garage (the "Project").

Section 2. That the Property is no longer needed for municipal purposes.

Section 3. That the fair market value of the Property, as determined by professional appraisal by the City’s Real Estate Services Division, is approximately $1,526,000, which CPR has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City’s sale of the Property is in the best interest of the public because the City has determined that selling the Property to CPR to facilitate the Project will retain and create jobs, and retain Cincinnati Public Radio within the corporate limits of the City, thereby preserving a valuable public resource.

Section 5. That the proceeds from the sale of the Property shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City’s Real Estate Services Division in connection with the sale, that a portion of the proceeds from the sale of the Property will be retained in Fund 209 to pay for the costs incurred by the City to relocate any records that remain in the building on the Property and will be used to reimburse those expenses, and that the City’s Finance Director is hereby authorized to deposit amounts in excess thereof into the unappropriated surplus of Miscellaneous Permanent Improvement Fund 757.
Section 6. That Council authorizes the appropriate City officials to take all necessary and proper actions to fulfill the terms of the Property Sale and Development Agreement and this ordinance, including without limitation, executing any and all ancillary agreements, deeds, plats, and other documents.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the City to execute the Property Sale and Development Agreement as soon as possible so that CPR can immediately move forward with the Project, thereby creating and retaining jobs, preserving a valuable public resource in the City, enabling the Property to be put to its highest and best use, and creating a significant economic benefit and enhancement to the City at the earliest possible time.

Passed: March 13, 2019

Attest: Clerk

John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE No. 816:2019 WAS PUBLISHED IN THE CITY BULLETIN IN ACCORDANCE WITH THE CHARTER ON 3-26-2019

CLERK OF COUNCIL
PROPERTY SALE AND DEVELOPMENT AGREEMENT

between the

CITY OF CINCINNATI

and

CINCINNATI PUBLIC RADIO, INC.
("Developer")

Project: redevelopment of site at 9th and Plum St

Dated: __________, 2019
PROPERTY SALE AND DEVELOPMENT AGREEMENT

THIS PROPERTY SALE AND DEVELOPMENT AGREEMENT ("Agreement") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation, having an address of 801 Plum Street, Cincinnati, Ohio 45202 (the "City"), and CINCINNATI PUBLIC RADIO, INC., an Ohio nonprofit corporation, having an address of 1223 Central Parkway, Cincinnati, Ohio 45214 ("Developer").

Recitals:

A. The City owns the land (currently used as a parking lot for City employees) and 2-story building (commonly known as the Renaissance Building, currently used for storage and maintenance purposes by the City) located at the NW corner of 6th Street and Plum Street in Cincinnati, across from City Hall, as shown on Exhibit A (Site Map) hereto, designated as Hamilton County Auditor's parcel nos. 76-1-122 thru 129, and 76-1-361 & 362 (the "Property"). Parcels 76-1-122 and 123 are under the management and control of the City's Department of Public Services and the remainder of the Property is under the management and control of the City's Department of Community and Economic Development ("DCED").

B. Developer desires to purchase the Property from the City to construct thereon the following improvements (collectively, the "Project", and the "Improvements", as applicable) and more particularly described in Exhibit B (Scope of Work; Preliminary Budget; Source of Funds) hereto:

(i) approximately 12,391 sq. ft. of office space;
(ii) approximately 18,543 sq. ft. of recording studio space;
(iii) a public plaza of approximately 5,400 sq. ft. (the "Public Plaza"); and
(iv) a two-level private parking garage containing approximately 50 parking spaces (the "Garage").

C. Developer estimates that the cost of constructing the Improvements (including, without limitation, acquisition costs, demolition, site preparation, hard and soft construction costs, and other hard and soft costs of development) will be approximately $23,575,007, as shown as Exhibit B (with no further assistance to be provided by the City).

D. Developer has committed to commence on-site construction at the Property no later than June 30, 2022 (the "Outside Construction Commencement Date") and to complete construction at the Property (as evidenced by a certificate of occupancy for the building) no later than 24 months following the actual on-site construction commencement date (the "Outside Construction Completion Date").

E. Developer anticipates that the Improvements will create approximately 350 temporary construction jobs and cause the Developer to retain 40 permanent jobs.

F. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research.

G. The City has determined that eliminating competitive bidding in connection with the sale of the Property is in the best interest of the City because the City has determined that selling the Property to Developer to facilitate the Project will further the public purpose by preserving and creating jobs and retaining the Cincinnati Public Radio within the corporate limits of the City, thereby preserving a valuable public resource.
The City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state and local laws and requirements.

The City's Real Estate Services Division has determined that the fair market value of the Property, as determined by appraisal, is $1,626,000 (the "Purchase Price"), which Developer has agreed to pay.

City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Property to Developer at its meeting on January 18, 2019.

Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. ____-2019, passed by City Council on __________, 2019.

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

1. Purchase Price. Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Property to Developer, and Developer hereby agrees to purchase the Property from the City, for the Purchase Price. Developer acknowledges that it is, or by the Closing will be, familiar with the condition of the Property and, at Closing (as defined below), the City shall convey the Property to Developer in "as is" condition. The City makes no representations or warranties to Developer with respect to the condition of the Property and, from and after the Closing, the City shall have no liability of any kind to Developer for any defects, adverse environmental condition, or any other matters affecting the Property.

2. Due Diligence Period (through March 31, 2022).

(A) Due Diligence Materials. Between the Effective Date and March 31, 2022 (the "Due Diligence Period"), Developer shall conduct due diligence investigations for the Project, and in connection therewith shall obtain, and as they are received (or with Developer's Quarterly Progress Reports, defined below) shall deliver complete copies thereof to DCED, the following items, all at no cost to the City (the "Due Diligence Materials"). The Closing shall not occur unless and until the Due Diligence Materials have been finalized and approved by both parties, provided, however, that if the City, in its sole and absolute discretion, determines that one or more of the Due Diligence Materials would be more appropriately delivered at Closing or post-Closing, the City may handle such delivery post-Closing.

(i) Title: a current title commitment for the Property;

(ii) ALTA Survey: an ALTA survey of the Property;

(iii) Property Inspection: a property inspection describing the current condition of the Property;

(iv) Environmental: phase 1 (and if obtained by Developer, a phase 2) assessment for the Property;

(v) Conceptual Drawings: conceptual drawings, followed by preliminary plans and specifications for the Improvements;

(vi) Building Permit & Zoning Approvals: evidence that Developer has obtained a building permit issued by the City's Department of Buildings and Inspections for the construction of the Improvements, including any and all zoning approvals that may be required;
(vii) **Construction Schedule:** the proposed construction schedule for the Project;

(viii) **Financing:** evidence that all financing necessary for the Project has been or will be obtained, including without limitation evidence of commercial bank financing;

(b) **As-Built Appraisal:** an "as built" appraisal of the Improvements (if required by Developer's lender); and

(x) **Other Information:** such other information and documents pertaining to Developer or the Project as the City may reasonably require.

