COUNCIL UPDATE

February 14, 2020

MEETINGS & REMINDERS

Monday, February 17	-	City Hall and the Community Center are closed in observation of Presidents' Day		
Tuesday, February 18	-	7:00 p.m.	-	Committee of the Whole
	-	7:30 p.m.	-	City Council
	-	7:30 p.m.	-	Citizens Advisory Committee
Wednesday, February 19	-	7:00 p.m.	-	Board of Zoning Appeals
Thursday, February 20	-	6:00 p.m.	-	Meet Your Police
	-	7:00 p.m.	-	Architectural Board of Review
Friday, February 21	-	9:30 a.m.	-	Commission on Aging
Monday, February 24	-	6:30 p.m.	-	Finance Committee of Council
Wednesday, February 26	-	7:00 p.m.	-	Transportation Advisory Committee

LEGISLATION

- **Top of the Hill Bond Ordinance, *Third Reading*.** An Ordinance providing for the issuance and sale of economic development tax increment financing revenue bonds, in a principal amount not to exceed $26,000,000, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code; authorizing execution and delivery of a trust agreement, a loan and service payment agreement, a bond placement agreement and related agreements, instruments and documents to provide for the revenues to pay and secure bond service charges and other required payments, the custody and application of funds and revenues, the

permitted uses of bond proceeds in the financing of project costs, other requirements for the issuance, sale and delivery of the bonds and related matters

- **Top of the Hill – City Contribution, *Third Reading*.** An Ordinance providing for the issuance and sale of not to exceed $1,850,000 of economic development nontax revenue bond anticipation notes, in anticipation of the issuance of bonds, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code

- **CRA Federal Bank Reform.** A Resolution urging the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation to protect the Federal Community Reinvestment Act by ensuring that current efforts to modernize regulations do not weaken the requirement of lending institutions to meet the credit needs of low- and moderate-income and marginalized communities across our Nation; and declaring an emergency.

- **Top of the Hill TIF Reauthorization, *Second Reading*.** An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; confirming a compensation agreement with the Cleveland Heights-University Heights City School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43; rescinding Ordinance No. 116-2019 adopted on December 2, 2019; and Ordinance No. 16-2018 adopted on March 19, 2018 except as stated herein

- **EdChoice.** A Resolution opposing the state's unconstitutional school funding system and the current method of funding Educational Choice Scholarship Program vouchers by the Ohio General Assembly; and declaring an emergency.

UPDATES

- **Top of the Hill**
  The flowcharts provided in last week's packet have been updated to reflect new/refined information as the financing continues to crystalize as we move towards closing. The updated charts are enclosed. A presentation closely resembling the charts will be given during the Council meeting.

I will be requesting permission to solicit proposals for owner's representation services at Tuesday's meeting. Staff is working through a draft RFP for owner's rep services.

- **Communications and Outreach**
  - Staff partnered with the Quintana's for the Light up the Heights" fun for Travis Kelce in the Super Bowl. The story was on all local channels and on Yahoo national.

  - Articles and ads are prepared for the Cleveland Magazine supplement, the NEO Relocation Guide, and the Spring/Summer Focus.

  - Staff is actively promoting the Census on social media and with flyers and posters.

  - Two videos are in production – an update on the City video and an Economic Development video "We are open for Business".

  - City Guides went out to every household and the Guide is also posted online. Any corrections are immediately corrected online and noted for the next printing.

- **CRA Housing Council -** Per ORC Section 3735.69, Community Reinvestment Areas are required to be reviewed annually by a Housing Council created by the City. The composition of the Housing Council is described in Ordinance 77-2018 and consists of two members appointed by Council, two members appointed by the Mayor, one member appointed by the Planning Commission, and two members appointed by the Housing Council members. The 2020 Housing Council meeting has been set for March 19, 2020 at 9am in the Executive Conference Room.
  At this time, there is no action required to fill the seven seats of the Housing Council. All seats were renewed/appointed to three-year terms beginning with the 2019 Housing Council Meeting. Barring vacancies, new appointments would need to be made for the 2022 Housing Council. Current membership of Housing Council consists of:

  - Helen Hertz – Council appointment (2019)
  - Ben Hoen – Council appointment (2019)

- Leonard Horowitz – Planning Commission Appointment (2019)
- Michelle Kolbe – Housing Council appointment (2019)
- Joe Zampano – Housing Council appointment (2019)
- Mary Dunbar – Mayor's appointment (2019)
- Kahlil Seren – Mayor's appointment (2019)

Next steps in regards to the annual meeting of the Housing Council and reporting to ODSA include:

1. Advertise meeting in Sun Press (two-week notice required)
2. Update CRA information and Housing Council presentation
3. Hold Housing Council meeting (quorum of four members required) to review CRA projects
4. Submit updated CRA reports to ODSA through their online reporting system on or before the March 31 deadline

- **Tax Incentive Review Council -** As was the case in 2019, the City is not required to conduct a Tax Incentive Review Council meeting in regards to the Top of the Hill TIF per my conversations with the County, ODSA and our outside counsel (Gene Killeen from Tucker Ellis) as the project has not yet begun and there is no activity to review to review. ODSA asked that we submit a "placeholder" report on the TOH TIF that reports that the project has not yet begun and that the TIRC was not required.

  Once the City is required to hold a TIRC to review this TIF (and any other commercial incentive agreements – TIF or CRA), the City Manager would need to appoint two people and have them approved by Council. In previous years, those appointments were filled by the Mayor and Vice Mayor.

- **Business Development/Project Update**

Business/Project	Location	Type	Program	Status
Zhug Restaurant	Cedar Fairmount	Restaurant	Commercial Loan	Open
Rudy's Pub	Cedar Lee	Pub/Restaurant	Commercial Loan	Closing Pending
Proximity Golf Lounge	May-Lee	Golf simulator/restaurant	SBA Grant	Open
Cleveland Tea Revival	Cedar Lee	Tea shop	SBA Grant	Opening TBD

Melange Motif	Noble Nela	Clothing Boutique	Microloan	Open
Franklin Myles	Center Mayfield	Storefront renovation	Storefront	Project underway
Flawless & Fierce	Center Mayfield	Storefront renovation	Storefront	Project underway
Lee-Silsby Associates LLC	Cedar Lee	Storefront renovation	Storefront	Contract signed
Wizbang Theatre	Cedar Lee	Theatre/performance arts	TBD	Projected spring opening
Jamerican Kitchen	Cedar Taylor	Restaurant		Open
The Boujie Bakery	Lee Road	Bakery		Open
Voodoo Brewery	Cedar Lee	Brewpub		Open
Marchant Manor Cheese	Cedar Lee	Cheese shop		Opening TBD
Rising Star Coffee	Cedar Lee	Coffee shop		Open
Sub City	Cedar Lee	Sandwich Shop		Opening TBD
Culinary Occasions	Cedar Lee	Caterer/bakery		Opening TBD
Happy Bees Ice Cream & Coffee	Coventry	Ice cream/coffee shop		Opening February/March

- **Parks & Recreation**
  - The Annual Robinson Youth Tournament is being held Friday, February 14 through Monday, February 17.

- **Planning**
  - Planning Commission: Jessica Cohen was re-elected Chair and Mike Gaynier was re-elected Vice-Chair. The Commission unanimously approved Conditional Use Permits for all of the requests.

  - Eye for Change: At 2425 North Taylor Road (at Edison Road) a 16-person residential care facility will be at the former St. Louis Church building that used to contain nun's housing, chapel, office and meeting rooms. Alcohol and drug treatment and recovery services for women will occur. City staff urged the applicant to study the Ohio Building Code ramifications to make sure the project is financially feasible.

- Integrity Realty Group Rental Housing: At a 2.4-acre property at 2235 Overlook Road (at Euclid Heights Boulevard) Dan Siegel owns a 45-dwelling-unit apartment building, and plans to renovate and create five apartments in a historic house and carriage house. He also proposes to build a total of 14 townhomes in two buildings and a two-apartment carriage house to complement the other buildings. The two townhouse buildings will contain separate bedrooms each with a full bath. Occupants will rent one bedroom on a yearly lease and four to five bedrooms will be connected to first-floor parking, living, dining, kitchen and half-bath common spaces of each townhome. The Zoning Code defines four or

more unrelated persons in a co-living arrangement as a Boarding House use. Co-living is a concept that is growing in popularity especially near colleges. At the Future Heights Planning and Development Committee meeting this morning, they approved a motion to furnish a letter of support for the proposal that will pertain to next Wednesday's Board of Zoning Appeals meeting and a yet-to-be-scheduled Architectural Board of Review meeting.

- X Dot LLC (Jed and Meg Hunter) purchased Motorcars Toyota (2950, 2926 and 3077 Mayfield and 14253-14261 Superior) and plans to continue operations without changes other than increased tidiness, according to Mr. Hunter. Staff and neighbors have found Mr. Hunter to be responsive to the extent that Hampshire resident Paul Nietupski on behalf of Hampshire Road neighbors wrote a letter of support for the new owners.

- **Police**
  - During the overnight hours of Sunday, February 9th and Monday, February 10th, numerous vehicles had their windows broken out and some had property stolen. All total, 46 vehicles were damaged while parked at the following locations: Municipal Lot 9, Municipal lot 27, 3235 Meadowbrook and 1476 & 1500 Warrensville Center Road. Only a few of the vehicles had property stolen, including miscellaneous change, a GPS unit, jumper cables, and a handgun. Immediately following these incidents, the Police Department increased patrols in the areas where the crimes were committed and in those areas we believed they may likely target next. In addition, detectives patrolled the streets in unmarked vehicles to increase our chances of locating the suspects. Detectives were also in contact with neighboring communities, including Cleveland and Shaker Heights, who reported similar incidents, to share information about the crimes and the suspects. On the evening of February 11th into the early morning hours of February 12th, the suspects, four juvenile males, were apprehended by Cleveland Police Department. These males are believed to be suspects not only in the crimes committed in Cleveland Heights, but for other similar crimes committed in neighboring communities including Cleveland, University Circle, Shaker Heights and East Cleveland.

  - On the evening of Friday, February 7, 2020, a male was shot in the leg by another male inside a house in the 3300 block of Desota Ave. While fleeing from the scene, the suspect also shot a dog in a yard in the 3200 block of Berkeley. The dog, a bull dog named Boogie, did not survive his injuries. With the assistance of K9 Jax, Officers located the suspect, a 17-year-old male, hiding in a backyard. He

was taken into custody without incident and the gun was recovered from the suspect. The incident remains under investigation.

- **Public Works**
  - **Sanitary Sewer Evaluation Survey**

	Requirements	Due
Phase 1 SSES	CCTV - 393,658 LF	Complete
Phase 2 SSES	CCTV – 224,792 LF	30-Jun-21
Phase 1 SSES	1,980 Manhole Inspections	Complete
Phase 2 SSES	1,125 Manhole Inspections	30-Jun-21
CMOM	132,000 LF/yr Pipe Cleaned	31-Dec-20
Model	Calibrated Model	Complete

Completed Through February 12, 2020

	Completed Thru Mat Feb.12, 2020 (LF)	Overall Remaining (LF)	Overall Remaining (%)
CCTV Phase 1	395,097	0	0%
CCTV Phase 2	10,860	213,932	95%
MHs Phase 1	1978	0	0%
MHs Phase 2	1,115	10	1%
Cleaning Total	484,714	-	-
Cleaning (2018) only	173,355	-	-
Cleaning (2019) only	304,188	-	-
Cleaning (2020) only	7,171	124,829	95%

Work Completed by Entity

	City	Contractor	County
CCTV (Phase 1)	19% (75,464 LF)	54% (215,287 LF)	27% (104,346 LF)

CCTV (Phase 2)	5% (10,860 LF)	0% (0 LF)	0% (0 LF)
Cleaning (2020) only	5% (7,171 LF)	0% (0 LF)	0% (0 LF)
Cleaning Total	33% (160,066 LF)	44% (212,983 LF)	23% (111,665 LF)

Model Update

Tasks	% Complete
1. Flow and rainfall Analysis	100%
2. Model Expansion in GIS	100%
3. Model Expansion in Infoworks ICM	100%
4. Delamere - Model Setup	100%
5. Delamere - DWF and WWF calibration	100%
6. Delamere - Capacity evaluation	100%
7. Delamere - Alternative development	100%
8. DWF and WWF Calibration for all flow meters	100%

**DWF = dry weather flow, WWF = wet weather flow*

Other

Mayfield Signalization - Terrace has not yet started the final work. There was an issue with one of the city's existing signal poles. CEI had listed the pole as completed, but they did not finish removing the power service. We still expect work to be completed in the next few weeks, weather permitting.

2020 Street Resurfacing & ADA Curb Ramp Replacement Program - This project is planned to be bid in early March.

Safe Routes to Schools – FY2020 – ODOT PID 103700 - The final plans, specifications, and cost estimate were delivered to ODOT for final review on February 7th. The project is on schedule to be sold by ODOT in May.

Solar Panel Update - The law department is still working out some agreement details with Enerlogics. Once an agreement is reached, we will anticipate a visit from Scott Ameduri, the President of Enerlogics to discuss the project at a Council Committee Meeting.

Future Project Update - Coventry Road Resurfacing – We are working with Cuyahoga County to partner on the project. We are hopeful that the county will include it in the 2021 Major Projects list.

The following projects were submitted to ODOT for programming this week:

- Superior Road Resurfacing (W. Corp Limit to Lee Road) – State Fiscal Year 2022
- Monticello Boulevard Traffic Signal Upgrade – State Fiscal Year 2023
- Lee Road Resurfacing (Mayfield Road to Superior) – State Fiscal Year 2023

MCIP – Delamere Project - A meeting with the residents was held Thursday evening to go over the project details.

Ash Tree Removal Project - 46 Trees have been removed under this project.

CLEVELAND HEIGHTS

Committee of the Whole

February 18, 2020
Agenda

1. Legislation
   Goal: Review upcoming legislation

2. Report of the City Manager
   Goal: City Manager and staff will address questions about the City Manager's Report

CLEVELAND HEIGHTS

CITY OF CLEVELAND HEIGHTS
FINAL ACTIONS OF THE PLANNING COMMISSION
ON WEDNESDAY, FEBRUARY 12, 2020

Proj. No. 20-01: Eye for Change Youth and Family Services, 2425 N. Taylor, "A" Single-family zoning district, requests conditional use permit for: (a) adaptive reuse of non-residential building in residential district for 16-resident residential care facility, and (b) reduction of parking requirements per Code sections 1111, 1115, 1121, 1151, 1153, 1161, & 1166.

Approved, 6-0, conditional use for adaptive reuse with the following additional conditions:

1. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
2. *The applicant shall work with staff to resolve any complaints from neighbors;*
3. *Occupancy shall not exceed the maximum allowable occupancy as determined by the City's Housing Inspections Department;*
4. *Any Housing, Building, or Fire Code violations shall be corrected prior to occupancy;*
5. *Existing landscaping shall be maintained or, if desired, a new landscape/screening plan shall be approved by the Planning Director; A privacy fence shall be installed along the eastern property line prior to occupancy and no later than 6/1/2020;*
6. *If new exterior lighting is proposed, the applicant shall submit a lighting plan for Planning Director approval;*
7. *Deliveries and trash pick-up shall not take place before 7 a.m. or after 9 p.m.;*
8. *Architectural Board of Review approval shall be required for exterior changes to the building;*
9. *All parking shall be accommodated on-site;*
10. *Any expansion of the use shall require a new Conditional Use Permit; and*
11. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

Approved, 6-0, conditional use for for reduction of parking requirements because the parking requirements result in an excessive number of parking spaces and a lesser number of spaces is appropriate and consistent with these regulations because the residents are not permitted to have cars.

Proj. No. 20-02: Integrity Realty Group, 2235 Overlook Drive & 2345-61 Euclid Heights Blvd., (PPN 685-02-012, 685-02-013, & 685-02-014), MF3 Multi-Family zoning district, requests lot joining and, in addition to existing apartment building & carriage house, a conditional use permit for: (a) boarding house buildings with 58-units, and (b) reduction of parking requirements per Code sections 1111, 1115, 1123, 1151, 1153, 1161, & 1166.

Approved, 6-0, Lot resubdivision. with the condition that, prior to submitting the plat to the County Recorder, it must be signed by the Director of Law, Director of Planning, and Secretary of the Planning Commission.

Approved, 6-0, Boarding House Conditional Use Permit, with the following additional conditions:

1. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
2. *The applicant shall work with staff to resolve any complaints from neighbors;*
3. *Prior issuance of a building permit, the applicant shall obtain approval of the Public Works Director that adequate utilities, access roads, grading/drainage are provided, and stormwater and stormwater management in compliance with Code chapter 1335;*

4. *Prior to issuance of the building permit, receipt of Planning Director approval of plans for landscaping, screening, tree preservation, tree protection, parking (bicycle and vehicle), and site lighting;*
5. *The existing historic stone wall, including the portion behind the existing 8-car garage, shall be maintained;*
6. *The applicant shall maintain a minimum of 17 on-site covered bike parking spaces and at least four shall be accessible to the tenants of the boarding house units;*
7. *Receipt of Architectural Board of Review approval of buildings, structures, fencing, signage and alterations to the stone wall;*
8. *Rental for less than one week is not permitted;*
9. *Receipt of required variances is required;*
10. *Receipt of Police Chief and Fire Chief approval of a Safety Plan;*
11. *Any future expansion shall require the approval of the Planning Commission; and*
12. *All required construction and installation of the use shall be completed within 24 months of Planning Commission approval.*

Approved, 6-0, conditional use for reduction to the parking requirements to provide 42 enclosed and 50 surface parking spaces (27 enclosed, 84 surface required) because a lesser number of spaces is appropriate and consistent with the regulations. Approval shall include the following conditions:

1. *The applicant shall maintain at least 17 on-site covered bike parking spaces and at least four shall be available to tenants of the boarding house units;*
2. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
3. *The applicant shall work with staff to resolve any complaints from neighbors; and*
4. *All required construction and installation of the use shall be completed within 24 months of Planning Commission approval.*

Proj. No. 20-03: Case Western Reserve University, 2315 Murray Hill Road, MF-3 Multi-Family zoning district, requests revision to conditional use permit for expansion to Fribley Commons dining facility per Code sections 1111, 1115, 1123, 1151, 1153, 1161, & 1166.

Approved, 6-0, with the following additional conditions:

1. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
2. *The applicants shall work with staff to resolve any complaints from neighbors;*
3. *Planning Director approval of a landscape plan for the property within the City of Cleveland Heights;*
4. *The applicant shall obtain variances, as required, from the Board of Zoning Appeals; and*
5. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

Proj. No. 20-04: X Dot OpCo LLC, 2950 Mayfield Road & 14253-14261 Superior Road, S2 Mixed-Use zoning district, requests conditional use permit to operate existing Motorcars Toyota dealership and employee parking lot (new & used car sales, major/minor auto repair, car wash, office) per Code sections 1111, 1115, 1131, 1145, 1151, 1153, 1161, 1163, & 1166.