(B) **Copies of Due Diligence Materials to be Provided to City.** Without limitation of Developer's other obligations under this Agreement, prior to Closing and as such reports and materials are obtained by Developer, Developer, at no cost to the City, shall provide DCED with copies of the inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer prior to Closing that pertain to the Project.

(C) **Quarterly Progress Reports.** Throughout the Due Diligence Period, Developer shall submit quarterly progress reports to DCED describing Developer's progress vis-à-vis the Project, including copies of Developer's Due Diligence Materials (excluding those previously provided by Developer to the City).

(D) **Right to Terminate.** All reports and the like obtained by Developer from third parties and delivered to the City shall be recent (i.e., prepared or updated, as the case may be, within three (3) months from the date that the item is delivered to the City or such longer period of time as the City may, in its sole discretion, deem reasonable) and each report and the like has been or shall be prepared by properly licensed and qualified companies or individuals acceptable to the City. In addition to the above due diligence items, Developer and the City may conduct whatever other investigations concerning the Project as they deem necessary, including without limitation investigations into the feasibility and likelihood of Developer obtaining all building, zoning and other approvals. If, during or at the conclusion of the Due Diligence Period (but in any event, prior to the Closing), any party determines that the Project is not feasible or desirable for any reason, then, notwithstanding anything in this Agreement to the contrary, such party may terminate this Agreement by giving the other party written notice thereof, whereupon this Agreement shall terminate and neither party shall thereafter have any rights or obligations hereunder. Unless otherwise directed by the DCED Director, Developer shall deliver all due diligence materials to be provided by Developer to the City under this Agreement to the DCED Director (for review by DCED and other City departments as deemed necessary or appropriate by DCED) and shall generally coordinate all aspects of the Project (as they relate to the City) through DCED. Upon Closing, the termination rights of the parties under this Section shall automatically terminate.

(E) **Notice Prior to Closing; City Removal of Property.** Developer acknowledges and agrees that the City currently uses a portion of the Property as a parking lot for employees and the Renaissance building for storage. Developer will provide the City with at least 90 days prior written notice of its proposed date of Closing. For the avoidance of doubt, nothing in this Section shall be deemed to modify any of the City's approval or consent rights contained in this Agreement. On or prior to the date of Closing, the City shall have removed any and all City property or property of third parties that is on the Property, if being agreed that any of the City's personal or other property located on the Property as of the date of Closing may be disposed of or destroyed or retained by Developer, at its option, and without any liability or obligation to the City.

3. **Closing.**

(A) **Closing Date.** Unless this Agreement is terminated in accordance with the termination provisions hereof, the closing on the City's conveyance of the Property to Developer (the "Closing") shall occur on or before **March 31, 2022,** or such earlier date as may be specified in writing by Developer.
(subject to Developer providing the advance notice to the City specified in Section 2(E) above), provided that in no event shall Closing occur prior to July 31, 2019.

(B) **Closing Costs and Closing Documents.** At the Closing, (i) Developer shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Property to Developer (or authorized assignee) by Quitclaim Deed in the form of Exhibit C (Quitclaim Deed) hereto (the "City's Deed"). Developer shall pay all conveyance fees, recording fees, title exam fees, title insurance premiums, settlement fees, and any and all other closing costs associated with the Closing such that the City shall not be required to come up with any funds for the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Developer shall pay all real estate taxes and assessments, if any, allocable to the Property thereafter becoming due (and regardless of the prior period to which they relate). At Closing, the parties shall execute a closing statement, a County exempt transfer form, and any and all other customary closing documents that are necessary for the Closing (except that the City shall not be required to execute a title affidavit or the like). Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Developer shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed to the City by Developer or any of its affiliated entities. The provisions of this Agreement shall survive the City's execution and delivery of the City's Deed and shall not be deemed to have been merged therein.

(C) **Delivery of Termination of Restrictions.** At Closing, the City shall execute and deliver a termination of building restrictions substantially in the form of Exhibit D (Termination of Restrictions) attached hereto.

(D) **Maintenance of Property Between Closing and Prior to Construction.** Between the Closing and Developer's commencement of on-site construction, Developer, at no expense to the City, shall maintain the Property in safe and presentable condition, including keeping the site reasonably free of debris and other unsightly materials, provided that the foregoing shall not be deemed to prevent Developer from demolishing the Renaissance Building on the Property.

(E) **City's Right to Purchase Parking Passes for the Garage.**

(i) **City's Exercise of its Right to Purchase.** For a period of fifteen (15) years after a certificate of occupancy is issued for the Project, if and when Developer makes parking in the Garage available to the general public, Developer shall notify the DCED Director thereof in writing, and shall offer any parking passes that would otherwise be offered to the general public in the Garage to the City, at Developer's then posted parking rates, as such rates may be adjusted from time to time. If, during such 15-year period, Developer offers additional parking passes over time to the general public, Developer shall first offer those additional parking passes to the City. The City shall notify Developer within 30 days after receiving any such notice (the "Electoral Period"), time being of the essence, as to the number of parking passes (if any) desired by the City. If the City exercises its right to purchase any parking passes pursuant to this Section, the City shall pay the current posted parking rates for the duration of its use of such parking passes and the City shall continue using such parking passes until a termination notice is provided in accordance with this Section. The City may terminate its use of the parking passes at any time for any reason, provided that the City shall provide 30 days written notice to Developer prior to terminating its use of any parking passes and such notice shall specify the number of parking passes being terminated. The City's foregoing right to purchase parking passes shall survive the Closing and the delivery of the City's Deed to Developer. Violation of this parking covenant shall not however result in any forfeiture or reversion of title to the Property, but such covenant may be specifically enforced by the City.

(ii) **City's Election to Not Exercise its Right to Purchase.** If the City does not exercise its right to purchase parking passes during the Election Period, then Developer shall have no obligation to re-offer those parking passes to the City. For the avoidance of doubt, in the event that, during the initial 15-year period following the issuance of a certificate of occupancy for the Project, Developer makes additional parking passes available in the Garage to the general public beyond those parking passes previously available.
offered to the City, then Developer must offer those additional parking passes to the City in accordance with the foregoing Section.

(F) Right of First Refusal. If Developer receives a bona fide offer to purchase the Property that Developer desires to accept, Developer shall first offer to sell the Property back to the City, and the City shall have a right of first refusal to purchase the Property back from Developer prior to any such sale for the same purchase price being offered by such other party, which shall be reflected in the City's Deed (the City's "Right of First Refusal"). At such time as the City declines to exercise the Right of First Refusal (or is deemed to have declined to exercise such Right of First Refusal), at the closing of the sale of the Property, the City shall execute a recordable release of the Right of First Refusal contained within the City's Deed to clear the title to the Property from that encumbrance, and such release is to be recorded at Developer's sole expense. The City shall have 60 days from the date of its receipt of such offer from the Developer to exercise or decline to accept such Right of First Refusal, time being of the essence. The City's failure to provide written notice of the exercise of such Right of First Refusal within such 60 days shall be irrevocably deemed as City's election to decline to exercise such right.