Approved, 6-0, with the following additional conditions:

1. *That the use shall not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for nearby residents and businesses;*
2. *The applicant shall work with staff to resolve any complaints from neighbors;*
3. *The sale of used vehicles at this site shall only be permitted accessory to the sale of new automobiles at the franchised Motorcars Toyota operated by X Dot OpCo LLC. X Dot OpCo*

LLC's inventory of used automobiles shall not exceed fifty percent of the overall X Dot OpCo LLC inventory at any one time;

4. *Service garage, leasing department and other activities customarily incidental to a full-service franchised automobile dealer shall be permitted as accessory to the sale of autos provided these activities are conducted in wholly enclosed buildings;*
5. *Only repair of automobiles customarily associated with automobile sales shall be permitted and shall be conducted only where specifically shown inside of a building on the approved plans;*
6. *No junk or inoperative vehicle will be permitted where it can be seen from a public right-of-way or will be permitted to remain anywhere outside on the property for more than forty-eight (48) hours;*
7. *Parking lots shall be striped in accordance with approved site plan and cars shall park in an orderly manner as shown on the approved plan;*
8. *Test-driving of vehicles shall not be on residential, 'A' single-family district collector side streets, such as Middlehurst, Hampshire and Preyer. Streets with high volumes of traffic and multiple lanes, such as Mayfield, Monticello, and Lee Road, shall be the principal routes for such test drives;*
9. *All reasonable efforts shall be made to preserve the wooded character of the 10'-wide landscape buffer abutting Hampshire Road lots and X Dot OpCo LLC shall maintain the existing 7'-tall fence along the south property line. Landscaping shall comply with previously approved landscape plans [2950 Mayfield in accordance with plan approved Proj. No. 99-31 and 14253-14261 Superior in accordance with plan approved Proj. No 98-22], or alternate plan approved by the Planning Director. All dumpsters shall be screened and Planning Director approval shall be required for removal, replacement, or installation of any landscaping, trees, screening, or fencing;*
10. *The applicant shall adhere to a weekly landscaping maintenance program during non-winter months and biweekly litter and fence inspection. Litter shall be removed immediately and fencing shall be repaired in a timely manner. Plowed snow shall be stored on-site and shall not be piled onto public sidewalks;*
11. *Architectural Board of Review approval shall be required for any exterior changes to the building, including signage. All signage shall conform to zoning requirements, considering previous variances, including the prohibition of temporary freestanding signs, pennants, banners, streamers, whirligigs, balloons and other similar devices;*
12. *Lighting shall not glare into, or upon, the surrounding area or any residential premises. Any proposed new lighting shall be approved, prior to installation, by the Planning Director in compliance with Code section 1165.07;*
13. *All deliveries shall occur on-site and no automobile delivery trucks shall load or unload automobiles in the public right-of-way; and*
14. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

Proj. No. 20-05: X Dot OpCo LLC, 2926 Mayfield Road, S2 Mixed-Use zoning district, requests conditional use permit to operate existing Motorcars Toyota dealership (new & used car sales, major/minor auto repair, detailing, office) per Code sections 1111, 1115, 1131, 1145, 1151, 1153, 1161, 1163, & 1166.

Approved, 6-0, with the following additional conditions:

1. *That the use shall not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for nearby residents and businesses;*
2. *The applicant shall work with staff to resolve any complaints from neighbors;*
3. *Only repair of automobiles customarily associated with automobile sales shall be permitted, and all auto repair, cleaning, washing and drying operations shall be conducted inside the building. Major structural repair, rebuilding of motor vehicles, major collision service, spray painting of more than 20 sq. ft. per car, transmission rebuilding, frame*

repairs, major overhauling of engines, radiator removal/repair, recapping/retreading of tires shall not be permitted;

4. *No junk, inoperative or unlicensed vehicle will be permitted to remain anywhere outside on the property for more than forty-eight (48) hours;*
5. *The south-facing overhead door shall remain closed at all times except as needed to allow vehicular access and no public address or speaker system may be used that will be audible outside the building;*
6. *Business hours shall not exceed 7 a.m. – 8 p.m. Monday through Friday and 8 a.m. – 7 p.m., weekends;*
7. *The applicant shall maintain the existing 10' buffer zone and 7'-tall fencing along south property line including all existing trees and landscaping and the fence shall remain as shown on the plan, with portions of the landscape buffer south of the fence, and in accordance with previous variances. The applicant shall submit, for Planning Director approval, a landscaping and screening plan and all landscaping shall be installed by June 15, 2020. Planning Director approval shall be required for removal, replacement, or installation of any landscaping, trees or fencing;*
8. *The applicant shall adhere to a weekly landscaping maintenance program during non-winter months and biweekly litter and fence inspection. Litter shall be removed immediately and fencing shall be repaired in a timely manner. Plowed snow shall be stored on-site and shall not be piled onto public sidewalks;*
9. *X Dot OpCo LLC shall make every effort to park vehicles that are moved less frequently along the south property line;*
10. *All signage shall conform to zoning requirements, considering previous variances, and require the Architectural Board of Review Approval;*
11. *Sale of used vehicles at this site shall only be permitted accessory to the sale of new automobiles at the franchised Motorcars Toyota operated by X Dot OpCo LLC at 2950 Mayfield Road. X Dot OpCo LLC's inventory of used automobiles shall not exceed fifty percent of the overall X Dot OpCo LLC inventory at any one time;*
12. *Lighting shall not glare into, or upon, the surrounding area or any residential premises. Any proposed new lighting shall be approved by the Planning Director in compliance with Code section 1165.07 prior to installation;*
13. *All deliveries shall occur on-site and no automobile delivery trucks shall load or unload automobiles in any public right-of-way;*
14. *Parking lot shall be striped in accordance with approved site plan and cars shall park in an orderly manner as shown on the approved plan;*
15. *Test-driving vehicles shall not be permitted on residential district collector side streets such as Middlehurst, Hampshire, and Preyer roads. Streets with high volumes of traffic and multiple lanes, such as Mayfield, Monticello, and Lee Road, shall be the principal routes for such test drives; and*
16. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

Proj. No. 20-06: X Dot OpCo LLC, 3077 Mayfield Road, C1 Office zoning district, requests conditional use permit to operate existing Motorcars Collision Center for major service per Code sections 1111, 1115, 1131, 1151, 1153, 1161, 1163, & 1166.

Approved, 6-0, with the following additional conditions:

1. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
2. *The applicants shall work with staff to resolve any complaints from neighbors;*
3. *All activities, including cleaning, washing and drying operations shall take place inside the building;*
4. *Chemical fumes and dust shall not be detectable from neighboring properties, the public streets. or sidewalks;*

5. *No junk, inoperative or unlicensed vehicle will be permitted to remain anywhere outside on the property for more than forty-eight (48) hours;*
6. *No merchandise may be displayed outdoors;*
7. *Tow trucks, flatbed trucks, and other similar oversized vehicles shall not be permitted in the front (south) parking lot;*
8. *A landscaping and screening plan shall be approved by the Planning Director. All dumpsters shall be screened and Planning Director approval shall be required for removal, replacement, or installation of any landscaping, trees, screening, or fencing;*
9. *Windows shall remain transparent and provide views to allow people to see and be seen in compliance with Code section 1131.075(a);*
10. *Parking lots shall be striped in accordance with approved site plan and cars shall park in an orderly manner as shown on the approved plan;*
11. *The applicant shall adhere to a weekly landscaping maintenance program during non-winter months and biweekly litter and fence inspection. Litter shall be removed immediately and fencing shall be repaired in a timely manner. Plowed snow shall be stored on-site and shall not be piled onto public sidewalks;*
12. *Architectural Board of Review approval shall be required for any exterior changes to the building, including signage. All signage shall conform to zoning requirements, considering previous variances, including the prohibition of temporary freestanding signs, pennants, banners, streamers, whirligigs, balloons and other similar devices;*
13. *All deliveries shall occur on-site and no delivery trucks shall load or unload in the public right-of-way; and*
14. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

I hereby certify that the above decisions constitute the final actions taken by the Planning Commission on February 12, 2020. I further certify that this Action Summary was mailed to each applicant on February 14, 2020.

Kara H. O'Donnell Feb. 13, 2020

Kara Hamley O'Donnell, Secretary for Planning Commission **date**

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS AGENDA

The regularly scheduled meeting of the Board of Zoning Appeals of the City of Cleveland Heights, Ohio will be held on Wednesday, February 19, 2020 at 7:00 p.m. in Council Chambers, City Hall, 40 Severance Circle Drive.

ROLL CALL

ELECTION OF OFFICERS

APPROVAL OF THE MINUTES OF THE DECEMBER 18, 2019 PUBLIC HEARING

PUBLIC HEARING – FEBRUARY 19, 2020:

CAL. NO. 3492 Dan Siegel, dba Integrity Reality Group, 2235 Overlook Dr. & 2345-61 Euclid Heights Blvd., MF-3 Multi-Family, requests variances

(a)to Code Section 1123.08 to permit spacing between building 1 & existing house to be less than 54' minimum required;

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

(b)to Code Section 1123.08 to permit spacing between building 2 & existing house to be less than 54' minimum required;

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

(c)to Code Section 1123.08 to permit spacing between building 1 & existing apartment building to be less than 60' minimum required;

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

CAL. NO. 3492 (d) Code Section 1161.11(c) to permit drive aisle to be wider than 24' maximum permitted;

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

(e) to Code Section 1123.07(c)(1) to permit building 3 to have rear yard less than minimum 15' required.

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

CAL. NO. 3493 J-Town Properties, LLC, 2741 Hampshire Rd., MF-3 Multi-Family, proposing to reconfigure existing 7 apts. into 14 one-bed apts. requests variances

(a) to Code Section 1123.06 (a) to permit less land area per unit than required (min. 750 s.f. per unit) and Code Section 1123.06(c) to permit greater number of units per acre than code permits (max. 9 units);

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

(b) to Code Section 1161.03 (4) to permit fewer parking spaces with none enclosed (code requires 7 additional spaces with 4 enclosed).

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

CAL. NO. 3494 Case Western Reserve University, 2315 Murray Hill Rd., MF-3 Multi-Family, proposing expanding existing building, requests variances

(a) to Code Section 1123.07(a) to permit front yard setback to be less than 30'minimum required;

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

CAL. NO. 3494 Case Western Reserve University, 2315 Murray Hill Rd., MF-3 Multi-Family, proposing expanding existing building, requests variances

(b) to Code Section 1165.03(g)(1) to permit building to be located on more than one parcel (not permitted).

Moved to: ( ) Grant ( ) Deny ( ) Continue ( ) Withdraw

Moved by_____Seconded by_____

Motion ( ) Carried ( ) Failed

OLD BUSINESS

NEW BUSINESS

ADJOURNMENT

PUBLIC COMMENTS TO COUNCIL

Date	Name	Address	Topic	Comments	Referred to	Resolution	Date2
6-Jan-20	Joan Mallek		Top of the Hill	Wants to be certain TOH has more benefit to the city than the developer Revenue bonds for $1.85M-what is the revenue source as city must certify they have the funds. Why is it $2M. Is there any plan to develop a revenue source? Ohio dept of taxation article and research on TIF funding shows the benefit is not there for the schools as the state reduces school funding because of TIF revenue Burden is then placed on the citizens. Is there a contingency plan for reduced state funding for	Planning & Development Committee and Council	Jan 27 Economic Development meeting to address questions	1/27/2020
6-Jan-20	Roger Bliss - developer, builder		Medusa Building	He does development projects in CH. He volunteers with Future Heights and DPZM. Worked on Cedar Lee Connection-2018 RFP He was involved in the development of Medusa- 2019 RFP. The city didn't help so he is looking for new partners. It is not easy to do business in CH. He hopes the Rockefeller area and Medusa get city attention. He invites council to tour the project.	City Council	His option on the property expired. M. Hart contacted him and he cancelled.	1/20/2020
6-Jan-20	Mary Kelsey		TOH	There was no market study for TOH, so she is concerned on the financials. The design is not good Financing creates a financial burden for the city She prefers financing by Port Authority	Planning & Development Committee and Council	Jan 27 Economic Development meeting to address questions	1/27/2020
6-Jan-20	(Lusty wrench)		Environmental	He is on a committee for Complete and Green Streets Policy. He is for ecological treatment of tree lawns. Heights people planted 111 trees. It is a volunteer organization that paid $125/tree to plant the trees.	N/A	N/A	N/A
6-Jan-20	Mansell Baker	East Cleveland	Campaign speech	County council candidate campaign pitch	N/A	N/A	N/A
6-Jan-20	Scott Weber	3074 Kensington	Parking permit issue	Ordinance 1113.2019 allows overnight parking on 18 streets. On 6 streets, people have to purchase a permit to park on the street. Thanks to council for having permits. His tenant has had such a permit for 6 months. But he keeps getting tickets when he is validly parking. Request that the city fix this so the tenant doesn't have to keep coming in to the city hall to get the tickets taken care of.	Police Chief	**Council report:** The chief met with him, looked up any tickets for him and cancelled them. She sent a memo to all officers listing the streets that have parking permits and advising them to check for the permits on those streets. This should solve the issue.	1/21/2020
6-Jan-20	Joyce Rajki		Top of the Hill	She feels no more city time nor money should go to this project. No one was notified there were new drawings. She had to make a public records request and make an appointment. She feels there needs to be more transparency on council.	Planning & Development Committee and Council	Meeting was held on 1/27 and was recorded. All questions submitted were answered.	1/27/2020
6-Jan-20	Richard Bozik	2054 Edgehill	Top of the Hill	He has attended the TOH meetings and still does not understand the financing. It would be helpful to have a clear understanding.	Planning & Development Committee and Council	Meeting was held on 1/27 and was recorded. All questions submitted were answered.	1/27/2020
6-Jan-20	Gary Kantor	3624 Cummings Rd	Council members	Calls for resignation of Mary, Melissa, and Mike on violation of oath of impartially discharging duties of the office in regards to No to Issue 26 campaign.	N/A	N/A	N/A
6-Jan-20	Harriet Applegate	1522 Press Rd	Environmental	Although the city has done a lot environmentally, she would like a resolution to be carbon neutral by a certain date. We should be on the cutting edge status.	Staff/ City Council	**Needs to be researched by staff and determined what is feasible to be done at a future meeting.**	

PUBLIC COMMENTS TO COUNCIL

Date	Name	Address	Topic	Comments	Referred to	Resolution	Date2
6-Jan-20	Tony Cuda	Fenley Rd	City employee behavior	The council manager form of gov't was in CH for 100 years. With Issue 26 people voted for change. The volunteers working on the campaign were passionate about Issue 26. But there were many troubling incidents. On 5/18, city employees screamed at a volunteer saying if you talk to me, I'll throw you out of here. On 6/1, city employees said we could not get our petitions signed in Cain Park. They were told to leave the library at Lee Road when getting signatures there. There are many more examples, but I won't go through all of them. The point is the city has a culture of this behavior when there are so many examples. They want to see results - he calls for us to tell the city manager to issue a directive on behavior at elections.	City Council	**Needs to be discussed by council at a COW at a future meeting**	
21-Jan-20	Daniel Wolz	East Overlook	street parking permits	Via email: Wants to know if residents can get parking permits on a case by case basis and if not, what are they expected to do. This was brought to the city's attention 4 months ago with no response	**Who to refer to?**		
21-Jan-20	Jim Hurley		News article on condition of city service garage	Article and union person with video of garage	Public works		
20-Jan-20	James Williams	25 Severance Circle	presidential election	Wants Trump and Pence out	N/A	N/A	N/A
20-Jan-20	Howard Pierce	2577 Exeter Rd	retain brick streets	**Wants a committee of residents and city staff to discuss maintaining the brick roads** Briley was asked to respond. She said they did send a survey but it would not be the only outreach. They will continue to have a dialogue There are varying points of view. There is no imminent plan on the brick roads. They will gather all the info and come to a collective policy and approval all agree upon. They are pausing to come up with a new approach and regroup in the spring with outreach. Input is required.	Tanisha		
20-Jan-20	Fran Mentsh		TOH	She has 217 signatures on petition that residents want a market study before moving forward. Concerned about the competition of 1,000 other new apartments in the area that these will be vacant. CH4responsibledevelopment@gmail.com is their email. She thinks we need development, but the right kind.	Planning & Development Committee and Council		
20-Jan-20	Mary Kelsey & Linda Butler	3107 Meadowbrook/2200 Devonshire	TOH	There is no strong interest in Ambler Heights to downsize into apartments at TOH. Condos hold more interest. There was no Senior focus group done. She feels the buildings at TOH are a big risk.	Planning & Development Committee and Council	Meeting was held on 1/27 and was recorded. All questions submitted were answered.	1/27/2020
20-Jan-20	Wendy Hyman	1769 Radner	Brick roads	She works at Oberlin and husband works at Tri-C. They chose to live here and commute because they love their home and brick road. If the road gets paved, they would likely sell their house and move. The city should consider the quality of life and historical character of the city. **Want to maintain the brick streets.**	Tanisha	**Need to develop a plan to resolve with residents.**	

PUBLIC COMMENTS TO COUNCIL

Date	Name	Address	Topic	Comments	Referred to	Resolution	Date2
20-Jan-20	Josefita Fehn	2230 Arlington	2240 Arlington House	Provided some history of 2240 Arlington house which was abandoned, foreclosed, and sold at sheriff's sale to rehabber. The new owner started tearing things apart without any building permits. They called it in to the city. They had to seek a permit then. She read out loud the architectural review principals. She and the other neighbors were never advised 2.5 years ago to attend the ABR for hi proposal for the project. She brought pictures to show the unsightly sight. No plan to deal with the water runoff. They began putting a cedar shake roof on the original house without a permit. This was called in and they got a permit. But then they only put wood shingles on the front and sides and put new asphalt shingle on the back. There are other issues as well like the dead trees that could fall on other houses. Wants the city to have a meeting with the owner and architectural review and them so they can all come to an agreement on items.	Richard Wong and Alan Butler to report back at next council meeting	See response on 2/3	2/3/2020
20-Jan-20	Diana Stromberg	2988 Monmouth Rd	2240 Arlington House	Difficult for neighbors for 6+ years with the vacant 2240 Arlington house. It's time to make a change and make sure it is done quickly and right. The shingles were the last straw. This is not maintaining the tax base of our homes.	Richard Wong and Alan Butler to report back at next council meeting	See response on 2/3	
20-Jan-20	Mike Knobluch	2576 Wellington Rd	TOH/Use funds for housing	Feels that using 1.85M for TOH could be better used on housing stock. And housing will improve the tax base more quickly	Planning & Development Committee and Council	Meeting was held on 1/27 and was recorded. All questions submitted were answered.	1/27/2020
20-Jan-20	Nick	2632 Exeter Rd	Brick roads	Tanisha said there will be additional communication on this. **He wants it formalized in a letter.**	Tanisha		
20-Jan-20	Chris Drake	3020 Euclid Heights Blvd	water bill & TOH	Angry at city's mismanagement of water in the past costing citizens money now. Feels TOH is an issue when we have 13 vacant store fronts on Coventry. He wants to know how much to fix the EPA agreement. Accuses council members that ran last fall of taking campaign contributions from TOH developers. [Note: Melody Hart, Kahlil Seren, and Davida Russell responded none). **Response needed from Tanisha**	Tanisha		
20-Jan-20	Joyce Rajki		TOH	Wants 1/27 meeting recorded. (City confirmed to her it would be) Not all letters have been kept in the archive that Ungar said exists and should be provided to council members. She did a PRR and the letters are not there. Finally found coversheets, but no attachments were present. Doesn't like the method of taking questions. Why email them? Why not let citizen's talk?	Planning & Development Committee and Council	Meeting was held on 1/27 and was recorded. All questions submitted were answered.	1/27/2020
20-Jan-20	Chris Cooley	2524 Arlington	2540 Arlington house	He is reinforcing their frustration on 2540 Arlington Rd. It is an attack on the neighborhood.	Richard Wong and Alan Butler to report back at next council meeting	See response on 2/3	2/3/2020
20-Jan-20	Karla Rautenberg	3065 Berkshire	Democracy Day	Encourages people to attend Democracy Day and provides a brief history of it with $1200 they put it on the ballot and it got a 77% vote. People can speak about the impact of corporate funds for 5 minutes each. She talked about HB 48 amendment that only people are people, not corporations. It has 68 co-sponsors.	N/A	N/A	N/A
20-Jan-20	Richard Bozik	2405 Edgehill	TOH	Having a vote on 1.85M bond and 26M bond are not "housekeeping issues" He doesn't buy it.	Planning & Development Committee and Council	**Council Response:** The bonds will not be treated as housekeeping and will be heard in 1st, 2nd, and 3rd readings.	1/20/2020
20-Jan-20	Jerry Scrow	2587 Kingston	TOH	Has lived in CH 46 years. He has never seen anything right with TOH. The tall generic building screams Lakewood. They passed up port authority financing and want less than prevailing wages - not in my town.	Planning & Development Committee and Council	N/A	N/A

PUBLIC COMMENTS TO COUNCIL

Date	Name	Address	Topic	Comments	Referred to	Resolution	Date2
20-Jan-20	Dan Heintz (read by Jason Stein)		TOH	In favor of moving forward with TOH	Planning & Development Committee and Council	N/A	N/A
24-Jan-20	Chris Winsberg	Victorian Apartments (Mayfield)	Traffic light removed	They are unable to exit to the left on Mayfield from the apartment complex, so they typically drive to Clev. Hts Blvd and Mayfield where there is a light in order to turn left. In the Mayfield regionalization, this light was removed. She had to sit there for 10 minutes before she could exit to the left onto Mayfield Rd.	Collette C	Melody checked with Colette and determined a different route. Melody called resident to determine if this route worked. Waiting for response.	
24-Jan-20	R. Sokin	Union representative for public works	leaks in garage ceiling	Email requesting council come out to see the garage as he had a complaint of leaks	Melody Hart/Andre-public works	I went to the garage the same day and toured it. There are about a dozen skylights that have slow leaks and drip. There is one seam on the garage that needs repair as it had toured the garage and saw the leaks from the skylights and Andre was working to get them repaired, but there didn't seem to be a safety or health hazard. **Will clear this as resolved when notified skylights/roof is repaired.**	
3-Feb-20	James Williams	25 Severance Circle	Trump	Trump has cut funding and emergency relief aid and help to African Americans with health, HIV/AIDS, drug addiction, poor food, etc. He has abused his office. He has a horrible policy on Haiti.	N/A	N/A	N/A
3-Feb-20	Josefita Fehn	2532 Arlington	2540 Arlington house	When a project starts, after a permit, does the permit expire and how does the city ck on this and check on plan execution? Are there ordinances on deadlines. This one has been going on for 3 years so far. Can they take 50 years to complete the project? Do they have to show they have the money to do the project? Did the owner pull a permit for the addition roof first or did they do the main house first? What is going to be done about the water run-off on her property? Is there any escrow or a list of approved contractors?	Housing, Building, Public works, and Susanne	**Council Response:** At this meeting, R. Wong and Susanna responded. A history of the project was given by R Wong. On 12/10/18 the addition and renovation had a comprehensive list of inspections. Policy is to inspect work on requirements of permit holder. Susanna commented that they have a contract with Safebuilt for this and they expect them to inspect. Building and housing have been on site. Susanna said there is a timeline on a permit in that it should be completed in a reasonable time. If things are not done, they check to make sure there is progress. The main roof permit is on condition that ALL sides of the house's roof are to be cedar They should complete the room in 4 weeks. They had to order more shingles. On 1/29/20 they gave them a furnace permit. Once the furnace is in and there is heat, they can put in the plumbing and will remove the porta potty. They will meet again with the owner and contractor this Friday. They asked for a timeline from them. They are to get the plumbing ready and remove the porta-potty. They have been told to clean the front years of the dirt and debris, and remove the dumpster, for the temporary drain they installed, they must move in underground and connect underground. Gutters will go on once the roof is finished. Richard has given them 4 weeks to order and install the roof.	2/3/2020
3-Feb-20	Roger Breedlove	3055 Fairfax	TOH	* Seems there is a mismatch of risk/reward in the city investment and the developer. The period or repaying of TIF seems like the city assumed there was no other better deal assumed. * City collects income taxes from renters . The developer can collect rent without regard to what taxes are paid. We are taking a bigger risk than the developer. * City should control the quality of the building. Advise them not to skimp but to force the developer to go through planning.	City Council		

PUBLIC COMMENTS TO COUNCIL

Date	Name	Address	Topic	Comments	Referred to	Resolution	Date2
3-Feb-20	Linda Butler	2200 Devonshire	TOH	Received a study of the traffic patterns that was done - Desmond study. It says the Euclid Hts-Cedar traffic declined by 10% since 2008-2018. They did not analyze Edgehill or North Park which are the other 2 routes out of the city to the east. People living in TOH will use those streets as well. People may shift their traffic patterns from Cedar to either Edgehill or North Park causing congestion there as well. People may park on Belleville and Delaware rather than to pay for parking. There is a large number parking on those streets now. There are shortcuts on all the streets. If TOH is built, people there will be unable to avoid traffic coming home. The plan has a light a Cedar and Delaware to allow people to go right or left or straight into the development. She doesn't like the shift in development - it feels oversized and too large for the neighborhood.	City Council		
3-Feb-20	Mary Kelsey	3107 Meadowbrook	TOH	People like proximity to Univ. Circle. There are only 3 routes to CH from the east - Cedar Fairmount, North Park, and Edgehill. As travel becomes harder, it diminishes the value of CH. Seems like there should be effective communication with the citizens on the issue.	City Council		
3-Feb-20	Len Freeson (?)	3065 Berkshire	Transition	In November the city manager created a document for transition. Tonight on the agenda, it lists an update regarding the city leadership team. It has been 3 months since the election. We would like to here if she can describe the transition playbook. She would obviously look at ordinances and operations. But there are other issues that need to be addressed and they need to be addressed by city council. There are political issues, salary issues, ethics, and balance of power issues.	City Council	**Council response:** Jason Stein let him know we will begin looking at the transition in March.	
3-Feb-20	Rich Bozik	2405 Edgehill	TOH	He has concerns over the financial package. Do we all understand financial responsibility and signoff. Whether you are for or against the design, many are asking for real changes. Is there any concrete evidence of people in the city behind it. How do we as citizen's trust a no answer on this when there is not evidence of it. People feel the project is favorable, but not the design. Why has the city and developer not have 1 meeting with the residents of the Buckingham to get their input.	City Council		
3-Feb-20	Fran Mentsh	3060 Chelsea	TOH	What will be the place of citizens in the decision on Severance given TOH. People like Ungar, Dunbar, Stein, city staff, Ed Kelley were involved in the decision of TOH and Severance originally. What about Oakwood, the people in power, when the trust for public land wanted the land and had an option, the city refused to meet with the trust. It would have been a Metroparks. In TOH, the same people still refuse to listen to citizens wanting a marketing study. It is a size 16 building crammed into a size 6 lot. Don't make the developer rich at resident expense. You are supposed to protect us, so get a better deal. Build a parking garage and nothing else.	City Council		
3-Feb-20	Joan Mallek	2091 S Overlook	TOH	$70M for F&C development and $52 from their financing. Why the $1.85M the city and developer determines that city amount and passed amendments 1 and 2. There is not productive communication on this anymore. The ABR are not required to answer questions by the public per Tanisha. She read part of Melissa's response saying everything was answered at the meeting and people are entitled to their own opinion, but no one has a right to their own facts.	City Council		

PUBLIC COMMENTS TO COUNCIL

Date	Name	Address	Topic	Comments	Referred to	Resolution	Date2
3-Feb-20	Laura Marks	not provided	Tree canopy	She provided a map of the three canopy over time. Loss of trees across the country is expected to go up by 85% by 2025 because of the silver maple and ash trees. With more trees there is less flooding of basements. We need to approach the tree canopy differently. She would like another council person to talk to her on this. There are things we can do, like policy. Talk about what we can do differently to affect the trees	City Council	Mary asked Melody to join her on this and Melody has agreed to work with Mary and Laura on the trees.	2/5/2020
3-Feb-20	Joyce Rajki	2328 Stillman Rd	TOH	She has pages of citizen comments when TOH drawings were there. 9/10 are against. Here are some of the comments: Buildings should be set back for trees. Its an abomination. We don't need an outsized project. Goodbye CH culture it is a monument to the loss of identity.	City Council		

CLEVELAND HEIGHTS

AGENDA (tentative) – CLEVELAND HEIGHTS CITY COUNCIL MEETING
COUNCIL CHAMBERS

Tuesday, February 18, 2020
Regular Meeting
7:30 p.m.

Cleveland Heights City Hall
40 Severance Circle
Cleveland Heights, Ohio

1) Meeting called to order by Mayor

2) Roll Call of Council Members

3) Excuse absent members

4) Approval of the minutes of the regular Council meeting held Monday, February 3, 2020.

5) Personal communications from citizens

6) Report of the City Manager

Request permission to bid for the Fire Vehicle Source Capture Exhaust Systems project.

Matter of Record

Refer to: Municipal Services Committee

Request permission to issue a Request for Proposals to for owner's representative services for the Top of the Hill project

Matter of Record

Refer to: Planning and Development Committee

7) Report of the Clerk of Council

8) Committee Reports

a.) FINANCE COMMITTEE

ORDINANCE NO. 5-2020 (F), *Third Reading*. An Ordinance providing for the issuance and sale of economic development tax increment financing revenue bonds, in a principal amount not to exceed $26,000,000, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation,

furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code; authorizing execution and delivery of a trust agreement, a loan and service payment agreement, a bond placement agreement and related agreements, instruments and documents to provide for the revenues to pay and secure bond service charges and other required payments, the custody and application of funds and revenues, the permitted uses of bond proceeds in the financing of project costs, other requirements for the issuance, sale and delivery of the bonds and related matters

Introduced by Council Member _____

Vote _____ _____ _____
For Against No. Reading

ORDINANCE NO. 6-2020 (F), *Third Reading*. An Ordinance providing for the issuance and sale of not to exceed $1,850,000 of economic development nontax revenue bond anticipation notes, in anticipation of the issuance of bonds, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code

Introduced by Council Member _____

Vote _____ _____ _____
For Against No. Reading

RESOLUTION NO. 14-2020 (F). A Resolution urging the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation to protect the Federal Community Reinvestment Act by ensuring that current efforts to modernize regulations do not weaken the requirement of lending institutions to meet the credit needs of low- and moderate-income and marginalized communities across our Nation

Introduced by Council Member _____

Vote _____ _____ _____
For Against No. Reading

b.) MUNICIPAL SERVICES COMMITTEE

c.) PLANNING AND DEVELOPMENT COMMITTEE

ORDINANCE NO. 12-2020 (PD), *Second Reading*. An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; confirming a compensation agreement with the Cleveland Heights-University Heights City School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43; rescinding Ordinance No. 116-2019 adopted on December 2, 2019; and Ordinance No. 16-2018 adopted on March 19, 2018, each except as stated herein

Introduced by Council Member _____

Vote _____ _____ _____
For Against No. Reading

d.) PUBLIC SAFETY AND HEALTH COMMITTEE

e.) ADMINISTRATIVE SERVICES COMMITTEE

f.) COMMUNITY RELATIONS AND RECREATIONS COMMITTEE

RESOLUTION NO. 15-2020 (CRR). A Resolution opposing the state's unconstitutional school funding system and the current method of funding Educational Choice Scholarship Program vouchers by the Ohio General Assembly.

Introduced by Council Member _____

Vote _____ _____ _____
For Against No. Reading

9) Consent Agenda

10) Mayor's Report

11) Adjournment

(Council members and staff will stay following adjournment to discuss questions informally with citizens.)

NEXT MEETING OF COUNCIL: MONDAY, MARCH 2, 2020

Proposed: 01/21/2020

ORDINANCE NO. 5-2020 (F), *Third Reading*

By Council Member Hart

An Ordinance providing for the issuance and sale of economic development tax increment financing revenue bonds, in a principal amount not to exceed $26,000,000, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code; authorizing execution and delivery of a trust agreement, a loan and service payment agreement, a bond placement agreement and related agreements, instruments and documents to provide for the revenues to pay and secure bond service charges and other required payments, the custody and application of funds and revenues, the permitted uses of bond proceeds in the financing of project costs, other requirements for the issuance, sale and delivery of the bonds and related matters; and declaring an emergency.

WHEREAS, the City is authorized and empowered by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII of the Ohio Constitution and Chapter 165 of the Revised Code ("Act"), among other things, (i) to issue bonds to acquire, construct, reconstruct, equip, or improve a "project" as defined in Section 165.01 of the Revised Code, comprising an industrial, commercial or research facility, located within the boundaries of the City, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; (ii) to secure such bonds by a pledge of revenues, as provided herein; and (iii) to pass this Ordinance and to sign, deliver and enter into the agreements, instruments and other documents authorized herein on the terms and conditions provided herein; and

WHEREAS, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and the State, the City has determined to issue the economic development tax increment financing revenue bonds described herein, to provide funds necessary to pay a portion of the costs of the redevelopment by F & C Development, Inc. (together with designated affiliates, "Developer"), of the site generally known as "Top of the Hill" located on approximately four acres of land situated between Euclid Heights Boulevard and Cedar Road at the top of Cedar Hill in the City ("Project Site"), with the Top of the Hill site to be leased to the Developer pursuant to a development agreement between the City and the Developer (as supplemented and amended, "Development Agreement"), and with Project Site improvements by the Developer to include (i) approximately 261 market-rate apartments, (ii) approximately 11,400 square feet of first floor restaurant, retail and commercial space, (iii) a public parking garage resulting in approximately 550 parking spaces, (iv) public gathering and green spaces and (v) all sidewalks, driveways, access ways and utility connections necessary for the improvements described in (i) through (iv) above ("Project Improvements" and, together with the Project Site, "Project"); and

WHEREAS, this Council has previously enacted legislation relating to and approving the Development Agreement, the ground lease and redevelopment of the Project Site, the Project Improvements, the exemption of 100% of the "improvements" (herein "TIF Improvements"), as defined in or for purposes of Section 5709.41 of the Revised Code (together with related statutory provisions, "TIF Act"), from real property taxation for a period of thirty (30) years ending not later than tax year 2050 (tax collection year 2051) ("TIF Exemption") and the imposition of requirements

for payments in lieu of such exempted taxes (collectively "Service Payments") by the Developer and future owners of the Project (collectively "Owners"), including payments to the Cuyahoga County Fiscal Officer in the same amounts and at the same times as the taxes exempted ("Statutory Service Payments") and such supplemental or minimum service payments as are imposed on the Project consistent herewith ("Minimum Service Payments" and, together with the Statutory Service Payments, "TIF Payments"), an agreement (as amended and supplemented, "School Compensation Agreement") with the Board of Education of the Cleveland Heights-University Heights City School District ("School District") relating to the compensation to be paid to the School District from any Statutory Service Payments ("School Compensation Payments") and related matters, and has previously determined and hereby confirmed that the Project constitutes a "project" as defined in the Act, that the Project is in furtherance of the City's plans and actions in support of urban redevelopment in the City and that the City may, under the Act, issue tax increment financing revenue bonds and loan the proceeds thereof to the Developer to finance a portion of the costs of the Project; and

WHEREAS, the Cleveland Heights Community Improvement Corporation has certified to the City that the Project is in accordance with its plan for the industrial, commercial, distribution and research development of the City, as adopted and confirmed by the City pursuant to Section 1724.10 of the Revised Code; and

WHEREAS, the Developer and the City, together with Ross, Sinclaire & Associates, LLC ("Placement Agent") have signed a Preliminary Financing Term Sheet dated January 27, 2020 ("Term Sheet") outlining the terms and conditions for the issuance of tax increment financing revenue bonds by the City under the Act, in an aggregate principal amount estimated not to exceed $26,000,000, to finance a portion of the costs of the Project, a copy of which is on file with this Council; and

WHEREAS, this Council has now determined that it is necessary and desirable, and in the best interest of the City, to enact this Ordinance to authorize, approve and provide for the issuance and sale of economic development tax increment financing revenue bonds ("Bonds"), in an aggregate principal amount not to exceed $26,000,000, the loan of the proceeds thereof to the Developer to pay or provide for a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of the Project, the execution and delivery of a trust agreement, a loan and service payment agreement, a bond placement agreement and related agreements, instruments and documents (collectively "Bond Documents") to provide for the revenues to pay and secure the payment of the principal of and the interest and any premium on the Bonds (collectively "Bond Service Charges"), administrative expenses and charges relating to the Bonds, including fees payable to the City, to the corporate bond trustee under such trust agreement ("Trustee"), to a qualified administrator appointed by the City to fulfill requirements under the Bond Documents ("Administrator") or otherwise (collectively "Administrative Expenses" and, together with Bond Service Charges, "Bond Payments") and to provide for the School Compensation Payments and any other required payments from the Service Payments, the custody and application of funds and revenues, the permitted uses of proceeds of the Bonds, and the requirements for the issuance, sale and delivery of the Bonds and related matters;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, Ohio, that:

SECTION 1. Recitals and Definitions. This Council hereby adopts, confirms and restates, as fully as if set forth in this Section 1, the Recitals to this Ordinance, which are incorporated herein by reference as a statement of the findings and determinations of this Council, including as to the public purposes of the City in enacting this Ordinance, entering into the Bond Documents, issuing the Bonds and taking such other actions as are authorized by this Ordinance. In addition to the words and terms defined elsewhere in this Ordinance (including in the Recitals incorporated herein) or by reference to the Act or TIF Act, unless the context or use clearly indicates another meaning or intent:

"Administration Agreement" means an agreement for administrative services among the City, the Trustee and the Administrator appointed from time to time by the City Executive, which agreement is authorized hereby and may be amended, supplemented or replaced from time to time consistent with the Bond Legislation, the Loan/Service Agreement and the Bond Indenture.

"Bond Indenture" means the trust indenture or agreement authorized hereby between the City and the Trustee, as the same may be supplemented and amended from time to time consistent with the Bond Legislation.

"Bond Legislation" means this Ordinance, together with the Certificate of Award, as either or both may be amended or supplemented from time to time.

"Bonds" means the revenue bonds authorized in Section 3 of this Ordinance and to be issued under the Bond Indenture and designated "Taxable Economic Development TIF Revenue Bonds, Series 2020 (Top of the Hill Development Project)" or as may be otherwise approved in the Certificate of Award or the Bond Indenture.

"Certificate of Award" means the certificate to be executed by the City Executive and Director of Finance pursuant to the delegations and authorizations in this Ordinance to provide for certain terms of the Bonds and their sale and to make the additional designations, appointments or approvals authorized hereby, which may be amended or supplemented from time to time consistent with this Ordinance (as amended or supplemented to the applicable time).

"City Executive" means the City Manager or the Mayor.

"City Manager" means the City Manager, other chief administrative officer of the City, or any person serving in an interim or acting capacity with respect to such office or offices.

"Closing Date" means the date of issuance and delivery of all Bonds maturing on or before January 1, 2050.

"Continuing Disclosure Agreement" means any agreement or provisions within an agreement to provide any continuing disclosure that may be required pursuant to the Placement Agreement and by and between the City and the Administrator (or other designated agent retained for the purpose of providing such disclosure), which agreement is authorized hereby and may be amended, supplemented or replaced from time to time consistent with the Bond Legislation, the Placement Agreement and the Bond Indenture.

"County" means the County of Cuyahoga, Ohio.

"County Treasurer Agreement" means an agreement between the City and the County, acting on behalf of the County Treasurer, providing for the agreement of the County Treasurer not to sell any tax lien certificate related to the Project Site for an amount less than 100% of the applicable tax lien without consent of the City and Trustee, which agreement is authorized hereby and may be supplemented and amended from time to time consistent with the Bond Indenture.

"Deferred Delivery Dates" means July 1, 2020, January 4, 2021, July 1, 2021 and January 3, 2022.

"Deferred Delivery Bonds" means those Bonds maturing on or after July 1, 2050.

"Delivery Dates" means the Closing Date and each of the Deferred Delivery Dates.

"Director of Finance" means the Director of Finance or any person serving in an interim or acting capacity with respect to that office.

"Director of Law" means the Director of Law or the person at the time performing the duties of the chief legal officer of the City.

"Final Maturity Date" means January 1, 2052.

"Fund" or "Funds" means, as applicable, the Special Funds and the "Project Fund" and "Surplus Fund" to be established under the Bond Indenture, together with all of the accounts (and any subaccounts in those accounts) from time to time created in such Funds in accordance with the Bond Indenture, all of which are authorized hereby.

"Ground Lease" means the Ground Lease authorized pursuant to the Development Agreement between the City, as lessor, and the Developer, as lessee (which, as used herein, includes a Ground Lease between the City and Ground Lessee and a Sub-Ground Lease, co-terminous with and including all material terms of the Ground Lease, between the Ground Lessee and the Leasehold Owner), recorded, by memorandum or otherwise on or promptly after the Closing Date, as the same may be supplemented and amended in accordance with the terms and conditions of the Bond Indenture, Loan/Service Agreement and Development Agreement

"Ground Lessee" means Cleveland Heights FC II, LLC, an Ohio limited liability company, and its successors and permitted assigns.

"Guarantor" means David M. Flaherty, an individual and Indiana resident and one of the principals of the Developer.