4. Commencement and Completion of Project; Re-Conveyance of Property to City for Failure to Timely Commence or Complete Project.

(A) Construction Commencement & Completion Dates. If Closing occurs, Developer shall commence on-site construction of the Project no later than the Outside Construction Commencement Date, and shall complete construction (as evidenced by a certificate of occupancy for the building) no later than the Outside Construction Completion Date.

(B) Construction Commencement: First Repurchase Option. No later than the Outside Construction Commencement Date, if Closing occurs, Developer shall (i) have applied for and received the required building permits from the City's Department of Buildings and Inspections for construction of the Project, and (ii) commenced on-site construction of the Project ("Construction Commencement"). As memorialized in the City's Deed, if Construction Commencement has not occurred on or before the Outside Construction Commencement Date, the City by written notice to Developer delivered prior to the date of Construction Commencement, shall have the option to repurchase the Property for the Purchase Price by limited warranty deed, free and clear of all liens and encumbrances except those, if any, that were in existence as of the date and time of the Closing and any customary utility easements ("First Repurchase Option"), exercisable by giving written notice thereof to Developer at any time after the Outside Construction Commencement Date, but in any case prior to the date of Construction Commencement. At such time as the City no longer has the right of the First Repurchase Option under this paragraph (B), and promptly after written request by Developer, the City shall execute and deliver to Developer a recordable release of the City's First Repurchase Option.

(C) Completion of Construction: Second Repurchase Option. No later than the Outside Construction Completion Date, if Closing occurs Developer shall complete the Project (as evidenced by a certificate of occupancy for the building) ("Construction Completion"). As memorialized in the City's Deed, if Construction Completion has not occurred on or before the Outside Construction Completion Date, the City by written notice to Developer delivered prior to the date of Construction Completion, shall have the option to repurchase the Property for the Purchase Price by limited warranty deed, free and clear of all liens and encumbrances except those, if any, that were in existence as of the date and time of the Closing and any customary utility easements ("Second Repurchase Option"), exercisable by giving written notice thereof to Developer at any time after the Outside Construction Completion Date, but in any case prior to the date of Construction Completion. At such time as the City no longer has the right of the Second Repurchase Option under this paragraph (C), and promptly after written request by Developer, the City shall execute and deliver to Developer a recordable release of the City's Second Repurchase Option.

(D) Plans and Specifications. Developer shall design and construct the Improvements in accordance with City-approved plans and specifications that are consistent with Exhibit B, including without limitation Developer's proposed site plan for driveway locations, parking, and other ancillary
improvements. Once the City's DCED Director has approved Developer's plans, Developer shall not make any material changes thereto without the Director's prior written consent.

(E) Contractors and Subcontractors. Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor's Performance list.

(F) Budget: Construction Contract. When available, Developer shall provide the City with (i) final construction bids and a final budget for the Project and (ii) a copy of Developer's construction contract with Developer's general contractor.

(G) Applicable Laws. Developer shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the Improvements. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits, or other approvals from the City's Planning Department, Department of Buildings and Inspections, Department of Transportation and Engineering ("DOTE"), other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(H) Inspection of Work. During construction, the City, its employees and agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations under this Agreement. If the City determines that the Project is not substantially in accordance with the City-approved plans and specifications or other requirements of this Agreement, is not in compliance with all applicable laws, or is not performed in a good and workmanlike manner, the City shall have the right, in its reasonable judgment and after giving Developer reasonable prior written notice thereof to stop such work and order its replacement at Developer's expense.

(I) Mechanics' Liens. Developer shall not permit any mechanics' liens or other liens to be filed against the Property during construction. If a mechanics' lien shall at any time be filed, Developer shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record (by bond or otherwise).

(J) Reporting During Construction. Upon the City's request throughout construction, Developer shall provide the City with reports describing the status of the Project, including without limitation information about whether the Project is on budget and on schedule and containing such additional pertinent information thereto as the City may from time to time reasonably request. Developer shall submit a final report to the City upon completion of the Project.

(K) Barricade Fees Payable to DOTE. Developer acknowledges that, if applicable, (i) it will be required to obtain a barricade permit and pay barricade fees to DOTE for the closure of any sidewalks and curb lanes of the adjacent streets if and when demolition or construction necessitates closing the adjoining streets or portions thereof, and (ii) with many entities competing for space on City streets, it is important that construction activities be limited to as little space and the shortest duration as possible and that all work be scheduled and performed to cause the least interruption to vehicular travel, bicyclists, pedestrians and businesses; therefore, DOTE shall have the right to evaluate Developer's need for a barricade throughout construction and, if at any time after consultation with Developer DOTE determines that a barricade is not needed, DOTE shall have the right to withdraw the permit.

(L) Parking Technology. Developer agrees to consult with the City when incorporating any technology into the Garage to discuss its compatibility with similar technology then being utilized by the City.

(M) Recognition of City Support. Developer shall acknowledge the support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, project and identification signage, and any publicity such as that appearing on the
Internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a participant, Developer shall use either the phrase "Project made possible by the City of Cincinnati" or a City of Cincinnati logo or other form of acknowledgement that has been approved in advance in writing by the City. Developer's obligations under this section shall commence on the Effective Date and shall terminate on the date on which the Project has been completed.

5. **Public Programming.** During the period of time that the Property is used as Developer's headquarters, Developer shall use its best efforts to hold 5 events each year at the Property open to the public, free of charge (the "Events"). Developer acknowledges and agrees that it will prioritize holding the Events in the Public Plaza. The Events shall be advertised in a manner reasonably similar to other like events held in the City of Cincinnati.

6. **Insurance: Indemnity.**

(A) **Insurance during Construction.** During construction, Developer shall maintain, or cause to be maintained, the following insurance:

- (i) Commercial General Liability insurance of at least $2,000,000 per occurrence, combined single limit/$5,000,000 aggregate, naming the City as an additional insured,
- (ii) builder's risk insurance in the amount of one hundred percent (100%) of the value of the Improvements constructed,
- (iii) worker's compensation insurance in such amount as required by law,
- (iv) all insurance as may be required by Developer's lender(s) for the Project, and
- (v) such other insurance as may be reasonably required by the City. Developer's insurance policies shall be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better. In the event that Developer receives notice that its insurance policies have been modified or cancelled, upon receipt of any such notice, Developer shall promptly forward a copy of such notice to the City.

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

(C) **General Indemnity.** Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify and hold the City, its officers, council members, employees and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including without limitation attorneys' fees), demands, judgments, liability and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Developer, its agents, employees, contractors, subcontractors, licensees, invitees or anyone else acting at its request in connection with the Project.

7. **Casualty: Eminent Domain.** If the Improvements are damaged or destroyed by fire or other casualty during construction, or if any portion of the Property is taken by exercise of eminent domain (federal, state, or local), Developer shall repair and restore the affected property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Property was in immediately prior to such occurrence. To the extent the City's participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including without limitation obtaining the City's approval of the plans and specifications if they deviate from the original City-approved plans. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Property is being repaired or restored.
8. **Default: Remedies.**

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

   (i) The failure of Developer to perform any obligation under this Agreement, and failure by Developer to correct such failure within thirty (30) days after Developer's receipt of written notice thereof from the City; provided, however, that if the nature of the default is such that it cannot reasonably be cured within 30 days, Developer shall not be in default so long as Developer commences to cure the default within such 30-day period and thereafter diligently completes such cure within a reasonable period of time (but not exceeding 90 days) after Developer’s receipt of the City’s initial notice of default. The foregoing notwithstanding, if Developer’s failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City, an event of default shall be deemed to have occurred if Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency; or

   (ii) The dissolution of Developer, the filing of any bankruptcy or insolvency proceedings by Developer, or the making by Developer of an assignment for the benefit of creditors; or

   (iii) The filing of any bankruptcy or insolvency proceedings against Developer, or the appointment of a receiver (temporary or permanent) for Developer, or the attachment of, levy upon, or seizure by legal process of any of Developer’s property, that, in each such event, is not released within 60 days after the filing thereof.

   (B) **Remedies.** Upon the occurrence of an event of default under this Agreement, the City shall be entitled to: (i) terminate this Agreement by giving Developer written notice thereof; (ii) take such actions in the way of “self-help” as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of Developer; (iii) if the applicable conditions are present, exercise the First Repurchase Option or the Second Repurchase Option in accordance with Section 4; and (iv) exercise any and all other rights and remedies under this Agreement or otherwise available at law or in equity. Developer shall be liable for all costs and damages, including without limitation attorneys’ fees, suffered or incurred by the City as a result of an event of default of Developer under this Agreement or the City’s enforcement or termination of this Agreement. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy.

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

   **To the City:**
   
   City of Cincinnati
   Dept. of Community & Economic Development
   805 Central Avenue, Suite 700
   Cincinnati, OH 45202

   **To Developer:**
   
   Cincinnati Public Radio, Inc.
   1223 Central Parkway
   Cincinnati, Ohio 45214
   Attention: Richard Eiswerth, President,
   General Manager and CEO

   **With a copy to:**
   
   Taft Stettinius & Hollister LLP
   425 Walnut Street, Suite 1600
   Cincinnati, Ohio 45202
   Attn: Daniel E. Fausz, Esq.
If Developer sends a notice to the City alleging that the City is in default under this Agreement, it shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

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

(i) Developer is duly organized and validly existing under the laws of the State of Ohio, is authorized to do business in the State of Ohio and has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement.

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

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

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

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

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

(vii) Neither Developer nor its affiliates, if applicable, owes any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

11. Reporting Requirements.

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

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


(A) Assignment. Developer shall not assign its rights or interests under this Agreement or any ancillary agreements with the City without the prior written consent of the City, provided that the City shall not unreasonably withhold, condition or delay its consent to assignments to its parent, subsidiaries or affiliates (in each case with prior written notice to the City); and provided, further, that the City may require the execution of an amendment hereto or other clerical documentation to effect such assignment or substitution of Developer. The foregoing notwithstanding: (i) Developer's collateral assignment of its rights and interests under this Agreement to its lender for the Project (and subsequent assignments by such lender) shall be permitted; and (ii) Developer may assign its rights and interests under this Agreement to a wholly-owned affiliate of Developer or to a wholly-owned affiliate of Developer's parent entity provided that (a) no such assignment shall relieve Developer from any obligations to the City under this Agreement, and, notwithstanding anything in the assignment document to the contrary, as between the City and Developer, Developer shall remain primarily liable to the City for the performance of all obligations of Developer under this Agreement, (b) Developer shall notify the City in writing of any such proposed assignment prior to the effective date of the assignment, and shall provide the City with a copy of the executed assignment document within 2 business days following the effective date of the assignment, and (c) Developer shall provide such additional information about the assignee as the City may request, including without limitation information establishing that the assignee is in good standing with the City and has the ability to assume and fully perform Developer's obligations under this Agreement.

(B) Entire Agreement; Conflicting Provisions. This Agreement (including the exhibits hereto) and the other agreements referred to herein contain the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof.

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

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

(E) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and permitted assigns.

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

(G) Severability. If any part of this Agreement is held by a court of law to be void, illegal or unenforceable, such part shall be deemed severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.
(H) **No Recording.** This Agreement shall not be recorded in the Hamilton County Recorder’s office.

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

(J) **No Third-Party Beneficiaries.** No third-party beneficiary rights are created by this Agreement.

(K) **Brokers.** Developer represents to the City that, except for David O. Cawdrey of Cawdrey Commercial Real Estate LLC (the “Named Broker”), it has not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee as a result of the parties’ execution of this Agreement. The City represents to Developer that it has not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee or other compensation as a result of the parties’ execution of this Agreement. Developer shall be solely responsible for payment of any and all commissions and fees payable to the Named Broker.

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

(M) **Contingency for Legislative Authorization from City Council.** Notwithstanding anything to the contrary in this Agreement, the City shall not be in breach of this Agreement if for any reason City Council does not pass any and all additional ordinances as may be necessary for the City to carry out the terms of this Agreement.

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

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

(P) **Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which shall be deemed an original, and all of which shall, collectively, constitute only one agreement. The signatures of all parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or electronic mail is as effective as executing and delivering this Agreement in the presence of the other parties.

12. **Exhibits.** The following exhibits are attached to this Agreement and made a part hereof:
   - Exhibit A - Site Map
   - Exhibit B - Scope of Work; Preliminary Budget; Source of Funds
   - Exhibit C - Quitclaim Deed
   - Exhibit D - Termination of Restrictions
   - Exhibit E - Additional Requirements

13. **Coordinated Report Conditions (CR #34-2018).** Developer shall abide by the following additional conditions:
(a) **DOTE**: Prior to finalizing the development plan, Developer shall submit to DOTE Developer's proposed site plan for the Project for its review and approval. Prior to Closing, Developer shall perform (or cause to be performed) all necessary survey work and prepare all necessary survey plats (including a consolidation plat and dedication plat) and legal descriptions (including residual descriptions if needed) to consolidate the parcels comprising of the Property and to dedicate approximately 2 feet on the eastern edge along Plum Street to the City to be maintained by Developer as an approximately 10 foot wide public sidewalk in good condition and repair (the “Survey Work”). Developer is solely responsible for the cost of the Survey Work and related recording fees.