"Holder" or "Bondholder" means the person in whose name a Bond is registered on the Bond register maintained by the Trustee, as Bond registrar.

"Interest Payment Date" means, as to the outstanding Bonds, January 1 and July 1 of each year commencing July 1, 2020.

"Leasehold Owner" means Cleveland Heights FC III, LLC, an Ohio limited liability company, and its successors and permitted assigns.

"Loan/Service Agreement" means a loan and service agreement between the City and Leasehold Owner, as borrower, joined as to certain service agreement covenants therein by the Ground Lessee, which agreement is authorized hereby and may be amended or supplemented from time to time consistent with the Bond Legislation and the Bond Indenture.

"Maturity Dates" means January 1 and July 1 of each year from July 1, 2023 through the Final Maturity Date.

"Mayor" means the Mayor of the City or any person serving in an interim or acting capacity with respect to that office.

"Owners" means the Ground Lessee, the Leasehold Owner, their successors and any permitted transferees therefrom, as lessees of the Project Site and owners of the Project Improvements.

"Placement Agreement" means a bond placement agreement with respect to the Bonds among the City, the Placement Agent, the Developer and, if and to the extent required, the Purchaser, which agreement is authorized hereby and may be amended or supplemented from time to time consistent with the Bond Legislation and the Bond Indenture.

"Pledged Revenues" means the TIF Payments, any other payments or amounts received or to be received by or on behalf of the City pursuant to the Loan/Service Agreement, the TIF Declaration/Mortgage and the other instruments and agreements contemplated by the Bond Indenture and intended to be used for Bond Service Charges, the proceeds of the sale of the Bonds (until applied to, and subject to application for, the purposes contemplated by the Bond Indenture), all other moneys received or to be received by the City or the Trustee and intended to be used for Bond Service Charges, any moneys, investments or other assets in or to be credited to the TIF Fund or the Special Funds, and all income and profit derived from the investment of the foregoing moneys (excepting any income or profit derived from investments in the TIF Fund). The term "Pledged Revenues" does not include any moneys or investments in the Surplus Fund, including any amounts transferred thereto to pay School Compensation Payments or otherwise constituting excess Service Payments to be applied in accordance with the Development Agreement.

"Purchaser" means, individually or collectively, the purchaser or purchasers of the Bonds, as identified by the Placement Agent in or pursuant to the Placement Agreement.

"Special Funds" means the "Revenue Fund", the "Administrative Expense Fund", the "Bond Fund" and the "Bond Reserve Fund" to be established under the Bond Indenture, together with all of the accounts (and any subaccounts in those accounts) from time to time created in such Funds in accordance with the Bond Indenture, all of which are authorized hereby.

"TIF Declaration/Mortgage" means an open-end mortgage and declaration of covenants and conditions relative to payments in lieu of taxes to be executed by the Owners and the City and recorded against the Project Site in the real estate records maintained by the Cuyahoga County Fiscal Officer on or promptly after the Closing Date.

"TIF Fund" means the urban redevelopment tax increment equivalent fund established by the City under the TIF Ordinance for the deposit of the Statutory Service Payments

"TIF Ordinance" means the ordinance passed by this Council approving the TIF Exemption.

"Trustee" means the corporate bond trustee appointed from time to time by the City Executive under the Bond Indenture and means initially The Huntington National Bank or another corporate bond trustee appointed in the Certificate of Award and its successors and permitted assigns, including any successor Trustee appointed consistent with the Bond Indenture.

Any reference herein to the City, to this Council, or to any officer, official or member of either, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions, and any document authorized hereunder may be signed on behalf of the City by an official who, on the date of signing is the proper official, although on the date of this Ordinance (or any other ordinance or instrument providing authority to act), that person was not the proper official.

Any reference to a section or provision of the Constitution of the State or the Act, the TIF Act or the Revised Code includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no such amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the City or the holder of the Bonds under this Ordinance, the Bond Indenture, the Bonds or any other instrument or document entered into in connection with any of the foregoing, including, without limitation, any alteration of the obligation to pay the Bond Service Charges and other Bond Payments in the amount and manner, at the times and from the sources provided in this Ordinance, except as permitted herein.

SECTION 2. Council Determinations. This Council hereby adopts and confirms its prior determinations, approvals and authorizations relating to the Project and the public purposes thereof, the Development Agreement, the Ground Lease and the issuance of the Bonds to finance a portion of the costs of the Project and, without implied limitation on the foregoing, hereby further determines or confirms that: (i) the Project is a "project" as defined in the Act and is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution and is in furtherance of the City's plans and actions in support of urban redevelopment in the City; (ii) the acquisition, construction, equipping, installation, furnishing and other improvement of the Project, and the issuance of the Bonds and the loan of the proceeds thereof to the Leasehold Owner, is in furtherance of the purposes of the Act and will benefit the people of the City and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; and (iii) it is necessary and desirable, and in the best interest of the City, to enact this Ordinance to authorize, approve and provide for (A) the issuance and sale of the Bonds, in an aggregate principal amount not to exceed $26,000,000, (B) the loan of the proceeds of the Bonds to the Leasehold Owner to pay or provide for a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of the Project, (C) the execution and delivery by the City of the Bond Documents to which it is a party ("City Documents"), including the Bond Indenture, the Loan/Service Agreement, the TIF Declaration/Mortgage, the Placement Agreement, the Administration Agreement, any Continuing Disclosure Agreement and the County Treasurer Agreement, to provide for (x) the revenues necessary to pay and secure the payment of Bond Service Charges and Administrative Expenses and to provide for the School Compensation Payments and any other required payments, (y) the custody and application of funds and revenues

and the permitted uses of proceeds of the Bonds, and (z) the requirements for the issuance, sale and delivery of the Bonds and related matters.

SECTION 3. Issuance and Terms of Bonds. The Bonds shall be issued pursuant to the Bond Indenture and the Loan/Service Agreement, and shall be issued only in certificated fully-registered form, and in form and substance authorized in the Bond Indenture consistent with the Bond Legislation and otherwise approved by the City Executive, Director of Finance and Director of Law, such approvals being conclusively established by the execution and delivery thereof in accordance herewith. The Bonds shall each be dated its respective Delivery Date and shall be designated "Taxable Economic Development TIF Revenue Bonds, Series 2020 (Top of the Hill Development Project)" or as may be otherwise approved in the Certificate of Award or the Bond Indenture. The Bonds shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance and the Bond Indenture.

The Bonds shall be numbered in such manner as is determined by the Trustee in order to distinguish each Bond from any other Bond, shall be of such authorized denominations as are authorized by the Bond Indenture, and each Bond shall bear interest (based on a 360-day year comprised of twelve 30-day months) from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date. Bonds shall be exchangeable for Bonds of any authorized denomination or denominations and shall be subject to such transfer restrictions, including provision for a suitable legend evidencing those restrictions, as are further provided in or pursuant to the Bond Legislation and the Bond Indenture. Bond Service Charges shall be payable in such manner and at such place or places as are provided in the Bond Indenture.

The Bonds shall be issued in the aggregate principal amount, not to exceed $26,000,000, established in the Certificate of Award, shall bear interest at the rate or rates, not to exceed seven percent (7.00%) per year, established in the Certificate of Award, payable on the Interest Payment Dates. The interest rate applicable to any Bond may vary from time to time in such manner as is approved in the Certificate of Award and provided for in the Bond Indenture. The Bonds shall mature serially in semiannual installments, in such amounts as are established in the Certificate of Award, on their respective Maturity Dates, each within 30 years from its respective Delivery Date, and all of the Bonds shall mature on or before the Final Maturity Date. The Bonds may be issued as one Bond, or multiple Bonds, maturing in serial installments; however, no such Bond shall bear interest at more than one rate at any particular time. The Bonds shall be subject to redemption prior to maturity at such times, in such principal amounts and at such prices as shall be established in the Certificate of Award, including redemption at the option of the City and on such notice and other conditions as shall be established in the Bond Indenture.

The principal maturities, the interest rate or rates and all other matters determined in the Certificate of Award shall be determined in the best interests of the City, shall be consistent with applicable requirements of the Development Agreement and School Compensation Agreement, and shall be established such that the Statutory Service Payments, as projected by a qualified consultant, will be sufficient in each year, together with the amounts deposited or to be deposited in the Funds for those purposes upon the Delivery Dates for the Bonds, to pay all scheduled Bond Payments and the projected School Compensation Payments payable therefrom.

The Bonds shall be signed by the City Executive and the Director of Finance, in the name of the City and in their official capacities, provided that one or both of those signatures may be a facsimile, and those officials are hereby authorized and directed to execute and deliver the Bonds in accordance herewith and with the Bond Indenture, but subject to satisfaction or waiver of any conditions stated in the Bond Legislation or the City Documents. The Bonds shall be issued and delivered on their respective Delivery Dates in the authorized denominations and numbers requested by the Placement Agent or Purchaser. A Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Legislation or the Bond Indenture unless and until a certificate of authentication on such Bond is signed by the Trustee, as registrar and authenticating agent pursuant to the Bond Indenture.

SECTION 4. Sale and Delivery of Bonds. The Bonds shall be awarded and sold to the Purchaser pursuant to the Certificate of Award and Placement Agreement, and shall be sold at a purchase price equal to not less than 97% of the aggregate principal amount thereof plus any interest accrued from their Delivery Date, with all such discount representing net original issue discount. The City Manager and Director of Finance shall, in accordance with such officers' determination of the best interests of and financial advantages to the City and based on conditions then existing in the financial markets, consistently with the provisions of this Ordinance, establish the aggregate principal amount of and interest rate or rates to be borne by the Bonds, and the maturities thereof and other terms required in this Ordinance to be set forth in the Certificate of Award, sign the Certificate of Award evidencing that sale to the Purchaser, cause the Bonds to be prepared, and have the Bonds signed and delivered to the Trustee for authentication and delivery, on the respective Delivery Dates, to the Purchaser against payment by the Purchaser on such Delivery Dates, of the purchase price or prices thereof, and they shall, in the Certificate of Award, fix the principal amount of the Bonds to be issued in an amount which will provide the moneys necessary, together with other moneys expected to be available therefor, to make the deposits and payments required by the Bond Legislation and Bond Indenture, including those amounts to be used to pay Project costs, but subject to the limitations set forth or referenced herein or in the Bond Documents.

Other terms of the Bonds and the sale thereof may be specified in the Certificate of Award including, without limitation, the compensation payable to the Placement Agent in connection with the structuring, placement and sale of the Bonds, but not to exceed 1.3% of the principal amount of the Bonds, the amount and manner of funding of the Bond Reserve Fund, the amount of interest to be paid from Bond proceeds or other sources, the amount of the City's fees to be paid or reimbursed from the proceeds of the Bonds or other sources, the amounts of other fees and expenses to be paid or reimbursed from the proceeds of the Bonds or other sources, designation of an Administrator qualified to perform the duties required under the Administration Agreement and other City Documents and, if other than as identified herein, the Trustee. Nothing herein shall require that anything be done or established in the Certificate of Award (whether or not amended or supplemented, and whether or not previously done or established in the Certificate of Award) merely because this Ordinance authorizes the same to be done or established therein, so long as such thing is done or established consistent with this Ordinance. All matters determined in the Certificate of Award, or otherwise determined consistent with this Ordinance, as the same may be amended from time to time, shall be conclusive and binding on the City. All amounts payable with respect to the Project costs including, without limitation, any interest capitalized or otherwise funded consistent with the Act, counsel fees and other fees and charges to be paid or reimbursed in connection with the structuring, placement, issuance, sale and delivery of the Bonds may be

paid or reimbursed from, and as further described herein are hereby appropriated from, the proceeds of the sale of the Bonds and any other sources made available therefor under the Loan/Service Agreement and the Bond Indenture.

The City Executive and the Director of Finance are each authorized and directed, alone or together, to make the necessary arrangements with the Placement Agent and the Purchaser to establish the date or dates, and the location or locations, procedures and conditions, for delivery of the Bonds to the Purchaser pursuant to the Placement Agreement and the Bond Indenture, and are further authorized and directed to execute and deliver the Placement Agreement, with such necessary and customary terms and conditions that are not inconsistent with the provisions of the Bond Legislation, and otherwise in form and substance approved as in the best interest of the City by the official or officials executing the same and approved as to form and correctness by the Director of Law; provided, that the Placement Agreement shall provide that the Bonds are sold in a private placement to one or more investors knowledgeable with respect to the nature of, and risks related to, Ohio tax increment financing revenue bonds secured by service payments imposed pursuant to the TIF Act, and are so placed based on such customary representations of the Purchaser (in the Placement Agreement, a separate "investor acknowledgment letter" or both) relating to its status as such an investor and to its knowledge, research, diligence, non-distribution and investment intent as are acceptable to the official or officials signing or approving the Placement Agreement, all of which approvals shall be evidenced conclusively by the execution and delivery of the Placement Agreement consistent with this Ordinance. It is determined by this Council that the price for and the terms of the Bonds and the sale thereof, all as provided in this Ordinance and the Certificate of Award, Placement Agreement, Bond Indenture and other Bond Documents, are in the best interests of the City and are in compliance with all legal requirements.

SECTION 5. Application of Proceeds of Bonds; Creation of Funds. The Funds are hereby authorized and directed to be created, and the proceeds from the sale of the Bonds, together with any other amounts to be delivered to the Trustee for deposit therein, shall be deposited in accordance with the Bond Indenture and the written direction of the City Executive or Director of Finance, and all such amounts so deposited shall be applied in accordance with the Loan/Service Agreement and the Bond Indenture, including to pay or reimburse Project costs in accordance therewith and to pay or reimburse closing and other transaction costs relating to the issuance of the Bonds and the financing of Project costs (including costs of issuance of the Bonds, fees and expenses of the City, costs of funding the initial deposit to the Bond Reserve Fund, costs of funding permitted interest and Administrative Expenses with respect to the Bonds), all as provided in the Bond Indenture; and the proceeds from the sale of the Bonds, and any other moneys provided by or on behalf of the City for those purposes, are hereby appropriated for those purposes. Disbursement and application of amounts deposited in the Funds (and any accounts and subaccounts established therein under the Bond Indenture, all of which are authorized hereby) shall be in accordance with the Bond Indenture and Loan/Service Agreement.

SECTION 6. Security for the Bonds. Notwithstanding anything to the contrary herein or in the Bonds or in the Bond Indenture or any Bond Document: (i) the Bonds and the Bond Service Charges thereon shall be payable solely from and secured only by the Pledged Revenues and the Special Funds, as provided herein and in the Bond Indenture; (ii) the Bonds do not and shall not represent or constitute a debt or pledge of the faith and credit of the City, and do not and shall not pledge the general credit or taxing power of the City; (ii) nothing herein or in any of the Bonds, or

in the Bond Indenture, the Loan/Service Agreement, the TIF Declaration/Mortgage or any of the Bond Documents, gives the holders or owners of the Bonds, and they do not have, the right to have excises or taxes levied by this Council, or by the City or the State, for the payment of Bond Service Charges or any other obligations under or with respect to the Bonds, the Bond Indenture or any Bond Documents; and (iv) each of the Bonds shall contain a statement to the foregoing effects; provided, however, that nothing herein shall be deemed to prohibit the City, of its own volition and upon due appropriation therefor, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Bond Legislation, the Bond Indenture or the Bonds.

SECTION 7. City Covenants. In addition to other representations and warranties of the City contained in this Ordinance, the City covenants and agrees that:

(a) Performance of Covenants and City Actions. The City will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions to be performed on its part under the Bond Legislation and the Bonds, the Bond Documents and all proceedings of this Council pertaining thereto. The City represents that (i) it is a municipal corporation, duly organized and existing under and by virtue of the laws of the State; (ii) it is, and upon delivery of the Bonds covenants that it will be, duly authorized by the Constitution and laws of the State, to issue the Bonds, to execute and deliver the City Documents, and to provide the security for payment of the Bond Service Charges in the manner and to the extent set forth herein and in the Bond Indenture and the Bonds; (iii) all actions on its part for the issuance of the Bonds, and the loan and use of the proceeds thereof, have been or will be taken duly and effectively; and (iv) the Bonds will be a valid and enforceable special obligations of the City according to their terms. Each obligation of the City required to be undertaken pursuant to the Bond Legislation, the Bond Indenture and the Bonds is binding upon the City, and upon each officer or employee of the City as may from time to time have the authority under law to take any action on behalf of the City as may be necessary to perform all or any part of such obligation, as a duty of the City and of each of those officers and employees resulting from an office, trust or station within the meaning of Section 2731.01 of the Revised Code, providing for enforcement by writ of mandamus.

(b) Use of Proceeds. The City will use, or cause or require to be used, the proceeds of the Bonds to pay such costs of and relating to the Project and the Bonds as are authorized herein and in the Bond Documents.

(c) Payment of Bond Service Charges; Segregation of Funds. The City will, solely from the Pledged Revenues, pay or cause to be paid the Bond Service Charges on the dates, at the places and in the manner provided in the Bond Legislation, the Bond Indenture and the Bonds. The City will segregate, for accounting purposes, the Pledged Revenues and the Funds from all other revenues and funds of the City.

(d) Further Actions and Delivery of Instruments. The City will, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purpose of the Bonds and the Bond Legislation or as may be required or authorized by the TIF Act, the Act, including Section 13 of Article VIII of the Ohio Constitution, the Bond Indenture or the Loan/Service Agreement, and will comply with all requirements of law applicable to the Bonds.

(e) Inspection of Project Books. All books and documents in the City's possession relating to the Project and the Pledged Revenues shall be open at all times during the City's regular business hours to inspection by such accountants or other agents of the holders of the Bonds as the holders of the Bonds may from time to time designate.

(f) Transcript of Proceedings. The Clerk of Council, or another appropriate officer of the City, shall furnish to the Bond Trustee a true transcript of proceedings, certified by that officer, of all proceedings had with reference to the issuance of the Bonds along with such information from its records as is necessary to determine the regularity and validity of the issuance of the Bonds.

SECTION 8. City Documents. To secure the payment of the Bond Service Charges on the Bonds as the same shall become due and payable and the performance by the City as provided in this Ordinance and in the City Documents, and to provide for the issuance and sale of the Bonds and the loan of proceeds thereof in accordance herewith to finance a portion of the costs of the acquisition, construction, installation, equipping, furnishing and other improvement of the Project Improvements, the City Executive and the Director of Finance, alone or together, are hereby authorized, for and in the name of the City and on its behalf, to execute and deliver the City Documents, and to acknowledge, approve or otherwise accept any Bond Documents benefiting the City, with such necessary and customary terms and conditions that are not inconsistent with the provisions of the Bond Legislation and otherwise in form and substance approved as in the best interest of the City by the official or officials executing, acknowledging, approving or otherwise accepting the same, and approved as to form and correctness by the Director of Law. To the extent applicable, the terms and conditions of the Bond Documents shall be in substantial conformity to the Term Sheet, but with such changes as are not inconsistent with the Bond Legislation, as are permitted by the Act and as are approved by the officer or officers executing, acknowledging, approving or otherwise accepting the Bond Documents. The approval of the City Documents, and of any other Bond Documents benefiting the City, shall be conclusively evidenced by the execution, acknowledgment, approval or acceptance of those documents by the officer or officers of the City authorized hereunder.

SECTION 9. Further Actions. The City Executive, Director of Finance, Director of Law and Clerk of Council, alone or together, are hereby further authorized and directed to execute any certifications, financing statements, assignments, memoranda, affidavits, applications, requests, consents, approvals, acknowledgments, notices, agreements, instruments and other documents, and any amendments or supplements thereto or replacements thereof, and to take such further actions as are necessary or appropriate to permit, undertake, implement, consummate and complete the transactions contemplated herein and in the Bonds and City Documents consistent with the Bond Legislation, the Bond Documents, the Development Agreement and the School Compensation Agreement and the best interests of the City, including (i) any such actions taken or to be taken either prior to or after the issuance and delivery of the Bonds, (ii) any such actions taken or to be taken in connection with disbursements of Bond proceeds or the collection, deposit, application and transfer of Service Payments, Pledged Revenues or other funds held from time to time in or to the credit of the TIF Fund or under the Bond Indenture, (iii) any such actions taken or to be taken in connection with the succession or replacement of the Trustee or Administrator, or the delivery of any credit enhancement or other additional or substitute security for the Bonds, (iv) any such actions taken or to be taken in connection with the determination, documentation or payment of School Compensation Payments, or any other amounts payable from the Statutory

Service Payments, (v) any such actions taken or to be taken in connection with any amendments or supplements to the City Documents, and (vi) any other action authorized, directed or permitted by the City Documents from time to time, all to the extent consistent with the Bond Legislation and the authority therein granted and at the time in effect.