(b) **GCWW**: Developer shall comply with all requirements of GCWW pertaining to water service for the Property, including without limitation the disconnection and abandonment of any water branches no longer needed, and upgrading the water service to meet future fire and/or water demands, at no cost to the City or GCWW, as more particularly described in CR #34-2018.

(c) **City Planning Department**: The Property is within the DD Downtown Development zoning. The Project must meet all zoning guidelines and laws, including zoning relief or a zone change if required.

(d) **Buildings and Inspections**: Developer shall attend a pre-development conference with the City’s Department of Buildings and Inspections. In addition, Developer acknowledges that the City will work (internally) to establish a reasonable timeline for the City’s relocation of records and other materials currently stored in the building at the Property prior to the Closing.

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

CITY OF CINCINNATI

By: __________________________
Patrick A. Duhaney, City Manager

Date: ______________, 2019

CINCINNATI PUBLIC RADIO, INC.

By: __________________________

Printed name: __________________________

Title: __________________________

Date: ______________, 2019

Recommended by:

Philip Denning
Director, Department of Community and Economic Development

Recommended by:

Jerry L. Wilkerson
Director, Department of Public Services

Approved by:

Markiea Carter
Director, Department of Economic Inclusion

Approved as to Form:

Assistant City Solicitor

Certified Date: __________________________

Fund Code: __________________________

Amount: __________________________

By: __________________________
Reginald Zeno, City Finance Director
EXHIBIT B

to Property Sale and Development Agreement

SCOPE OF WORK; PRELIMINARY BUDGET; SOURCE OF FUNDS

CINCINNATI PUBLIC RADIO

Scope of Work

Cincinnati Public Radio will purchase a city-owned site at the northwest intersection of 9th and Plum Street in the Central Business District. The property is .77 acres and is currently an 84-space parking lot with a two-story maintenance garage, often referred to as the Renaissance Garage.

The sale allows Cincinnati Public Radio to demolish the surface lot and the existing building to construct a new headquarters and broadcasting studio. The project, a 32,000 SF multi-story headquarters building will consist of office space, studio space, a first-floor café, a public lobby, a large indoor performance space, onsite parking, and an outdoor plaza.

Preliminary Budget

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**ESTIMATED TOTAL USES** $23,575,007

Source of Funds

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**ESTIMATED TOTAL SOURCES** $23,575,007
EXHIBIT C

to Property Sale and Development Agreement

QUITCLAIM DEED

SEE ATTACHED
QUITCLAIM DEED

The CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), for valuable consideration paid, hereby grants and conveys to CINCINNATI PUBLIC RADIO, INC., an Ohio nonprofit corporation, having an address of 1223 Central Parkway, Cincinnati, Ohio 45214 ("Developer"), all of the City's right, title and interest in and to the real property described on Exhibit A (Legal Description) hereto (the "Property").

Property Address: NW corner of 6th Street and Plum Street, Cincinnati, OH 45202
Auditor's parcels: 76-1-122 thru 129, and 76-1-361 & 362

Reconveyance to City upon Failure to Timely Commence Construction or Complete Construction: The City and Developer are parties to a Property Sale and Development Agreement dated ________________ 2019 (the "Agreement") pursuant to which Developer is required to redevelop the Property. If Developer does not commence construction at the Property on or before the Outside Construction Commencement Date (as defined in the Agreement), or if Developer does not complete construction on or before the Outside Construction Completion Date (as defined in the Agreement), the City may require Developer to reconvey the Property to the City as described in the Agreement. At such time as the City no longer has the right to reacquire the Property under the Agreement, the City, at Developer's request, shall execute and deliver to Developer a release of such rights for recording in the Hamilton County, Ohio Records.

City's Right of First Refusal (Sale): The City reserves a right of first refusal to repurchase the Property (the "ROFR"), as more particularly described as follows. If Developer receives a bona fide offer to purchase the Property or any portion thereof, which offer Developer desires to accept (an "Offer"), Developer shall provide a copy of the Offer to the City. The City shall have sixty (60) days after its receipt of the Offer, time being of the essence, to exercise the ROFR by notifying Developer thereof in writing that it will purchase such property as described and at the price set forth in the Offer. If the City does not exercise the ROFR within such 60-day period, Developer shall be free to sell the property described in the Offer to the party who submitted the Offer, at the price and upon the other terms set forth in the Offer, whereupon the City's ROFR with respect to such property shall forever terminate (and, at Developer's request, the City shall promptly execute and deliver a recordable release evidencing the termination of the ROFR). If the City timely exercises the ROFR, then, at closing (which shall not be sooner than 30 days or later than 90 days after the City exercises the ROFR), Developer shall convey the property described in the Offer to the City free and clear of all mortgages, security interests, liens, leases and other encumbrances (except that customary utility easements shall be permitted) and the City shall pay the purchase price listed in the Offer (subject to any other terms and conditions that may be agreed upon by the parties). If the City is not satisfied with Developer's title to the property described in the Offer, the City's sole remedy shall be to rescind the City's exercise of the ROFR.
This conveyance was authorized by Ordinance No. ___-2019, passed by Cincinnati City Council on __________, 2019.


Executed on __________, 2019.

CITY OF CINCINNATI

By: _____________________________
    Patrick A. Duhaney, City Manager

STATE OF OHIO

) SS:

COUNTY OF HAMILTON

The foregoing instrument was acknowledged before me this _____ day of _________, 2019, by Patrick A. Duhaney, City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the corporation.

Notary Public
My commission expires: _____________________________

Approved as to Form:

__________________________
Assistant City Solicitor

This instrument prepared by:

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

Exhibit:
Exhibit A – Legal Description
Exhibit A

Legal Description

[TO BE ATTACHED TO EXECUTION VERSION]
EXHIBIT D

to Property Sale and Development Agreement

TERMINATION OF RESTRICTIONS

SEE ATTACHED
TERMINATION OF RESTRICTIONS
(pertaining to Northwest corner of Ninth and Plum Streets)

THIS TERMINATION OF RESTRICTIONS is executed by the CITY OF CINCINNATI, an Ohio municipal corporation, having an address of 801 Plum Street, Cincinnati, OH 45202 (the “City”), with reference to the following facts:

Recitals:

1. The City owns the real property located at the northwest corner of Ninth and Plum Streets in Cincinnati, Ohio more particularly described on Exhibit A attached hereto and designated as Hamilton County Tax Parcel Numbers 076-0001-0128-00 (referred to herein as “Parcel 1”), 076-0001-0361-90 (referred to herein as “Parcel 2”) and 076-0001-0124-00 (referred to herein as “Parcel 3”).

2. Pursuant to a certain Deed executed and filed for record on January 25, 1927 in Volume 1389, Page 254 of the Hamilton County, Ohio Records, there was created for the benefit and burden of each of Parcels 1, Parcel 2 and Parcel 3 seven and one-half (7½) foot building setbacks (a) along the southern boundary line of Parcel 1 and the northern boundary line of Parcel 2 (at the common boundary line of Parcel 1 and Parcel 2) and (b) along the western boundary line of Parcel 1 and eastern boundary line of Parcel 3 (at the common boundary line between Parcel 1 and Parcel 3) (the foregoing collectively referred to as the “Restrictions”).

3. As the current and sole fee owner of Parcels 1, 2 and 3, the City holds title to all of the land burdened and benefited by the Restrictions and thus has the right and authority to terminate the Restrictions.

4. In order to clear title to the Property, the City desires to terminate, and memorialize the termination of, the Restrictions.

NOW THEREFORE, the City hereby terminates the Restrictions.

[Signature Page Follows]
Executed by the City of Cincinnati on the date of acknowledgment indicated below.

CITY OF CINCINNATI

By: Patrick A. Duhaney, City Manager

STATE OF OHIO
COUNTY OF HAMILTON

The foregoing instrument was acknowledged before me this ___ day of ____________,
2019 by Patrick A. Duhaney, City Manager for the City of Cincinnati, an Ohio municipal corporation, on
behalf of the City.

Notary Public
My commission expires:________________________

Recommended by:

Printed Name:________________________
Title:________________________

Approved as to Form:

________________________
Assistant City Solicitor

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

to
Termination of Restrictions

LEGAL DESCRIPTION
(Northwest Corner of Ninth and Plum Streets)

Parcels 1 and 2:

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

All that certain lot or parcel of land situated in said City of Cincinnati and described as follows, to-wit:

On the Northwest corner of Ninth and Plum Streets, commencing at the Northwest corner of Ninth and Plum Streets; and running,

Thence West on the north line of Ninth Street fifty-two (52) feet and ten (10) inches;

Thence North on a line parallel with Plum Street one hundred and twenty-five (125) feet to the South line of Richmond Street formerly William Street;

Thence East fifty-two (52) feet and ten (10) inches to the West line of Plum Street, and thence South along the west line of Plum Street, one hundred and twenty-five (125) feet to the place of beginning.

PPN: 076-0001-0128-90 & 076-0001-0361-90

Parcel 3:

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

And known as being all that certain lot of ground situated on the North side of Ninth Street beginning at a point fifty-two (52) feet, ten (10) inches West of the West line of Plum Street; thence Westwardly along the North line of Ninth Street one hundred and forty (140) feet to a point, from this front Northwardly between parallel lines one hundred and twenty-five (125) feet to Richmond Alley, the same width in rear as in front.

PPN: 076-0001-0124-90
EXHIBIT E

to Property Sale and Development Agreement

ADDITIONAL REQUIREMENTS

Developer and Developer's general contractor shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati (collectively, "Government Requirements"). Including the Government Requirements listed below, to the extent that they are applicable. Developer hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the Project, Developer, or Developer's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) neither the City nor its Law Department is providing legal counsel to or creating an attorney-client relationship with Developer by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

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

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

(A) Construction Workforce.

(i) Applicability. Consistent with the limitations contained within the City Resolutions identified in clause (ii) below, this Section (A) shall not apply to contracts with the City other than construction contracts, or to construction contracts to which the City is not a party. For the avoidance of doubt, this Agreement is a construction contract solely to the extent that it directly obligates Developer to assume the role of a general contractor on a construction project for public improvements such as police stations or other government buildings, public parks, or public roadways.

The Construction Workforce Goals are not applicable to future work (such as repairs or modifications) on any portion of the Project. The Construction Workforce Goals are not applicable to the purchase of specialty fixtures and trade fixtures.

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a
party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "Construction Workforce Goals").

As used herein, the following terms shall have the following meanings:

(a) "Best Efforts" means substantially complying with all of the following as to any of its employees performing such construction, and requiring that all of its construction subcontractors substantially comply with all of the following: (1) solicitation of Minority Persons as potential employees through advertisements in local minority publications; and (2) contacting government agencies, private agencies, and/or trade unions for the job referral of qualified Minority Persons.

(b) "Minority Person" means any person who is Black, Asian or Pacific Islander, Hispanic, American Indian or Alaskan Native.

(c) "Black" means a person having origin in the black racial group of Africa.

(d) "Asian or Pacific Islander" means a person having origin in the original people of the Far East or the Pacific Islands, which includes, among others, China, India, Japan, Korea, the Philippine Islands, Malaysia, Hawaii and Samoa.

(e) "Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultural origin.

(f) "American Indian" or "Alaskan Native" means a person having origin in any of the original people of North America and who maintains cultural identification through tribal affiliation.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Conferring with Trade Unions.

(a) Applicability. Per City of Cincinnati, Ordinance No. 130-2002, this requirement is limited to transactions in which Developer receives City funds or other assistance (including, but not limited to, the City's construction of public improvements to specifically benefit the Project, or the City's sale of real property to Developer at below fair market value).

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

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

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

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

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

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

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

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

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

(4) "Public Notification" means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the "scope of work" and any other information reasonably necessary for the
preparation of a bid, and it shall be published and disseminated no less than fourteen
days prior to the deadline for submission of bids stated in the invitation to bid.

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

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

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

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

(F) Small Business Enterprise Program.1

(i) Applicability. The applicability of Municipal Code Chapter 323 (Small Business
Enterprise Program) is limited to construction contracts in excess of $5,000. Municipal Code Chapter 323
defines "contract" as "a contract in excess of $5,000.00, except types of contracts listed by the City
purchasing agent as exempt and approved by the City Manager, for (a) construction, (b) supplies, (c)
services, or (d) professional services." It defines "construction" as "any construction, reconstruction,
improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public
improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be
more than $4,000 and performed by other than full-time employees who have completed their
probationary periods in the classified service of a public authority." To the extent Municipal Code Chapter
323 does not apply to this Agreement, Developer is not subject to the various reporting requirements
described in this Section (F).