SECTION 10. Certification and Delivery of Ordinance and Certificate of Award; Notice to Director of Development Services Agency. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer. The City Manager is directed to deliver or cause to be delivered written notice by certified mail to the director of the Ohio Development Services Agency advising such director of the proposed delivery of the Bonds, the principal amount thereof, the identities of the Ground Lessee and Leasehold Owner, and a general description of the Project.

SECTION 11. Satisfaction of Conditions to Issue Bonds. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

SECTION 12. Severability. Each section of this Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision of any section thereof to be invalid or void shall not be deemed nor held to affect the validity of any other section or subdivision of this Ordinance.

SECTION 13. Ratification. Each action taken by the City and any officer or official of the City in connection with the Project and the Bonds is hereby ratified and confirmed and shall be given full force and effect as of the time such action was taken.

SECTION 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any such committee, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 15. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to execute and deliver the City Documents and to issue and sell the Bonds, which is necessary to enable the undertaking and financing of the Project consistent with the Development Agreement, and so that the City may provide for additional jobs and employment opportunities and improve the economic welfare of the City and its residents; wherefore, this Ordinance shall be in full force and

effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

_____
JASON S. STEIN, Mayor
President of Council

_____
SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

PASSED: _____ ___, 2020

FINAL

City of Cleveland Heights, Ohio
Taxable Economic Development TIF Revenue Bonds, Series 2020
(Top of the Hill Development Project)
("Bonds" or "TIF Bonds")

Preliminary Financing Term Sheet – January 27, 2020

Set forth below is a brief summary of certain terms relating to the TIF Bonds identified above and proposed to be issued by the City of Cleveland Heights, Ohio ("City"). The TIF Bonds are being issued to provide the "TIF Financing" contemplated by Section 8 of the Development Agreement dated February 21, 2018 between the City and F & C Development, Inc., an Indiana corporation qualified to transact business in Ohio ("Developer"), as amended and supplemented by a First Amendment to Development Agreement dated as of December 7, 2018 and a Second Amendment to Development Agreement approved December 2, 2019 (collectively, as further amended and supplemented, "Development Agreement").

The City has previously acquired title to approximately four (4) acres of land commonly referred to as "Top of the Hill" and comprised of contiguous Parcel Numbers 685-18-008, 685-18-009, 685-18-010, 685-18-011, 685-18-012, 685-18-013, 685-18-016, 685-18-018 and 685-18-019 (each a "Parcel" and, collectively, "Parcels"), and has agreed to consolidate the Parcels with a portion of Edwards Road vacated or to be vacated, subject to reserved easements, pursuant to Ordinance No. 81-2019 enacted September 16, 2019, and then lease the consolidated site ("Project Site") to Developer (or a designated affiliate) for a term of 99 years at nominal rent under a Ground Lease, the form and principal terms of which have been established under the Development Agreement and the First Amendment thereto (as completed, executed and delivered, "Ground Lease"). All Parcels other than Parcel 685-18-011 ("Greenhouse Parcel") have been owned by the City for an extended period of time. The Greenhouse Parcel was acquired by Developer for transfer to the City and was so transferred on or about November 13, 2019 in accordance with the Development Agreement for a deferred payment of $369,632.48 ("Greenhouse Purchase Price").

Pursuant to the Development Agreement and Ground Lease, Developer (or a designated affiliate) is to provide for the acquisition, construction, equipping, installation, furnishing and other improvement of a project comprised of the following improvements: approximately 261 market-rate apartments, approximately 11,400 square feet of first floor restaurant, retail and commercial space, a public parking garage resulting in approximately 550 parking spaces, public gathering and green spaces, and all sidewalks, driveways, access ways and utility connections necessary for the foregoing improvements ("Project Improvements" and together with the Project Site, "Project"). The City has determined that the Project constitutes a "project" within the meaning of Ohio Revised Code ("ORC") Chapter 165, as enacted and amended from time to time pursuant to Article VIII, Section 13, of the Ohio Constitution (collectively, with applicable provisions of ORC Chapter 1724, the "Bond Act"), and has determined that it may, subject to certain conditions, issue the TIF Bonds under the Bond Act and make proceeds of the sale thereof ("TIF Bond Proceeds"), together with a "City Contribution" (defined below), available to Developer to finance a portion of the costs of the Project in the manner contemplated herein. The City has authorized preparation of this preliminary financing term sheet ("Term Sheet") in anticipation of the issuance and sale of the TIF Bonds.

In addition to providing the Ground Lease and making the TIF Bond Proceeds available for costs of the Project, the City has agreed in the Development Agreement to make a contribution of up to $1.85 million (as finally determined, "City Contribution") available to Developer to provide funding for a portion of the costs of the Project (including payment of the Greenhouse Purchase Price and provision for a portion of the costs of the Project Improvements), as reflected in an agreed budget for costs of the Project prepared by Developer and approved by the City ("Approved Project Budget"). All other costs of the Project are to be borne by the Developer/affiliates except to the extent if any provided in the Development Agreement. Under the Development Agreement, all cost overruns relating to the Project Improvements are to be borne by the Developer, and the City has no responsibility whatsoever therefor.

The Developer has requested that the City now take the steps necessary to issue the TIF Bonds consistent with this Term Sheet and a legal structure that includes the following elements (among others): (i) the City will lease the Project Site under the Ground Lease to Cleveland Heights FC II, LLC, an Ohio limited liability company ("Ground Lessee"); (ii) the City will pay the Greenhouse Purchase Price to Developer and will provide the balance of the City Contribution ("City Project Proceeds") to Ground Lessee, solely for use as a tenant improvement contribution to pay costs of Project Improvements; (iii) Ground Lessee will sublease the Project Site, under a sub-ground lease co-terminous with, and incorporating all material terms of, the Ground Lease ("Sub-Ground Lease"), to Cleveland Heights FC III, LLC, an Ohio limited liability company ("Leasehold Owner"), and will transfer the City Project Proceeds to Leasehold Owner, solely for use as a tenant improvement contribution to pay costs of Project Improvements; (iv) rent under the Sub-Ground Lease will be at market, as determined by Developer, reflecting the reasonable value of the Sub-Ground Lease and of the tenant improvement contribution of the City Project Proceeds; (v) the City will loan the TIF Bond Proceeds to Leasehold Owner to pay a portion of the costs of the

Project Improvements consistent with the Approved Project Budget; and (vi) Leasehold Owner will obtain a first-mortgage construction loan ("Construction Loan") from Goldman Sachs Bank USA ("Construction Lender") which, together with (x) City Project Proceeds plus (y) net TIF Bond Proceeds (net of all transactional and financing costs) plus (z) member-funded equity contributions to Leasehold Owner ("Member Equity"), is required to be sufficient to pay all costs of the Project Improvements consistent with the Approved Project Budget.

Developer has represented to the City that: (i) Ground Lessee will be owned and controlled entirely by principals of Developer and its affiliates through Cleveland Heights FCS, Inc., an Ohio s-corporation, (ii) Leasehold Owner will be owned entirely by Cleveland Heights FC Owners, LLC, an Ohio limited liability company ("Leasehold Owner Parent"), and (iii) Leasehold Owner and Leasehold Owner Parent will be managed and controlled by principals of Developer and its affiliates. Developer, Ground Lessee, Leasehold Owner, Leasehold Owner Parent and David M. Flaherty (an individual and Indiana resident, and herein the "Guarantor") are referred to herein, collectively, as the "Developer Parties".

This Term Sheet is provided by Ross, Sinclaire & Associates, LLC ("RSA" or "Placement Agent") and the City to the Developer Parties in anticipation of entering into agreements pertaining to the structuring and marketing of the TIF Bonds and is preliminary and subject to change. It is intended to serve as the basis for such structuring and marketing, but is not definitive or complete; all terms, costs and other items included herein are preliminary and will be finalized in the documentation providing for the issuance, sale and delivery of the Bonds, including the Placement Agreement, Loan/Service Agreement, Bond Indenture, TIF Declaration/Mortgage and Guaranties, all referred to below.

Description of the Project:

Project; Authorization: The Project is generally described in the Introduction to this Term Sheet and is comprised of the Project Site and Project Improvements authorized or to be authorized under each of the following: (1) the Bond Act, (2) the Development Agreement, (3) ORC §5709.41 and related statutory provisions (collectively, "TIF Act" and, together with the Bond Act, "Authorizing Acts"), (4) an Ordinance passed by City Council under the TIF Act and effective on or after January 1, 2020 ("TIF Ordinance"), and (5) an ordinance authorizing the TIF Bonds ("Bond Ordinance").

Project Costs: Project Costs payable from TIF Bond Proceeds will include costs of acquisition, construction, equipping, installation, furnishing and other improvement of the Project Site and Project Improvements and related costs permitted under the Authorizing Acts, including costs of issuing the TIF Bonds and funding required capitalized interest and reserves. Aggregate Project Costs are estimated at approximately $74,887,107, as shown under "*Preliminary Sources and Uses*" below. Aggregate TIF Bond Proceeds are currently projected at up to approximately $24.2 million, with approximately $18.6 million available, together with investment earnings on unspent construction-period TIF Bond proceeds (currently estimated at $175,000) (collectively "Net TIF Bond Proceeds"), for construction and related costs of the Project Improvements, all as further described below under *Preliminary Sources and Uses*. Project Costs that cannot be funded from TIF Bond Proceeds must be funded, or available without material conditions, at or prior to the closing of the initial TIF Bond issuance ("TIF Bond Closing"), including all Construction Loan proceeds, City Project Proceeds, and member equity contributions to Leasehold Owner.

TIF Bond Proceeds: The TIF Bonds are expected to be issued in such amount as can be supported by payments in lieu of exempted taxes required under the TIF Act and TIF Ordinance ("Statutory Service Payments") derived from improvements to the Project Site Parcels, as projected by MuniCap, Inc. ("TIF Consultant") consistent with (i) such information as may be available regarding the prospective completed and stabilized tax valuation (and related timing) of the Project, and (ii) requirements under the Development Agreement and a Compensation Agreement dated March 20, 2018 between the City and the Cleveland Heights-University Heights City School District ("School District"), as supplemented by an Addendum to Compensation Agreement previously approved and to be executed prior to sale of the TIF Bonds between the City and School District (as supplemented, "School Compensation Agreement"). The net proceeds of the TIF Bonds will be made available for and applied towards the

payment of the Project Costs in accordance with (x) a Loan and Service Agreement between the City and Leasehold Owner, joined as to all Service Agreement covenants by Ground Lessee ("Loan/Service Agreement") and (y) a Trust Indenture ("Bond Indenture") between the City and a qualified corporate bond trustee ("Trustee"). Bond issuance costs and other specified Project Costs to be paid or reimbursed at or promptly after the TIF Bond Closing will be disbursed in accordance with direction given in the Bond Indenture. Funded interest and administrative expenses (for the period prior to anticipated receipt of Statutory Service Payments) will be disbursed in accordance with a schedule and direction included in the Bond Indenture. Amounts available for remaining costs of the Project Improvements will be disbursed on request of Developer, with approval of the City, in accordance with the Loan/Service Agreement and Bond Indenture.

Issuance and Sale of TIF Bonds:

Subject to approval of the Bond Ordinance by City Council, and to satisfaction of the conditions established in the Development Agreement, School Compensation Agreement, Bond Ordinance, Bond Indenture and Loan/Service Agreement, and based on satisfactory documentation and legal opinion of Squire Patton Boggs (US) LLP, bond counsel to the City ("Bond Counsel"), the City expects to issue (and the Placement Agent expects to place) the TIF Bonds to finance a portion of the costs of the Project Improvements. The TIF Bonds will be sold by the City, and placed by the Placement Agent, pursuant to a bond placement agreement ("Placement Agreement") among the Placement Agent, the City, such Developer Parties as are acceptable to the Placement Agent and City, and, if applicable, the purchaser or purchasers of the TIF Bonds (collectively, "Purchaser"). To the extent required by the Purchaser for purposes of locking an interest rate or otherwise, parties to this Term Sheet agree to review and, if necessary sign a supplemental or separate term sheet further establishing agreed material terms of the TIF Bonds.

General Terms of the TIF Bonds

Principal Amount; Term; Serial Bonds. The principal amount of TIF Bonds issued for the Project is currently not expected to exceed approximately Twenty Six Million Dollars ($26,000,000) and could vary significantly based on the projected tax valuation of the Project. That principal amount (and the related Net TIF Bond Proceeds) will depend on the amount of Statutory Service Payments projected by the TIF Consultant to be generated by the "*improvement*" (as defined in the TIF Act and herein "TIF Improvement") to Project Site Parcels resulting from construction of the Project Improvements, the sale prices of and interest rates on the TIF Bonds, and other factors. The projected Statutory Service Payments ("TIF Projections") will depend on the estimated valuation of the Project, as projected by the TIF Consultant consistent with County Fiscal Office assessor valuation protocols, projected "effective tax rates" of levies exempted by the TIF Ordinance, and the limits established by the School District compensation regime under the School Compensation Agreement. The actual Statutory Service Payments will differ from the TIF Projections and the variance could be significant. Consistent with the Bond Act, City Charter and Bond Ordinance, the TIF Bonds will mature serially within 30 years from their respective dates of issuance, with a final maturity of January 1, 2052 ("Final Maturity"). TIF Bonds are expected to mature serially in semiannual installments established under the Bond Indenture on January 1 and July 1 of each year from July 1, 2023 through Final Maturity ("Maturity Dates"). The term of the TIF Bonds may be reduced based upon market conditions and will be established in the Placement Agreement.

Interest Rates; Stepped-Coupon. Interest will be payable semiannually on January 1 and July 1 of each year, commencing July 1, 2020 "Interest Payment Dates"). It is anticipated that all outstanding TIF Bonds will bear interest at the same fixed annual interest rate at any given time, but that the Bonds will have "stepped-coupon" interest rates established in the Bond Indenture and estimated and summarized as follows: (i) from the TIF Bond Closing date through June

30, 2028, outstanding TIF Bonds will bear interest at approximately 5.00% per year ("Initial Rate"); (ii) from July 1, 2040 until maturity and final payment, outstanding TIF Bonds will bear interest at approximately 6.00% per year ("Final Rate"); and (iii) from July 1, 2028 through June 30, 2040, outstanding TIF Bonds will bear interest at an agreed rate between the Initial Rate and the Final Rate ("Second Rate"). Interest will be calculated for all periods, including the initial period, for a 360-day year comprised of twelve 30-day months. The interest rate or rates on the TIF Bonds are subject to market conditions at the time of pricing, and will be established in the Placement Agreement and may include a floor and ceiling (based on an agreed index and margin) for the Second Rate and Final Rate; provided, that debt service coverage requirements will, in that event, be determined based on the "ceiling" rates for the Second Rate and Final Rate periods.

Sale and Delivery; Deferred Deliveries. All of the TIF Bonds will be sold under the Placement Agreement for delivery as follows: (1) Bonds maturing on or before January 1, 2050 will be authenticated and delivered to the Purchaser at TIF Bond Closing, (2) Bonds maturing on July 1, 2050 will be authenticated and delivered to the Purchaser on July 1, 2020 ("First Deferred Delivery Date"), (3) Bonds maturing on January 1, 2051 will be authenticated and delivered to the Purchaser on January 4, 2021 ("Second Deferred Delivery Date"), (4) Bonds maturing on July 1, 2051 will be authenticated and delivered to the Purchaser on July 1, 2021 ("Third Deferred Delivery Date"), and (5) Bonds maturing on January 1, 2052 will be authenticated and delivered to the Purchaser on January 3, 2022 ("Final Deferred Delivery Date"). The process for delivery of and payment for Bonds to be delivered on each "Deferred Delivery Date" will be established in the Bond Indenture and Placement Agreement.

Optional Redemption**.** Subject to market conditions, it is expected that the TIF Bonds will be subject to optional redemption at par approximately five (5) years after the TIF Bond Closing date.

Denominations; Form; Global Bond. TIF Bonds may be issued in "authorized denominations" of $100,000 and any integral multiple of $5,000 in excess thereof. The TIF Bonds will be issued in certificated fully-registered form and may be issued as one or more Bonds maturing in serial installments; provided, that no Bond shall bear interest at more than one rate at any particular time.

Revenue Bonds; Non-Recourse to City. The Bonds will be issued as tax increment financing revenue bonds secured only by (i) the revenues and security pledged and provided under the Bond Indenture, including Statutory Service Payments and "Minimum Service Payments" or related "Supplemental Payments" (collectively "TIF Payments") and any other loan payments made under the Loan/Service Agreement, all of which will be assigned by the City to the Trustee under the Bond Indenture, (ii) the TIF Declaration/Mortgage described below, and the (iii) "Guaranties" described below. The Bonds will not be secured by (i) any other revenues, including any tax revenues, of the City or (ii) any obligation of the City except the obligation to transfer the TIF Payments to the Trustee at such times as are required under the Loan/Service Agreement and Bond Indenture. As such, the TIF Bonds will be special or limited non-recourse obligations of the City and will not be considered a debt of the City.

Rating; Credit Enhancement. The TIF Bonds will not be rated by any rating agency and will be issued without bond insurance or any other similar credit enhancement.

Additional Bonds. Additional Bonds are not expected to be issuable under the Bond Indenture.

Taxable Bonds. Interest on the TIF Bonds will not be excluded from gross income for federal income tax purposes. With certain exceptions, interest on, and any profit made on the sale, exchange or other disposition of the TIF Bonds, will be exempt from Ohio state and local taxation.

Preliminary Sources and Uses:

Project Costs. The current preliminary estimated sources and uses of funds for the Project, based on current estimates, projections, market conditions and assumptions and a draft of the Approved Project Budget, are as follows:

Sources:*	
Construction Loan	**$51,000,000**
TIF Bond Proceeds, including Earnings	**$23,940,000**
City Greenhouse Purchase Price	**$ 369,632**
City Project Proceeds (maximum)	**$ 1,480,368**
Member Equity	**$ 3,257,107**
Aggregate Project Sources	**$80,047,107**

Uses:*	
Greenhouse Purchase Price	**$ 369,632**
Site Preparation	**$ 3,100,000**
Architecture, Engineering and Design	**$ 3,454,675**
City Connection/Impact Fees/Permits	**$ 783,000**
Project Improvements Construction	**$56,985,000**
FF&E, TI and Project Soft Costs	**$ 6,885,550**
Bond/TIF Soft Costs, including Interest	**$ 5,465,000**
Contingency	**$ 3,004,250**
Aggregate Project Uses	**$80,047,107**

* All Project costs are preliminary, estimated, and subject to completion, execution and delivery of a "guaranteed maximum price" construction contract currently under negotiation by the Developer. Developer Member equity, and the Project sources and uses, do not include any allocation for Developer Parties' overhead related to the Project (estimated at $3,725,874).

TIF Bonds. The current preliminary estimated sources and uses of funds for the TIF Bonds, based on current information, estimates, projections, market conditions and assumptions, are as follows:

Sources:*	
TIF Bond Closing	**$20,025,000**
Deferred Deliveries	**$ 3,740,000**
Aggregate TIF Bond Proceeds	**$23,765,000**

Uses:*	
Project Fund Deposits	**$18,300,000**
Bond Reserve Fund	**$ 815,000**
Capitalized Interest	**$ 3,230,000**
Transaction Costs Paid/Reimbursed	**$ 1,200,000**
Other Costs (during CAPI Period)	**$ 220,000**
Aggregate TIF Bond Uses	**$23,765,000**

* All amounts are estimated or assumed. This assumes $24.2 million of TIF Bonds are issued and sold at 98.2% of par. All amounts will be adjusted and finalized (and may be adjusted significantly) as of the TIF Bond Closing date to reflect market conditions and pricing, known or revised estimated interest rates, costs, principal amounts, expectations and the TIF Projections.