(ii) Requirement. The City has an aspirational goal that 30% of its total dollars spent for
construction and 15% of its total dollars spent for supplies/services and professional services be spent with
Small Business Enterprises ("SBE's), which include SBEs owned by minorities and women. Accordingly,
subject to clause (i) above, Developer and its general contractor shall use its best efforts and take
affirmative steps to assure that SBEs are utilized as sources of supplies, equipment, construction, and
services, with the goal of meeting 30% SBE participation for construction contracts and 15% participation for
supplies/services and professional services contracts. An SBE means a consultant, supplier, contractor or
subcontractor who is certified as an SBE by the City in accordance with Cincinnati Municipal Code ("CMC")
Chapter 323. (A list of SBEs may be obtained from the Department of Economic Inclusion or from the City's
web page, http://cincinnati.diversitycompliance.com.) Developer and its general contractor may refer
interested firms to the Department of Economic Inclusion for review and possible certification as an SBE,
and applications may also be obtained from such web page. If the SBE program is applicable to this
Agreement, as described in clause (i) above, Developer agrees to take (or cause its general contractor to
take) at least the following affirmative steps:

1 Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes
adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement,
this section will be revised.
(1) Including qualified SBEs on solicitation lists.
(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the Internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.
(3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
(4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

(iii) Subject to clause (i) above, if any subcontracts are to be let, Developer shall require the prime contractor to take the above affirmative steps.

(iv) Subject to clause (i) above, Developer shall provide to the City, prior to commencement of the Project, a report listing all of the contractors and subcontractors for the Project, including information as to the owners, dollar amount of the contract or subcontract, and other information that may be deemed necessary by the City Manager. Developer or its general contractor shall update the report monthly by the 15th. Developer or its general contractor shall enter all reports required in this subsection via the City's web page referred to in clause (i) above or any successor site or system the City uses for this purpose. Upon execution of this Agreement, Developer and its general contractor shall contact the Department of Economic Inclusion to obtain instructions, the proper Internet link, login information, and password to access the site and set up the necessary reports.

(v) Subject to clause (i) above, Developer and its general contractor shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by notarized affidavits executed in a form acceptable to the City, submitted upon the written request of the City. The City shall have the right to review records and documentation relevant to the affidavits. If affidavits are found to contain false statements, the City may prosecute the affiant pursuant to Section 2921.12, Ohio Revised Code.

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.
(G) **Equal Employment Opportunity.**

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

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

(H) **Prevailing Wage.** Developer shall comply, and shall cause all contractors working on the Project to comply, with all any prevailing wage requirements that may be applicable to the Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Developer shall make such payments or reimburse the City for such payments within twenty (20) days of demand therefor. A copy of the City's prevailing wage determination may be attached to this Exhibit as Addendum I to Additional Requirements Exhibit (City's Prevailing Wage Determination) hereto.

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

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

(K) **Conflict of Interest.** Pursuant to Ohio Revised Code 102.03, no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project may have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(L) **Ohio Means Jobs.** If this Agreement constitutes a construction contract (pursuant to the guidance with respect to the definition of that term provided in Section (A) above), then, pursuant to Ordinance No. 236-2010: To the extent allowable by law, Developer and its general contractor shall use its best efforts to post available employment opportunities with Developer, the general contractor's organization, or the organization of any subcontractor working with Developer or its general contractor with the OhioMeansJobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-946-7200.

(M) **Wage Enforcement.**

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

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

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

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

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

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorities 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.
Americans With Disabilities Act; Accessibility.

(i) **Applicability.** Cincinnati City Council adopted Motion No. 201600188 on February 3, 2016 (the "Accessibility Motion"). This motion directs City administration, including DCED, to include language specifically requiring compliance with the Americans With Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and imposing certain minimum accessibility standards on City-subsidized projects regardless of whether there are arguably exceptions or reductions in accessibility standards available under the ADA or State law.

(ii) **Requirement.** In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "Contractual Minimum Accessibility Requirements" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Electric Vehicle Charging Stations in Garages.

(i) **Applicability.** Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of "qualifying incentives" for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines "qualifying incentives" as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

(ii) **Requirement.** If the applicability criteria of Ordinance No. 89-2017 are met, then the following requirements shall apply to any parking garage included within the Project: (a) at least one percent of parking spaces, rounding up to the nearest integer, shall be fitted with Level 2 minimum 7.2 kilowatt per hour electric car charging stations; provided that if one percent of parking spaces is less than two parking spaces, the minimum number of parking spaces subject to this clause shall be two parking spaces; and (b) the parking garage's electrical raceway to the electrical supply panel serving the garage shall be capable of providing a minimum of 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer, and the electrical room supplying the garage must have the physical space for an electrical supply panel sufficient to provide 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer.
(P) **Certification as to Non-Debarment.** Developer represents that neither it nor any of its principals is presently suspended or debarred by any federal, state, or local government agency. In completing the Project, Developer shall not solicit bids from any contractors or subcontractors who are identified as being suspended or debarred by any federal, state, or local government agency. If Developer or any of its principals becomes suspended or debarred by any federal, state, or local government agency during the term of this Agreement, Developer shall be considered in default under this Agreement.

***
REQUEST FOR PROJECT WAGE DETERMINATION

DATE RECEIVED: 1/7/19
ORIGINAL ASSIGNED NUMBER: 2019-007

REQUESTING AGENCY OR DEPT: DCED

CONTACT PERSON AND PHONE NUMBER:
Robert Denham, 6343

Requested Date: 01-08-2019
Estimated Advertising Date: 02/08/2019
Estimated Bid Opening Date: 02-08-2019
Estimated Starting Date: 02-08-2019

SOURCE AND FUND NUMBER
CITY FUND
STATE FUND
COUNTY FUND
FEDERAL FUND

PROJECT ACCOUNT NUMBER:
AMT. OF PUB. FUNDING $: 0
TOTAL PROJECT DOLLARS: 0

NAME OF PROJECT
9th and Plum - Cincinnati Public Radio

COMMENTS:
The contract between the public authority and developer does not involve the construction of any public improvements (just the sale of land) under ORC 4115.09 so prevailing wage does not apply.

No assistance is provided by the City as described therefore the contract does not constitute a "Development Agreement" under ORC 331-1-D2. Local prevailing wage does not apply.
TYPE OF WORK

1. Building
2. Heavy
3. Highway
4. Residential
5. Demolition
6. Other

PROJECT LOCATION

Neighborhood: Central Business District Address Intersection: 9th and Plum Demolition of Renaissance Garage

PROJECT FUNDING SOURCE

PROJECT SCOPE OF WORK AND BUDGET

Cincinnati Public Radio (CPR) intends to purchase the 9th & Plum site to construct a new multi-story headquarters. • 32,000 SF office and small first-floor commercial • Outdoor plaza and event space • Total Project Cost: $17,500,000 • Site Acquisition (Sale of City land): $1,526,000 (Fair Market value) • Hard Construction Costs: $14,800,000 • All other Costs: $1,200,000 (Furniture • Soft Costs) • CPR must vacate their current location at Town Center Garage by 1st quarter of 2020

DEI 217 Form
REV: 6/12/2017
Good Morning Everyone,

I'm reaching out to provide you all with an update regarding the Renaissance Building. DCED will be selling the property (upon council approval) to Cincinnati Public Radio, with a tentative time-frame of March/April for demolition.

**Records within your retention schedule, stored within the Renaissance building, will need to be moved out by February 2019.** Also, regarding the adjacent lot, DCED has been actively exploring parking alternatives and will follow up with departments in a few weeks regarding parking options.