Security for the Bonds:

Capitalized Interest and Other Payments: Subject to legal requirements, interest on the TIF Bonds is expected to be funded and paid from TIF Bond proceeds through completion of construction of the Project Improvements and until annual Statutory Service Payments are expected to be received in sufficient

amounts to pay the scheduled principal and interest on the TIF Bonds ("Bond Service Charges") and associated "Administrative Expenses" (together with the Bond Service Charges, "Bond Payments"), including the annual or semiannual fees of the City, the Trustee and a qualified tax increment financing and/or special district administrator appointed by the City under the Bond Indenture ("TIF Administrator"), as well as anticipated additional costs of administering the trust estate under the Bond Indenture. Capitalized Bond Payments are not expected to extend beyond January 1, 2023 unless funded from Developer Party contributions (which will be required if the TIF Projections do not project a full year's collection of Statutory Service Payments in TY22 (collection year 2023)).

Reserve Fund or Funds. From and after the TIF Bond Closing, a "Bond Reserve" shall be funded in an amount equal to average semi-annual debt service on the TIF Bonds from the TIF Bond Closing through Final Maturity (on the assumption that all Bonds to be delivered on Deferred Delivery Dates are, in fact, delivered on the applicable Deferred Delivery Date). So long as no default has occurred, the Bond Reserve requirement may be reduced in equal amounts (1/4 of original Bond Reserve requirement) on each Maturity Date beginning on July 1, 2050 – with released amounts applied to debt service due on such date[s]. In addition to the Bond Reserve, depending on the TIF Projections and marketing requirements, there may be a supplemental reserve fund requirement in place for the period through completion, valuation and first full-year Statutory Service Payment collection.

Loan and Service Agreement Covenants; TIF Declaration and Mortgage. The Loan/Service Agreement will provide for the terms of the loan of the TIF Bond Proceeds to the Leasehold Owner ("TIF Loan"). The obligation to make loan financing payments (including amounts sufficient to make all Bond Payments) will be evidenced by a promissory note delivered by the Leasehold Owner to the Bond Trustee ("TIF Loan Note"). The Loan/Service Agreement will also provide for the "service agreement" covenants of the Leasehold Owner and the joinder of the Ground Lessee therein, and such service agreement covenants shall be binding on all transferees and subsequent owners of the interests of the Developer Parties in all or any portion of the Project Site (the Ground Lessee, Leasehold Owner and all such transferees and subsequent owners, "Owners"), but subject to apportionment of payment obligations in the event the Ground Lease is subdivided in accordance with its terms. Such covenants, including (without limitation) covenants relating to development of the Project Site consistent with the Development Agreement and the Approved Project Budget, the application for the tax exemption granted under the TIF Ordinance, the statutory liens resulting from that tax exemption and the payment of all TIF Payments, in amounts sufficient to provide for all Bond Payments, will run with the land and be binding on the leasehold interests of the Ground Lessee and Leasehold Owner (and other interests derived therefrom exclusive of individual unit and store leases), and will be evidenced and secured by a declaration and open-end mortgage instrument recorded in the County real estate records, with foreclosure procedures benefiting the City and Bond Trustee, in form and substance satisfactory to the City and Placement Agent ("TIF Declaration/Mortgage").

TIF Payments; Credits Against Loan Payments. It is anticipated that the County will collect and remit Statutory Service Payments to the City and that the City will transmit all such amounts, within twenty-one (21) days of final settlement with the County Fiscal Officer as to any amounts received, to the Bond Trustee, as assignee. Minimum Service Payments are expected to be invoiced by the Bond Trustee pursuant to direction of the TIF Administrator approximately thirty (30) days before, and will be due and payable at least three (3) business days before, the next-succeeding semiannual Interest Payment Date. The Bonds will be secured, in part, by a senior pledge of and lien on all TIF Payments. It is expected that TIF Payments will always be sufficient to pay all Bond Payments

when and as due and, if and to the extent that TIF Payments are timely made and available to make Bond Payments, such TIF Payments will be credited against the obligation of the Leasehold Owner to make payments to the Bond Trustee on the TIF Loan and TIF Loan Note.

School Compensation Payments. School Compensation Payments will be secured by a subordinate pledge of and lien on all Statutory Service Payments, and shall be paid annually within thirty (30) days after the end of each "Bond Year" (generally the period ending on a January 1 Principal Maturity date), in accordance with an acceptable report of the TIF Administrator calculating the annual School Compensation Payments due and payable for the applicable tax collection year. Any amounts remaining after the payment of all required School Compensation Payments for any year shall be applied in accordance with the 76:24 split required by the First Amendment to Development Agreement.

Owners: All Owners will be responsible for compliance with the covenants running with the land and evidenced by the TIF Declaration/Mortgage, including the Minimum Service Payment obligations. The Ground Lessee and Leasehold Owner will be the initial Owners and will be responsible for imposing all such covenants and related liens on their interests in the Project Site Parcel or Parcels, including obligations on each Owner to expressly transfer all such obligations to all succeeding Owners succeeding to such interests in any Project Site Parcel. Appropriate language consistent with the TIF Declaration/Mortgage must be included in any instrument transferring any portion of or interest in any of the Project Site Parcels to a subsequent Owner. Any such instruments shall be in form approved by the City and will require the signature of the transferee with respect to its acknowledgment and acceptance of all such covenants.

County Treasurer Agreement. To provide comfort that tax lien certificates relating to Project Site Parcels will not be sold at less than par, the County Treasurer, pursuant to an agreement with the City and/or Bond Trustee, will agree not to sell any tax lien certificate related to any Project Site Parcel for an amount less than 100% of the applicable tax lien without consent of the City and Bond Trustee.

Guaranties. The Developer Parties will jointly and severally guarantee timely completion of the Project Improvements in accordance with Development Agreement requirements under one or more completion guaranties in form and substance acceptable to the City and Placement Agent ("Completion Guaranty"). The Guarantor will guarantee the payment of all TIF Payments under a payment guaranty in form and substance acceptable to the City and Placement Agent ("Payment Guaranty"; together with the Completion Guaranty, "Guaranties"); provided, that such Payment Guaranty will be released at such time as the Statutory Service Payments have, for two consecutive tax collection years, met or exceeded 125% of the Bond Payments payable for the respective "Bond Year" ending on the January 1 immediately following the end of the applicable tax collection year.

City Requirements:

Development Agreement Generally. The Development Agreement will survive delivery of the TIF Bonds, Ground Lease and City Contribution, and completion of the Project Improvements, and the Developer Parties will confirm and perform their obligations thereunder except to the extent, if any, waived in writing by the City. The Loan/Service Agreement will include mutual agreement as to those Development Agreement requirements satisfied and outstanding.

Loan Commitment and Annual Fees. For issuing the Bonds and making the TIF Loan, the City will charge the Leasehold Owner a loan commitment fee equal to 0.4% of the principal amount of the TIF Bonds payable, in full (as to all TIF Bonds, regardless of the Delayed Delivery Dates of certain maturities), on the TIF Bond Closing date. In addition, the Leasehold Owner shall pay the City an

annual loan maintenance fee of 0.2% of the outstanding principal amount of the TIF Bonds, payable semiannually in advance beginning on the TIF Bond Closing Date (pro-rated for the period prior to the first Interest Payment Date) and thereafter on each Interest Payment Date (based on outstanding principal amount at the beginning of the interest period ending on the applicable Interest Payment Date). In addition, the Leasehold Owner will be responsible for all Bond Trustee, TIF Administrator fees and charges, and other Administrative Expenses. All such amounts due on the TIF Bond Closing date and during the period when interest is capitalized, are expected to be paid or provided for from TIF Bond Proceeds. Thereafter, all such Administrative Expenses are expected to be paid from the Statutory Service Payments as part of the Bond Payments and will, to the extent established in the Bond Indenture, have priority over Bond Service Charges.

Indemnification. The Developer Parties hereby accept responsibility for and will defend and indemnify the City and Bond Trustee against all costs, expenses and liabilities relating to the issuance, administration, security and enforcement of the TIF Bonds, the construction of the Project Improvements (except to the extent payable from Net TIF Bond Proceeds or the City Contribution), and the operation and use of the Project including, without limitation, any and all claims for damages or injury to persons or property in, on or about the Project Site or the Project Improvements. The Ground Lessee, the Leasehold Owner and any other Owner will be required to name the City and Bond Trustee as additional insureds under applicable liability policies and as loss payees on casualty policies, including builders' risk policies, insuring the Project.

Inclusion and Prevailing Wages. Developer Parties shall use commercially reasonable efforts, and will require that the general contractor ("GC") use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve minority and female business enterprise ("MBE/FBE") participation goals acceptable to the City in connection with the construction of the Project Improvements, including utilization of certified MBE/FBE businesses in the construction of the Project Improvements at an aggregate level of 20% or greater. In addition, Developer Parties shall use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to ensure that laborers and mechanics employed on the Project are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for with respect to that work (determined in accordance with ORC Chapter 4115 requirements for such determinations) to the extent reasonably practicable consistent with the Approved Project Budget and, in any event, at an aggregate level of not less than 30% of related Project Costs (of laborers and mechanics employed on the Project). Representatives of Developer Parties and of GC will provide a semiannual status report to the City through completion (with the first such report due by August 1, 2020 (for the period ending June 30, 2020), with respect to then-current and cumulative MBE/FBE participation and prevailing wage payments, in the construction of the Project Improvements, and an affidavit as to cumulative MBE/FBE participation and prevailing wage payments upon completion.

Developer Parties shall also use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve the goals of having a majority of workers participating in construction on the Project Improvements (excluding Developer employees) being residents of northeast Ohio, and having the number of out-of-state workers (excluding Developer employees) not exceeding one-sixth (1/6) of the workforce on the Project Improvements. In furtherance of such goals, Developer and GC, together with applicable subcontractors, shall hold at least two worker outreach events in Cleveland Heights, with advance notice to the City, within six (6) months after

the TIF Bond Closing date, to promote local worker participation on the Project. The Developer Parties agree to share, and will require that the GC agree to share (and require its subcontractors to share) with the City and its agents, including but not limited to the Regional Income Tax Authority, all information needed to facilitate tracking of project construction workers on a monthly basis to assure payment of appropriate income taxes due to the City from such employment.

Other Participants:

Placement Agent. The City designated RSA as the Placement Agent to market the TIF Bonds after discussion with the Developer. The TIF Bonds are expected to be privately placed by RSA with the Purchaser (expected to be one or two financial institutions, funds or other permitted investors, as established in the Bond Placement Agreement). Purchaser will provide and confirm, on delivery, representations acceptable to the City and Placement Agent regarding its investigation, investment intent, and non-distribution. Fees and expenses of RSA in structuring and placing the Bonds will be established in the Bond Placement Agreement with approval of the Developer and the City.

Bond Counsel. The City retained Squire Patton Boggs (US) LLP as Bond Counsel after discussion with the Developer. Except to the extent paid previously, or paid or reimbursed from TIF Bond proceeds, the Developer Parties accepted and hereby confirm their responsibility for the reasonable fees and expenses of Bond Counsel, whether incurred prior to or after the signing of this Term Sheet or any separate engagement agreement and whether or not any TIF Bonds are ever issued. Any fees previously paid may be reimbursed from TIF Bond proceeds.

Other Counsel. For purposes of the transactions contemplated herein, the Developer Parties have designated Thompson Hine LLP as their counsel, the City has designated Tucker Ellis LLP as its development counsel, and the Placement Agent has retained Vorys, Sater, Seymour and Pease LLP as its counsel. Associated fees and expenses relating to issuance of the Bonds and any fees and expenses of counsel to the Purchaser, are expected to be payable from proceeds of the TIF Bonds.

TIF Consultant. RSA will retain MuniCap, Inc. or other qualified consultant acceptable to the City, at the Developer's cost, for an acceptable and independent estimate of the projected Statutory Service Payments expected to be realized from the Project Site Parcels and pledged to the Bond Payments. These TIF Projections will be disclosed to the Purchasers and must show that, while taking into account all terms of the School Compensation Agreement (including no increases in valuation after valuation upon stabilization and 100% payment to the School District of Statutory Service Payments relating to any School District millage approved as new after March 20, 2018), the projected Statutory Service Payments from the Project Site Parcels (at the time of marketing the TIF Bonds) are, in each year of collection, expected to equal at least (i) 125% of the estimated Bond Payments to be paid therefrom, and (ii) 100% of the sum of the estimated Bond Payments and estimated School Compensation Payments to be paid therefrom. All related costs will be paid or reimbursed from Bond proceeds.

TIF Administrator. MuniCap, Inc., or other qualified company appointed by the City under the Bond Indenture and a separate Administration Agreement. Will be responsible for Annual and Semiannual reports relating to administration of the TIF Bonds, application of available revenues, the need for and invoicing of any Supplemental Payments and any reporting required by the Purchaser.

Trustee. The Huntington National Bank, Cincinnati corporate trust office.

***Timetable*:**

A preliminary critical path timeline has been issued and updated prior to the execution of this Term Sheet and will be further updated from time to time.

***Modification*:** This Term Sheet may be modified with the approval of all affected parties, but it is specifically understood and agreed that all final terms and conditions of the TIF Bonds will be established in the Financing Documents and in connection with the placement of the Bonds, and such terms and conditions may be different than those contained in this Term Sheet.

Subject to execution on behalf of the Developer Parties of this Term Sheet, the City will authorize Bond Counsel to commence drafting Financing Documents and other related documents for the issuance, sale and delivery of the TIF Bonds.

ROSS, SINCLAIRE & ASSOCIATES, LLC

_____

Daniel R. Blank, Managing Director

CITY OF CLEVELAND HEIGHTS, OHIO

_____

Tanisha Briley, City Manager

Approved as to form and correctness:

_____

William Hanna, Law Director

Acknowledged, Approved, Accepted and Agreed, as authorized by and on behalf of all Developer Parties:

F & C DEVELOPMENT, INC., DEVELOPER

_____

David Flaherty, Chief Executive Officer

Redline for Comparison Purposes

Proposed: 01/21/2020

ORDINANCE NO. __5__-2020 (F)

By Council Member __Hart_____

An Ordinance providing for the issuance and sale of economic development tax increment financing revenue bonds, in a principal amount not to exceed $26,000,000, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code; authorizing execution and delivery of a trust agreement, a loan and service payment agreement, a bond placement agreement and related agreements, instruments and documents to provide for the revenues to pay and secure bond service charges and other required payments, the custody and application of funds and revenues, the permitted uses of bond proceeds in the financing of project costs, other requirements for the issuance, sale and delivery of the bonds and related matters; and declaring an emergency.

WHEREAS, the City is authorized and empowered by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII of the Ohio Constitution and Chapter 165 of the Revised Code ("Act"), among other things, (i) to issue bonds to acquire, construct, reconstruct, equip, or improve a "project" as defined in Section 165.01 of the Revised Code, comprising an industrial, commercial or research facility, located within the boundaries of the City, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; (ii) to secure such bonds by a pledge of revenues, as provided herein; and (iii) to pass this Ordinance and to sign, deliver and enter into the agreements, instruments and other documents authorized herein on the terms and conditions provided herein; and

WHEREAS, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and the State, the City has determined to issue the economic development tax increment financing revenue bonds described herein, to provide funds necessary to pay a portion of the costs of the redevelopment by F & C Development, Inc. (together with designated affiliates, "Developer"), of the site generally known as "Top of the Hill" located on approximately four acres of land situated between Euclid Heights Boulevard and Cedar Road at the top of Cedar Hill in the City ("Project Site"), with the Top of the Hill site to be leased to the Developer pursuant to a development agreement between the City and the Developer (as supplemented and amended, "Development Agreement"), and with Project Site improvements by the Developer to include (i) approximately 261 market-rate apartments, (ii) approximately 11,400 square feet of first floor restaurant, retail and commercial space, (iii) a public parking garage resulting in approximately 550 parking spaces, (iv) public gathering and green spaces and (v) all sidewalks, driveways, access ways and utility connections necessary for the improvements described in (i) through (iv) above ("Project Improvements" and, together with the Project Site, "Project"); and

WHEREAS, this Council has previously enacted legislation relating to and approving the Development Agreement, the ground lease and redevelopment of the Project Site, the Project Improvements, the exemption of 100% of the "improvements" (herein "TIF Improvements"), as defined in or for purposes of Section 5709.41 of the Revised Code (together with related statutory provisions, "TIF Act"), from real property taxation for a period of thirty (30) years ending not later than tax year 2050 (tax collection year 2051) ("TIF Exemption") and the imposition of requirements

for payments in lieu of such exempted taxes (collectively "Service Payments") by the Developer and future owners of the Project (collectively "Owners"), including payments to the Cuyahoga County Fiscal Officer in the same amounts and at the same times as the taxes exempted ("Statutory Service Payments") and such supplemental or minimum service payments as are imposed on the Project consistent herewith ("Minimum Service Payments" and, together with the Statutory Service Payments, "TIF Payments"), an agreement (as amended and supplemented, "School Compensation Agreement") with the Board of Education of the Cleveland Heights-University Heights City School District ("School District") relating to the compensation to be paid to the School District from any Statutory Service Payments ("School Compensation Payments") and related matters, and has previously determined and hereby confirmed that the Project constitutes a "project" as defined in the Act, that the Project is in furtherance of the City's plans and actions in support of urban redevelopment in the City and that the City may, under the Act, issue tax increment financing revenue bonds and loan the proceeds thereof to the Developer to finance a portion of the costs of the Project; and

WHEREAS, the Cleveland Heights Community Improvement Corporation has certified to the City that the Project is in accordance with its plan for the industrial, commercial, distribution and research development of the City, as adopted and confirmed by the City pursuant to Section 1724.10 of the Revised Code; and

WHEREAS, the Developer and the City, together with Ross, Sinclaire & Associates, LLC ("Placement Agent") have signed a Preliminary Financing Term Sheet dated January ~~21~~27, 2020 ("Term Sheet") outlining the terms and conditions for the issuance of tax increment financing revenue bonds by the City under the Act, in an aggregate principal amount estimated not to exceed $26,000,000, to finance a portion of the costs of the Project, a copy of which is on file with this Council; and

WHEREAS, this Council has now determined that it is necessary and desirable, and in the best interest of the City, to enact this Ordinance to authorize, approve and provide for the issuance and sale of economic development tax increment financing revenue bonds ("Bonds"), in an aggregate principal amount not to exceed $26,000,000, the loan of the proceeds thereof to the Developer to pay or provide for a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of the Project, the execution and delivery of a trust agreement, a loan and service payment agreement, a bond placement agreement and related agreements, instruments and documents (collectively "Bond Documents") to provide for the revenues to pay and secure the payment of the principal of and the interest and any premium on the Bonds (collectively "Bond Service Charges"), administrative expenses and charges relating to the Bonds, including fees payable to the City, to the corporate bond trustee under such trust agreement ("Trustee"), to a qualified administrator appointed by the City to fulfill requirements under the Bond Documents ("Administrator") or otherwise (collectively "Administrative Expenses" and, together with Bond Service Charges, "Bond Payments") and to provide for the School Compensation Payments and any other required payments from the Service Payments, the custody and application of funds and revenues, the permitted uses of proceeds of the Bonds, and the requirements for the issuance, sale and delivery of the Bonds and related matters;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, Ohio, that:

SECTION 1. Recitals and Definitions. This Council hereby adopts, confirms and restates, as fully as if set forth in this Section 1, the Recitals to this Ordinance, which are incorporated herein by reference as a statement of the findings and determinations of this Council, including as to the public purposes of the City in enacting this Ordinance, entering into the Bond Documents, issuing the Bonds and taking such other actions as are authorized by this Ordinance. In addition to the words and terms defined elsewhere in this Ordinance (including in the Recitals incorporated herein) or by reference to the Act or TIF Act, unless the context or use clearly indicates another meaning or intent:

"Administration Agreement" means an agreement for administrative services among the City, the Trustee and the Administrator appointed from time to time by the City Executive, which agreement is authorized hereby and may be amended, supplemented or replaced from time to time consistent with the Bond Legislation, the Loan/Service Agreement and the Bond Indenture.