Business Information Solutions will be onsite both December 6th (9am-12pm) and December 12th (1pm-4pm) to assess storage needs, thus providing departments with cost estimates for record relocation and storage. Please let me know when you intend to walk through your storage areas, either December 6th (9am-12pm) or December 12th (1pm-4pm). Walk throughs with the BIS representative should take no more than 20 minutes, we should be able to handle 2 departments per time-slot, please see below for your options.

Please note that retained files must be contained within a labeled box; with a destroy by date. Please prepare to re-box any damaged records prior to pick up at a later date. If you are worried about the state of...
your files, please contact Michael Mitchell in facilities to access the building prior to pick up.

Note, the estimate that BIS will provide includes $.37 per SSU Storage (Average Banker's Box), per bill period, plus $0.37 per SSU New (the first time the box arrives at BiS).

Please let me know by the end of day Tuesday (tomorrow) when you intend to walk through your storage area with BIS:

**December 6th**
9am, 930am, 10am, 1030am, 11am, 1130am

**December 12th**
1pm, 130pm, 2pm, 230pm, 3pm, 330pm

Last note, the building does not have heat- so please dress appropriately. Let me know if you have any questions or concerns. Thank you,

Kelly Carr
Assistant to the City Manager
801 Plum Street, Suite 104
Cincinnati, Ohio 45202
P 513 352 3486 C 513 368 0961
kelly.carr@cincinnati-oh.gov
www.cincinnati-oh.gov
Good Morning Melissa

I hope that you are well -

simply reaching out as city facilities has identified items in storage at the Renaissance Building as belonging to the Clerk’s Office. Since we aim to clear out the building before the end of November, can you please name a representative who will work with me from your office?

This representative should be very familiar with your office’s retention schedule and be able to determine what of these storage materials can be disposed of or what should be moved by our contractor.

I will be working with this representative and DPS Facilities to schedule a date for waste disposal. Following this clearing, we will then schedule a date for the Contractor assess movement and storage for your materials.

I will be out from the 4th-14th, but feel free to let me know before then, who you would like to nominate from your office.

Thank you,
Good Afternoon Everyone,

You have been included in this email because your department or office has storage items in the Renaissance Building. We aim to clear out the building before the end of November.

Please let me know who you have assigned as your department’s storage move project manager, by the end of this week. This representative should be very familiar with your department/office’s retention schedule and be able to determine what of these storage materials can be disposed of or what should be moved by our contractor. Once identified, I will be working with these representatives and DPS Facilities to schedule a date for waste disposal. Following this clearing, we will then schedule a date for the Contractor to provide quotes for each department to move and store your materials.

Again - please let me know by the end of this week who you prefer I work with on this effort.

Thank you,

Kelly Carr
Assistant to the City Manager
801 Plum Street, Suite 104
Cincinnati, Ohio 45202
P 513 352 3486 C 513 368 0961
kelly.carr@cincinnati-oh.gov
www.cincinnati-oh.gov

Home

www.cincinnati-oh.gov

The City of Cincinnati government is dedicated to maintaining the highest quality of life for the people of Cincinnati. The City is focused on economic development to create jobs, committed to innovation and efficiency through technology, seeks to be a leader in environmental sustainability, and pursues partnerships to help create opportunities that benefit the city’s diverse residents, businesses and visitors.
The following are those who have boxes in the cage:

Cranley (As a Councilmember)
Crowley
Berding
Quinlan
Cole
Lippert
Thomas
Bortz
Ghiz
Monzel
Simpson
Stern
Mallory
Flynn
Winburn

Thanks!
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<thead>
<tr>
<th>Department</th>
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<tr>
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<td>17-001</td>
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<td>Fax logs/Fax copies</td>
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<td>Press/New Releases</td>
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In response to this e-mail the question was raised, can the Mayor/Council items be donated to the University of Cincinnati as historic files which has been done in the past? Things have changed a bit since then, the State requires that the Ohio Historical Society sign off on all requests prior to destroying Mayor/Council records to determine any historical value. We are working with UC to see if there are files that they would be interested in with the understanding that the Ohio Historical Society has first choice. If there are files that UC would like, the State will also have to sign off on the approval prior to donating them.

If you have any questions or comments please feel free to contact me. I hope to have something before Council by the end of the month for approval.

Thank you

From: Autry, Melissa
Sent: Tuesday, November 19, 2019 12:17 PM
To: #COUNCIL <#COUNCIL@cincinnati-oh.gov>; Michael, Rahiel <Rahiel.Michael@cincinnati-oh.gov>; Stutz Smith, Holly <Holly.StutzSmith@cincinnati-oh.gov>; Dillon, Bobbi <Bobbi.Dillon@cincinnati-oh.gov>
Cc: Porter, Kourtney <Kourtney.Porter@cincinnati-oh.gov>; Ross, Rebecca <Rebecca.Ross@cincinnati-oh.gov>; Williams, Brenda <Brenda.Williams@cincinnati-oh.gov>
Subject: FW: Renaissance Record's Project

Mayor and Council,

As you all are aware, back in March, Council passed Ordinance #86-2019 to begin the selling process of the Renaissance Building and Parking Lot on the corner of 9th and Plum Street. We have been informed by the administration that all Departments must get all of their items out of the Renaissance Building as soon as possible. The Clerk's Office has used the Renaissance Building to store items from Mayor/Council as they leave office, therefore, having quite a few boxes to dispose of.

I will be submitted something for the Council calendar soon to dispose of documents from the previous Mayors and Council that have left office according to our Records retention schedule which is attached. None of the items of the current members will be dispersed of at this time as it is against State Law. Per our records retention schedule, we must keep items from previous Mayor/Council for the term plus one year (see attached). My office, in working with the Administration, Law and the Records Commission, has put together a packet of information, which is attached, to answer any questions you may have prior to me submitting the item to Council for approval to discard. The Clerk's Office has used the Renaissance Building to store items from Mayor/Council as they leave office, therefore, having quite a few boxes to dispose of.

Again for clarification, the items I am asking to dispose of are correspondence, etc. from the offices of previous Mayor/Council members that were boxed up and given to me out of their file cabinets upon leaving office. This is the same process, your offices will follow upon your departure. A listing of the boxes pertaining to this request can be found...
in the attached listing. Also, the Law Department can confirm that the longer you keep items, past the retention time listed on the schedule, the City is liable for records requests pertaining to these items which can cause problems down the road. Also, the administration and Public Services has stated that there are no other storage locations for Departments to move the items to. They have contracted with a Storage Company for some Departments to use, however, each box is stored at a cost which is not feasible.

If you have any further questions regarding this matter, please feel free to contact me.

Thank you,

Melissa Autry, CMC
Clerk of Council
City of Cincinnati