"Bond Indenture" means the trust indenture or agreement authorized hereby between the City and the Trustee, as the same may be supplemented and amended from time to time consistent with the Bond Legislation.

"Bond Legislation" means this Ordinance, together with the Certificate of Award, as either or both may be amended or supplemented from time to time.

"Bonds" means the revenue bonds authorized in Section 3 of this Ordinance and to be issued under the Bond Indenture and designated "Taxable Economic Development TIF Revenue Bonds, Series 2020 (Top of the Hill Development Project)" or as may be otherwise approved in the Certificate of Award or the Bond Indenture.

"Certificate of Award" means the certificate to be executed by the City Executive and Director of Finance pursuant to the delegations and authorizations in this Ordinance to provide for certain terms of the Bonds and their sale and to make the additional designations, appointments or approvals authorized hereby, which may be amended or supplemented from time to time consistent with this Ordinance (as amended or supplemented to the applicable time).

"City Executive" means the City Manager or the Mayor.

"City Manager" means the City Manager, other chief administrative officer of the City, or any person serving in an interim or acting capacity with respect to such office or offices.

"Closing Date" means the date of issuance and delivery of all Bonds maturing on or before January 1, 2050.

"Continuing Disclosure Agreement" means any agreement or provisions within an agreement to provide any continuing disclosure that may be required pursuant to the Placement Agreement and by and between the City and the Administrator (or other designated agent retained for the purpose of providing such disclosure), which agreement is authorized hereby and may be amended, supplemented or replaced from time to time consistent with the Bond Legislation, the Placement Agreement and the Bond Indenture.

"County" means the County of Cuyahoga, Ohio.

"County Treasurer Agreement" means an agreement between the City and the County, acting on behalf of the County Treasurer, providing for the agreement of the County Treasurer not to sell any tax lien certificate related to the Project Site for an amount less than 100% of the applicable tax lien without consent of the City and Trustee, which agreement is authorized hereby and may be supplemented and amended from time to time consistent with the Bond Indenture.

"Deferred Delivery Dates" means July 1, 2020 ~~and~~, January 4, 2021, July 1, 2021 and January 3, 2022.

"Deferred Delivery Bonds" means those Bonds maturing on or after July 1, 2050.

"Delivery Dates" means the Closing Date and each of the Deferred Delivery Dates.

"Director of Finance" means the Director of Finance or any person serving in an interim or acting capacity with respect to that office.

"Director of Law" means the Director of Law or the person at the time performing the duties of the chief legal officer of the City.

"Final Maturity Date" means January 1, 2052.

"Fund" or "Funds" means, as applicable, the Special Funds and the "Project Fund" and "Surplus Fund" to be established under the Bond Indenture, together with all of the accounts (and any subaccounts in those accounts) from time to time created in such Funds in accordance with the Bond Indenture, all of which are authorized hereby.

"Ground Lease" means the Ground Lease authorized pursuant to the Development Agreement between the City, as lessor, and the Developer, as lessee (which, as used herein, includes a Ground Lease between the City and Ground Lessee and a Sub-Ground Lease, co-terminous with and including all material terms of the Ground Lease, between the Ground Lessee and the Leasehold Owner), recorded, by memorandum or otherwise on or promptly after the Closing Date, as the same may be supplemented and amended in accordance with the terms and conditions of the Bond Indenture, Loan/Service Agreement and Development Agreement

"Ground Lessee" means Cleveland Heights FC II, LLC, an Ohio limited liability company, and its successors and permitted assigns.

"Guarantor" means David M. Flaherty, an individual and Indiana resident and one of the principals of the Developer.

"Holder" or "Bondholder" means the person in whose name a Bond is registered on the Bond register maintained by the Trustee, as Bond registrar.

"Interest Payment Date" means, as to the outstanding Bonds, January 1 and July 1 of each year commencing July 1, 2020.

"Leasehold Owner" means Cleveland Heights FC III, LLC, an Ohio limited liability company, and its successors and permitted assigns.

"Loan/Service Agreement" means a loan and service agreement between the City and Leasehold Owner, as borrower, joined as to certain service agreement covenants therein by the Ground Lessee, which agreement is authorized hereby and may be amended or supplemented from time to time consistent with the Bond Legislation and the Bond Indenture.

"Maturity Dates" means January 1 and July 1 of each year from July 1, 2023 through the Final Maturity Date.

"Mayor" means the Mayor of the City or any person serving in an interim or acting capacity with respect to that office.

"Owners" means the Ground Lessee, the Leasehold Owner, their successors and any permitted transferees therefrom, as lessees of the Project Site and owners of the Project Improvements.

"Placement Agreement" means a bond placement agreement with respect to the Bonds among the City, the Placement Agent, the Developer and, if and to the extent required, the Purchaser, which agreement is authorized hereby and may be amended or supplemented from time to time consistent with the Bond Legislation and the Bond Indenture.

"Pledged Revenues" means the TIF Payments, any other payments or amounts received or to be received by or on behalf of the City pursuant to the Loan/Service Agreement, the TIF Declaration/Mortgage and the other instruments and agreements contemplated by the Bond Indenture and intended to be used for Bond Service Charges, the proceeds of the sale of the Bonds (until applied to, and subject to application for, the purposes contemplated by the Bond Indenture), all other moneys received or to be received by the City or the Trustee and intended to be used for Bond Service Charges, any moneys, investments or other assets in or to be credited to the TIF Fund or the Special Funds, and all income and profit derived from the investment of the foregoing moneys~~.~~ (excepting any income or profit derived from investments in the TIF Fund). The term "Pledged Revenues" does not include any moneys or investments in the Surplus Fund, including any amounts transferred thereto to pay School Compensation Payments or otherwise constituting excess Service Payments to be applied in accordance with the Development Agreement.

"Purchaser" means, individually or collectively, the purchaser or purchasers of the Bonds, as identified by the Placement Agent in or pursuant to the Placement Agreement.

"Special Funds" means the "Revenue Fund", the "Administrative Expense Fund", the "Bond Fund" and the "Bond Reserve Fund" to be established under the Bond Indenture, together with all of the accounts (and any subaccounts in those accounts) from time to time created in such Funds in accordance with the Bond Indenture, all of which are authorized hereby.

"TIF Declaration/Mortgage" means an open-end mortgage and declaration of covenants and conditions relative to payments in lieu of taxes to be executed by the Owners and the City and recorded against the Project Site in the real estate records maintained by the Cuyahoga County Fiscal Officer on or promptly after the Closing Date.

"TIF Fund" means the urban redevelopment tax increment equivalent fund established by the City under the TIF Ordinance for the deposit of the Statutory Service Payments

"TIF Ordinance" means ~~Ordinance No. _____~~the ordinance passed by this Council approving the TIF Exemption.

"Trustee" means the corporate bond trustee appointed from time to time by the City Executive under the Bond Indenture and means initially The Huntington National Bank or another corporate bond trustee appointed in the Certificate of Award and its successors and permitted assigns, including any successor Trustee appointed consistent with the Bond Indenture.

Any reference herein to the City, to this Council, or to any officer, official or member of either, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions, and any document authorized hereunder may be signed on behalf of the City by an official who, on the date of signing is the proper official, although on the date of this Ordinance (or any other ordinance or instrument providing authority to act), that person was not the proper official.

Any reference to a section or provision of the Constitution of the State or the Act, the TIF Act or the Revised Code includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no such amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the City or the holder of the Bonds under this Ordinance, the Bond Indenture, the Bonds or any other instrument or document entered into in connection with any of the foregoing, including, without limitation, any alteration of the obligation to pay the Bond Service Charges and other Bond Payments in the amount and manner, at the times and from the sources provided in this Ordinance, except as permitted herein.

SECTION 2. Council Determinations. This Council hereby adopts and confirms its prior determinations, approvals and authorizations relating to the Project and the public purposes thereof, the Development Agreement, the Ground Lease and the issuance of the Bonds to finance a portion of the costs of the Project and, without implied limitation on the foregoing, hereby further determines or confirms that: (i) the Project is a "project" as defined in the Act and is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution and is in furtherance of the City's plans and actions in support of urban redevelopment in the City; (ii) the acquisition, construction, equipping, installation, furnishing and other improvement of the Project, and the issuance of the Bonds and the loan of the proceeds thereof to the Leasehold Owner, is in furtherance of the purposes of the Act and will benefit the people of the City and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; and (iii) it is necessary and desirable, and in the best interest of the City, to enact this Ordinance to authorize, approve and provide for (A) the issuance and sale of the Bonds, in an aggregate principal amount not to exceed $26,000,000, (B) the loan of the proceeds of the Bonds to the Leasehold Owner to pay or provide for a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of the Project, (C) the execution and delivery by the City of the Bond Documents to which it is a party ("City Documents"), including the Bond Indenture, the Loan/Service Agreement, the TIF Declaration/Mortgage, the Placement Agreement, the Administration Agreement, any Continuing Disclosure Agreement and the County Treasurer Agreement, to provide for (x) the revenues necessary to pay and secure the payment of Bond Service Charges and Administrative Expenses and to provide for the School Compensation Payments and any other required payments, (y) the custody and application of funds and revenues

and the permitted uses of proceeds of the Bonds, and (z) the requirements for the issuance, sale and delivery of the Bonds and related matters.

SECTION 3. Issuance and Terms of Bonds. The Bonds shall be issued pursuant to the Bond Indenture and the Loan/Service Agreement, and shall be issued only in certificated fully-registered form, and in form and substance authorized in the Bond Indenture consistent with the Bond Legislation and otherwise approved by the City Executive, Director of Finance and Director ~~sf~~of Law, such approvals being conclusively established by the execution and delivery thereof in accordance herewith. The Bonds shall each be dated its respective Delivery Date and shall be designated "Taxable Economic Development TIF Revenue Bonds, Series 2020 (Top of the Hill Development Project)" or as may be otherwise approved in the Certificate of Award or the Bond Indenture. The Bonds shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance and the Bond Indenture.

The Bonds shall be numbered in such manner as is determined by the Trustee in order to distinguish each Bond from any other Bond, shall be of such authorized denominations as are authorized by the Bond Indenture, and each Bond shall bear interest (based on a 360-day year comprised of twelve 30-day months) from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date. Bonds shall be exchangeable for Bonds of any authorized denomination or denominations and shall be subject to such transfer restrictions, including provision for a suitable legend evidencing those restrictions, as are further provided in or pursuant to the Bond Legislation and the Bond Indenture. Bond Service Charges shall be payable in such manner and at such place or places as are provided in the Bond Indenture.

The Bonds shall be issued in the aggregate principal amount, not to exceed $26,000,000, established in the Certificate of Award, shall bear interest at the rate or rates, not to exceed seven percent (7.00%) per year, established in the Certificate of Award, payable on the Interest Payment Dates. The interest rate applicable to any Bond may vary from time to time in such manner as is approved in the Certificate of Award and provided for in the Bond Indenture. The Bonds shall mature serially in semiannual installments, in such amounts as are established in the Certificate of Award, on their respective Maturity Dates, each within 30 years from its respective Delivery Date, and all of the Bonds shall mature on or before the Final Maturity Date. The Bonds may be issued as one Bond, or multiple Bonds, maturing in serial installments; however, no such Bond shall bear interest at more than one rate at any particular time. The Bonds shall be subject to redemption prior to maturity at such times, in such principal amounts and at such prices as shall be established in the Certificate of Award, including redemption at the option of the City and on such notice and other conditions as shall be established in the Bond Indenture.

The principal maturities, the interest rate or rates and all other matters determined in the Certificate of Award shall be determined in the best interests of the City, shall be consistent with applicable requirements of the Development Agreement and School Compensation Agreement, and shall be established such that the Statutory Service Payments, as projected by a qualified consultant, will be sufficient in each year, together with the amounts deposited or to be deposited in the Funds for those purposes upon the Delivery Dates for the Bonds, to pay all scheduled Bond Payments and the projected School Compensation Payments payable therefrom.

The Bonds shall be signed by the City ~~Manager~~Executive and the Director of Finance, in the name of the City and in their official capacities, provided that one or both of those signatures may be a facsimile, and those officials are hereby authorized and directed to execute and deliver the Bonds in accordance herewith and with the Bond Indenture, but subject to satisfaction or waiver of any conditions stated in the Bond Legislation or the City Documents. The Bonds shall be issued and delivered on their respective Delivery Dates in the authorized denominations and numbers requested by the Placement Agent or Purchaser. A Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Legislation or the Bond Indenture unless and until a certificate of authentication on such Bond is signed by the Trustee, as registrar and authenticating agent pursuant to the Bond Indenture.

SECTION 4. Sale and Delivery of Bonds. The Bonds shall be awarded and sold to the Purchaser pursuant to the Certificate of Award and Placement Agreement, and shall be sold at a purchase price equal to not less than 97% of the aggregate principal amount thereof plus any interest accrued from their Delivery Date, with all such discount representing net original issue discount. The City Manager and Director of Finance shall, in accordance with such officers' determination of the best interests of and financial advantages to the City and based on conditions then existing in the financial markets, consistently with the provisions of this Ordinance, establish the aggregate principal amount of and interest rate or rates to be borne by the Bonds, and the maturities thereof and other terms required in this Ordinance to be set forth in the Certificate of Award, sign the Certificate of Award evidencing that sale to the Purchaser, cause the Bonds to be prepared, and have the Bonds signed and delivered to the Trustee for authentication and delivery, on the respective Delivery Dates, to the Purchaser against payment by the Purchaser on such Delivery Dates, of the purchase price or prices thereof, and they shall, in the Certificate of Award, fix the principal amount of the Bonds to be issued in an amount which will provide the moneys necessary, together with other moneys expected to be available therefor, to make the deposits and payments required by the Bond Legislation and Bond Indenture, including those amounts to be used to pay Project costs, but subject to the limitations set forth or referenced herein or in the Bond Documents.

Other terms of the Bonds and the sale thereof may be specified in the Certificate of Award including, without limitation, the compensation payable to the Placement Agent in connection with the structuring, placement and sale of the Bonds, but not to exceed 1.3% of the principal amount of the Bonds, the amount and manner of funding of the Bond Reserve Fund, the amount of interest to be paid from Bond proceeds or other sources, the amount of the City's fees to be paid or reimbursed from the proceeds of the Bonds or other sources, the amounts of other fees and expenses to be paid or reimbursed from the proceeds of the Bonds or other sources, designation of an Administrator qualified to perform the duties required under the Administration Agreement and other City Documents and, if other than as identified herein, the Trustee. Nothing herein shall require that anything be done or established in the Certificate of Award (whether or not amended or supplemented, and whether or not previously done or established in the Certificate of Award) merely because this Ordinance authorizes the same to be done or established therein, so long as such thing is done or established consistent with this Ordinance. All matters determined in the Certificate of Award, or otherwise determined consistent with this Ordinance, as the same may be amended from time to time, shall be conclusive and binding on the City. All amounts payable with respect to the Project costs including, without limitation, any interest capitalized or otherwise funded consistent with the Act, counsel fees and other fees and charges to be paid or reimbursed in connection with the structuring, placement, issuance, sale and delivery of the Bonds may be

paid or reimbursed from, and as further described herein~~,~~ are hereby appropriated from, the proceeds of the sale of the Bonds and any other sources made available therefor under the Loan/Service Agreement and the Bond Indenture.

The City Executive and the Director of Finance are each authorized and directed, alone or together, to make the necessary arrangements with the Placement Agent and the Purchaser to establish the date or dates, and the location or locations, procedures and conditions, for delivery of the Bonds to the Purchaser pursuant to the Placement Agreement and the Bond Indenture, and are further authorized and directed to execute and deliver the Placement Agreement, with such necessary and customary terms and conditions that are not inconsistent with the provisions of the Bond Legislation, and otherwise in form and substance approved as in the best interest of the City by the official or officials executing the ~~sam,e~~same and approved as to form and correctness by the Director of Law; provided, that the Placement Agreement shall provide that the Bonds are sold in a private placement to one or more investors knowledgeable with respect to the nature of, and risks related to, Ohio tax increment financing revenue bonds secured by service payments imposed pursuant to the TIF Act, and are so placed based on such customary representations of the Purchaser (in the Placement Agreement, a separate "investor acknowledgment letter" or both) relating to its status as such an investor and to its knowledge, research, diligence, non-distribution and investment intent as are acceptable to the official or officials signing or approving the Placement Agreement, all of which approvals shall be evidenced conclusively by the execution and delivery of the Placement Agreement consistent with this Ordinance. It is determined by this Council that the price for and the terms of the Bonds and the sale thereof, all as provided in this Ordinance and the Certificate of Award, Placement Agreement, Bond Indenture and other Bond Documents, are in the best interests of the City and are in compliance with all legal requirements.

SECTION 5. Application of Proceeds of Bonds; Creation of Funds. The Funds are hereby authorized and directed to be created, and the proceeds from the sale of the Bonds, together with any other amounts to be delivered to the Trustee for deposit therein, shall be deposited in accordance with the Bond Indenture and the written direction of the City Executive or Director of Finance, and all such amounts so deposited shall be applied in accordance with the Loan/Service Agreement and the Bond Indenture, including to pay or reimburse Project costs in accordance therewith and to pay or reimburse closing and other transaction costs relating to the issuance of the Bonds and the financing of Project costs (including costs of issuance of the Bonds, fees and expenses of the City, costs of funding the initial deposit to the Bond Reserve Fund, costs of funding permitted interest and Administrative Expenses with respect to the Bonds), all as provided in the Bond Indenture; and the proceeds from the sale of the Bonds, and any other moneys provided by or on behalf of the City for those purposes, are hereby appropriated for those purposes. Disbursement and application of amounts deposited in the Funds (and any accounts and subaccounts established therein under the Bond Indenture, all of which are authorized hereby) shall be in accordance with the Bond Indenture and Loan/Service Agreement.

SECTION 6. Security for the Bonds. Notwithstanding anything to the contrary herein or in the Bonds or in the Bond Indenture or any Bond Document: (i) the Bonds and the Bond Service Charges thereon shall be payable solely from and secured only by the Pledged Revenues and the Special Funds, as provided herein and in the Bond Indenture; (ii) the Bonds do not and shall not represent or constitute a debt or pledge of the faith and credit of the City, and do not and shall not pledge the general credit or taxing power of the City; (ii) nothing herein or in any of the Bonds, or

in the Bond Indenture, the Loan/Service Agreement, the TIF Declaration/Mortgage or any of the Bond Documents, gives the holders or owners of the Bonds, and they do not have, the right to have excises or taxes levied by this Council, or by the City or the State, for the payment of Bond Service Charges or any other obligations under or with respect to the Bonds, the Bond Indenture or any Bond Documents; and (iv) each of the Bonds shall contain a statement to the foregoing effects; provided, however, that nothing herein shall be deemed to prohibit the City, of its own volition and upon due appropriation therefor, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Bond Legislation, the Bond Indenture or the Bonds.

SECTION 7. City Covenants. In addition to other representations and warranties of the City contained in this Ordinance, the City covenants and agrees that:

(a) Performance of Covenants and City Actions. The City will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions to be performed on its part under the Bond Legislation and the Bonds, the Bond Documents and all proceedings of this Council pertaining thereto. The City represents that (i) it is a municipal corporation, duly organized and existing under and by virtue of the laws of the State; (ii) it is, and upon delivery of the Bonds covenants that it will be, duly authorized by the Constitution and laws of the State, to issue the Bonds, to execute and deliver the City Documents, and to provide the security for payment of the Bond Service Charges in the manner and to the extent set forth herein and in the Bond Indenture and the Bonds; (iii) all actions on its part for the issuance of the Bonds, and the loan and use of the proceeds thereof, have been or will be taken duly and effectively; and (iv) the Bonds will be a valid and enforceable special obligations of the City according to their terms. Each obligation of the City required to be undertaken pursuant to the ~~Ordinance~~Bond Legislation, the Bond Indenture and the Bonds is binding upon the City, and upon each officer or employee of the City as may from time to time have the authority under law to take any action on behalf of the City as may be necessary to perform all or any part of such obligation, as a duty of the City and of each of those officers and employees resulting from an office, trust or station within the meaning of Section 2731.01 of the Revised Code, providing for enforcement by writ of mandamus.

(b) Use of Proceeds. The City will use, or cause or require to be used, the proceeds of the Bonds to pay such costs of and relating to the Project and the Bonds as are authorized herein and in the Bond Documents.

(c) Payment of Bond Service Charges; Segregation of Funds. The City will, solely from the Pledged Revenues, pay or cause to be paid the Bond Service Charges on the dates, at the places and in the manner provided in the Bond Legislation, the Bond Indenture and the Bonds. The City will segregate, for accounting purposes, the Pledged Revenues and the Funds from all other revenues and funds of the City.

(d) Further Actions and Delivery of Instruments. The City will, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purpose of the Bonds and the Bond Legislation or as may be required or authorized by the TIF Act, the Act, including Section 13 of Article VIII of the Ohio Constitution, the Bond Indenture or the Loan/Service Agreement, and will comply with all requirements of law applicable to the Bonds.

(e) Inspection of Project Books. All books and documents in the City's possession relating to the Project and the Pledged Revenues shall be open at all times during the City's regular business hours to inspection by such accountants or other agents of the ~~holder~~holders of the Bonds as the ~~holder~~holders of the Bonds may from time to time designate.

(f) Transcript of Proceedings. The Clerk of Council, or another appropriate officer of the City, shall furnish to the Bond Trustee a true transcript of proceedings, certified by that officer, of all proceedings had with reference to the issuance of the Bonds along with such information from its records as is necessary to determine the regularity and validity of the issuance of the Bonds.

SECTION 8. City Documents. To secure the payment of the Bond Service Charges on the Bonds as the same shall become due and payable and the performance by the City as provided in this Ordinance and in the City Documents, and to provide for the issuance and sale of the Bonds and the loan of proceeds thereof in accordance herewith to finance a portion of the costs of the acquisition, construction, installation, equipping, furnishing and other improvement of the Project Improvements, the City Executive and the Director of Finance, alone or together, are hereby authorized, for and in the name of the City and on its behalf, to execute and deliver the City Documents, and to acknowledge, approve or otherwise accept any Bond Documents benefiting the City, with such necessary and customary terms and conditions that are not inconsistent with the provisions of the Bond Legislation and otherwise in form and substance approved as in the best interest of the City by the official or officials executing, acknowledging, approving or otherwise accepting the same, and approved as to form and correctness by the Director of Law. To the extent applicable, the terms and conditions of the Bond Documents shall be in substantial conformity to the Term Sheet, but with such changes as are not inconsistent with the Bond Legislation, as are permitted by the Act and as are approved by the officer or officers executing, acknowledging, approving or otherwise accepting the Bond Documents. The approval of the City Documents, and of any other Bond Documents benefiting the City, shall be conclusively evidenced by the execution, acknowledgment, approval or acceptance of those documents by the officer or officers of the City authorized hereunder.

SECTION 9. Further Actions. The City Executive, Director of Finance, Director of Law and Clerk of Council, alone or together, are hereby further authorized and directed to execute any certifications, financing statements, assignments, memoranda, affidavits, applications, requests, consents, approvals, acknowledgments, notices, agreements, instruments and other documents, and any amendments or supplements thereto or replacements thereof, and to take such further actions as are necessary or appropriate to permit, undertake, implement, consummate and complete the transactions contemplated herein and in the Bonds and City Documents consistent with the Bond Legislation, the Bond Documents, the Development Agreement and the School Compensation Agreement and the best interests of the City, including (i) any such actions taken or to be taken either prior to or after the issuance and delivery of the Bonds, (ii) any such actions taken or to be taken in connection with disbursements of Bond proceeds or the collection, deposit, application and transfer of Service Payments, Pledged Revenues or other funds held from time to time in or to the credit of the TIF Fund or under the Bond Indenture, (iii) any such actions taken or to be taken in connection with the succession or replacement of the Trustee or Administrator, or the delivery of any credit enhancement or other additional or substitute security for the Bonds, (iv) any such actions taken or to be taken in connection with the determination, documentation or payment of School Compensation Payments, or any other amounts payable from the Statutory

Service Payments, (v) any such actions taken or to be taken in connection with any amendments or supplements to the City Documents, and (vi) any other action authorized, directed or permitted by the City Documents from time to time, all to the extent consistent with the Bond Legislation and the authority therein granted and at the time in effect.

SECTION 10. Certification and Delivery of Ordinance and Certificate of Award; Notice to Director of Development Services Agency. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer. The City Manager is directed to deliver or cause to be delivered written notice by certified mail to the director of the Ohio Development Services Agency advising such director of the proposed delivery of the Bonds, the principal amount thereof, the identities of the Ground Lessee and Leasehold Owner, and a general description of the Project.

SECTION 11. Satisfaction of Conditions to Issue Bonds. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

SECTION 12. Severability. Each section of this Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision of any section thereof to be invalid or void shall not be deemed nor held to affect the validity of any other section or subdivision of this Ordinance.

SECTION 13. Ratification. Each action taken by the City and any officer or official of the City in connection with the Project and the Bonds is hereby ratified and confirmed and shall be given full force and effect as of the time such action was taken.

SECTION 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or ~~committees~~any such committee, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 15. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to execute and deliver the City Documents and to issue and sell the Bonds, which is necessary to enable the ~~City to meet its contractual commitments for the~~ undertaking and financing of the Project consistent with the Development Agreement, and so that the City may provide for additional jobs and employment opportunities and improve the economic welfare of the City and its residents; wherefore,

this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

_____
JASON S. STEIN, Mayor
President of Council

_____
SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

PASSED: _____ ___, 2020

~~FINAL~~
FINAL

City of Cleveland Heights, Ohio
Taxable Economic Development TIF Revenue Bonds, Series 2020
(Top of the Hill Development Project)
("Bonds" or "TIF Bonds")

Preliminary Financing Term Sheet – ~~January 27~~February 12, 2020

Set forth below is a brief summary of certain terms relating to the TIF Bonds identified above and proposed to be issued by the City of Cleveland Heights, Ohio ("City"). The TIF Bonds are being issued to provide the "TIF Financing" contemplated by Section 8 of the Development Agreement dated February 21, 2018 between the City and F & C Development, Inc., an Indiana corporation qualified to transact business in Ohio ("Developer"), as amended and supplemented by a First Amendment to Development Agreement dated as of December 7, 2018 and a Second Amendment to Development Agreement approved December 2, 2019 (collectively, as further amended and supplemented, "Development Agreement").

The City has previously acquired title to approximately four (4) acres of land commonly referred to as "Top of the Hill" and comprised of contiguous Parcel Numbers 685-18-008, 685-18-009, 685-18-010, 685-18-011, 685-18-012, 685-18-013, 685-18-016, 685-18-018 and 685-18-019 (each a "Parcel" and, collectively, "Parcels"), and has agreed to consolidate the Parcels with a portion of Edwards Road vacated or to be vacated, subject to reserved easements, pursuant to Ordinance No. 81-2019 enacted September 16, 2019, and then lease the consolidated site ("Project Site") to Developer (or a designated affiliate) for a term of 99 years at nominal rent under a Ground Lease, the form and principal terms of which have been established under the Development Agreement and the First Amendment thereto (as completed, executed and delivered, "Ground Lease"). All Parcels other than Parcel 685-18-011 ("Greenhouse Parcel") have been owned by the City for an extended period of time. The Greenhouse Parcel was acquired by Developer for transfer to the City and was so transferred on or about November 13, 2019 in accordance with the Development Agreement for a deferred payment of $369,632.48 ("Greenhouse Purchase Price").

Pursuant to the Development Agreement and Ground Lease, Developer (or a designated affiliate) is to provide for the acquisition, construction, equipping, installation, furnishing and other improvement of a project comprised of the following improvements: approximately 261 market-rate apartments, approximately 11,400 square feet of first floor restaurant, retail and commercial space, a public parking garage resulting in approximately 550 parking spaces, public gathering and green spaces, and all sidewalks, driveways, access ways and utility connections necessary for the foregoing improvements ("Project Improvements" and together with the Project Site, "Project"). The City has determined that the Project constitutes a "project" within the meaning of Ohio Revised Code ("ORC") Chapter 165, as enacted and amended from time to time pursuant to Article VIII, Section 13, of the Ohio Constitution (collectively, with applicable provisions of ORC Chapter 1724, the "Bond Act"), and has determined that it may, subject to certain conditions, issue the TIF Bonds under the Bond Act and make proceeds of the sale thereof ("TIF Bond Proceeds"), together with a "City Contribution" (defined below), available to Developer to finance a portion of the costs of the Project in the manner contemplated herein. The City has authorized preparation of this preliminary financing term sheet ("Term Sheet") in anticipation of the issuance and sale of the TIF Bonds.

In addition to providing the Ground Lease and making the TIF Bond Proceeds available for costs of the Project, the City has agreed in the Development Agreement to make a contribution of up to $1.85 million (as finally determined, "City Contribution") available to Developer to provide funding for a portion of the costs of the Project (including payment of the Greenhouse Purchase Price and provision for a portion of the costs of the Project Improvements), as reflected in an agreed budget for costs of the Project prepared by Developer and approved by the City ("Approved Project Budget"). All other costs of the Project are to be borne by the Developer/affiliates except to the extent if any provided in the Development Agreement. Under the Development Agreement, all cost overruns relating to the Project Improvements are to be borne by the Developer, and the City has no responsibility whatsoever therefor.

The Developer has requested that the City now take the steps necessary to issue the TIF Bonds consistent with this Term Sheet and a legal structure that includes the following elements (among others): (i) the City will lease the Project Site under the Ground Lease to Cleveland Heights FC II, LLC, an Ohio limited liability company ("Ground Lessee"); (ii) the City will pay the Greenhouse Purchase Price to Developer and will provide the balance of the City Contribution ("City Project Proceeds") to Ground Lessee, solely for use as a tenant improvement contribution to pay costs of Project Improvements; (iii) Ground Lessee will sublease the Project Site, under a sub-ground lease co-terminous with, and incorporating all material terms of, the Ground Lease ("Sub-Ground Lease"), to Cleveland Heights FC III, LLC, an Ohio limited liability company ("Leasehold Owner"), and will transfer the City Project Proceeds to Leasehold Owner, solely for use as a tenant improvement contribution to pay costs of Project Improvements; (iv) rent under the Sub-Ground Lease will be at market, as determined by Developer, reflecting the reasonable value of the Sub-Ground Lease and of the tenant improvement contribution of the City

Project Proceeds; (v) the City will loan the TIF Bond Proceeds to Leasehold Owner to pay a portion of the costs of the Project Improvements consistent with the Approved Project Budget; and (vi) Leasehold Owner will obtain a first-mortgage construction loan ("Construction Loan") from Goldman Sachs Bank USA ("Construction Lender") which, together with (x) City Project Proceeds plus (y) net TIF Bond Proceeds (net of all transactional and financing costs) plus (z) member-funded equity contributions to Leasehold Owner ("Member Equity"), is required to be sufficient to pay all costs of the Project Improvements consistent with the Approved Project Budget.

Developer has represented to the City that: (i) Ground Lessee will be owned and controlled entirely by principals of Developer and its affiliates through Cleveland Heights FCS, Inc., an Ohio s-corporation, (ii) Leasehold Owner will be owned entirely by Cleveland Heights FC Owners, LLC, an Ohio limited liability company ("Leasehold Owner Parent"), and (iii) Leasehold Owner and Leasehold Owner Parent will be managed and controlled by principals of Developer and its affiliates. Developer, Ground Lessee, Leasehold Owner, Leasehold Owner Parent and David M. Flaherty (an individual and Indiana resident, and herein the "Guarantor") are referred to herein, collectively, as the "Developer Parties".

This Term Sheet is provided by Ross, Sinclaire & Associates, LLC ("RSA" or "Placement Agent") and the City to the Developer Parties in anticipation of entering into agreements pertaining to the structuring and marketing of the TIF Bonds and is preliminary and subject to change. It is intended to serve as the basis for such structuring and marketing, but is not definitive or complete; all terms, costs and other items included herein are preliminary and will be finalized in the documentation providing for the issuance, sale and delivery of the Bonds, including the Placement Agreement, Loan/Service Agreement, Bond Indenture, TIF Declaration/Mortgage and Guaranties, all referred to below.

Description of the Project:

Project; Authorization: The Project is generally described in the Introduction to this Term Sheet and is comprised of the Project Site and Project Improvements authorized or to be authorized under each of the following: (1) the Bond Act, (2) the Development Agreement, (3) ORC §5709.41 and related statutory provisions (collectively, "TIF Act" and, together with the Bond Act, "Authorizing Acts"), (4) an Ordinance passed by City Council under the TIF Act and effective on or after January 1, 2020 ("TIF Ordinance"), and (5) an ordinance authorizing the TIF Bonds ("Bond Ordinance").

Project Costs: Project Costs payable from TIF Bond Proceeds will include costs of acquisition, construction, equipping, installation, furnishing and other improvement of the Project Site and Project Improvements and related costs permitted under the Authorizing Acts, including costs of issuing the TIF Bonds and funding required capitalized interest and reserves. Aggregate Project Costs are estimated at approximately $74,887,107, as shown under "*Preliminary Sources and Uses*" below. Aggregate TIF Bond Proceeds are currently projected at up to approximately $24.2 million, with approximately $18.6 million available, together with investment earnings on unspent construction-period TIF Bond proceeds (currently estimated at ~~$175~~approximately $100,000) (collectively "Net TIF Bond Proceeds"), for construction and related costs of the Project Improvements, all as further described below under *Preliminary Sources and Uses*. Project Costs that cannot be funded from TIF Bond Proceeds must be funded, or available without material conditions, at or prior to the closing of the initial TIF Bond issuance ("TIF Bond Closing"), including all Construction Loan proceeds, City Project Proceeds, and member equity contributions to Leasehold Owner.

TIF Bond Proceeds: The TIF Bonds are expected to be issued in such amount as can be supported by payments in lieu of exempted taxes required under the TIF Act and TIF Ordinance ("Statutory Service Payments") derived from improvements to the Project Site Parcels, as projected by MuniCap, Inc. ("TIF Consultant") consistent with (i) such information as may be available regarding the prospective completed and stabilized tax valuation (and related timing) of the Project, and (ii) requirements under the Development Agreement and a Compensation Agreement dated March 20, 2018 between the City and the Cleveland Heights-University Heights City School District ("School District"), as supplemented by an Addendum to Compensation Agreement ~~previously approved and to be executed prior to sale~~ dated as of ~~the TIF Bonds~~November

25, 2019 between the City and School District (as supplemented, "School Compensation Agreement"). The net proceeds of the TIF Bonds will be made available for and applied towards the payment of the Project Costs in accordance with (x) a Loan and Service Agreement between the City and Leasehold Owner, joined as to all Service Agreement covenants by Ground Lessee ("Loan/Service Agreement") and (y) a Trust Indenture ("Bond Indenture") between the City and a qualified corporate bond trustee ("Trustee"). Bond issuance costs and other specified Project Costs to be paid or reimbursed at or promptly after the TIF Bond Closing will be disbursed in accordance with direction given in the Bond Indenture. Funded interest and administrative expenses (for the period prior to anticipated receipt of Statutory Service Payments) will be disbursed in accordance with a schedule and direction included in the Bond Indenture. Amounts available for remaining costs of the Project Improvements will be disbursed on request of Developer, with approval of the City, in accordance with the Loan/Service Agreement and Bond Indenture.

Issuance and Sale of TIF Bonds:

Subject to approval of the Bond Ordinance by City Council, and to satisfaction of the conditions established in the Development Agreement, School Compensation Agreement, Bond Ordinance, Bond Indenture and Loan/Service Agreement, and based on satisfactory documentation and legal opinion of Squire Patton Boggs (US) LLP, bond counsel to the City ("Bond Counsel"), the City expects to issue (and the Placement Agent expects to place) the TIF Bonds to finance a portion of the costs of the Project Improvements. The TIF Bonds will be sold by the City, and placed by the Placement Agent, pursuant to a bond placement agreement ("Placement Agreement") among the Placement Agent, the City, such Developer Parties as are acceptable to the Placement Agent and City, and, if applicable, the purchaser or purchasers of the TIF Bonds (collectively, "Purchaser"). To the extent required by the Purchaser for purposes of locking an interest rate or otherwise, parties to this Term Sheet agree to review and, if necessary sign a supplemental or separate term sheet further establishing agreed material terms of the TIF Bonds.

General Terms of the TIF Bonds

Principal Amount; Term; Serial Bonds. The principal amount of TIF Bonds issued for the Project is currently not expected to exceed approximately Twenty Six Million Dollars ($26,000,000) and could vary significantly based on the projected tax valuation of the Project. That principal amount (and the related Net TIF Bond Proceeds) will depend on the amount of Statutory Service Payments projected by the TIF Consultant to be generated by the "*improvement*" (as defined in the TIF Act and herein "TIF Improvement") to Project Site Parcels resulting from construction of the Project Improvements, the sale prices of and interest rates on the TIF Bonds, and other factors. The projected Statutory Service Payments ("TIF Projections") will depend on the estimated valuation of the Project, as projected by the TIF Consultant consistent with County Fiscal Office assessor valuation protocols, projected "effective tax rates" of levies exempted by the TIF Ordinance, and the limits established by the School District compensation regime under the School Compensation Agreement. The actual Statutory Service Payments will differ from the TIF Projections and the variance could be significant. Consistent with the Bond Act, City Charter and Bond Ordinance, the TIF Bonds will mature serially within 30 years from their respective dates of issuance, with a final maturity of January 1, 2052 ("Final Maturity"). TIF Bonds are expected to mature serially in semiannual installments established under the Bond Indenture on January 1 and July 1 of each year from July 1, 2023 through Final Maturity ("Maturity Dates"). The term of the TIF Bonds may be reduced based upon market conditions and will be established in the Placement Agreement.

Interest Rates; Stepped-Coupon. Interest will be payable semiannually on January 1 and July 1 of each year, commencing July 1, 2020 "Interest Payment Dates"). It is anticipated that all outstanding TIF Bonds will bear interest at the same fixed annual interest rate at any given time, but that the Bonds will have

"stepped-coupon" interest rates established in the Bond Indenture and estimated and summarized as follows: (i) from the TIF Bond Closing date through June 30, 2028, outstanding TIF Bonds will bear interest at approximately 5.00% per year ("Initial Rate"); (ii) from July 1, 2040 until maturity and final payment, outstanding TIF Bonds will bear interest at approximately 6.00% per year ("Final Rate"); and (iii) from July 1, 2028 through June 30, 2040, outstanding TIF Bonds will bear interest at an agreed rate between the Initial Rate and the Final Rate ("Second Rate"). Interest will be calculated for all periods, including the initial period, for a 360-day year comprised of twelve 30-day months. The interest rate or rates on the TIF Bonds are subject to market conditions at the time of pricing, and will be established in the Placement Agreement and may include a floor and ceiling (based on an agreed index and margin) for the Second Rate and Final Rate; provided, that debt service coverage requirements will, in that event, be determined based on the "ceiling" rates for the Second Rate and Final Rate periods.

Sale and Delivery; Deferred Deliveries. All of the TIF Bonds will be sold under the Placement Agreement for delivery as follows: (1) Bonds maturing on or before January 1, 2050 will be authenticated and delivered to the Purchaser at TIF Bond Closing, (2) Bonds maturing on July 1, 2050 will be authenticated and delivered to the Purchaser on July 1, 2020 ("First Deferred Delivery Date"), (3) Bonds maturing on January 1, 2051 will be authenticated and delivered to the Purchaser on January 4, 2021 ("Second Deferred Delivery Date"), (4) Bonds maturing on July 1, 2051 will be authenticated and delivered to the Purchaser on July 1, 2021 ("Third Deferred Delivery Date"), and (5) Bonds maturing on January 1, 2052 will be authenticated and delivered to the Purchaser on January 3, 2022 ("Final Deferred Delivery Date"). The process for delivery of and payment for Bonds to be delivered on each "Deferred Delivery Date" will be established in the Bond Indenture and Placement Agreement.

Optional Redemption**.** Subject to market conditions, it is expected that the TIF Bonds will be subject to optional redemption at par approximately five (5) years after the TIF Bond Closing date.

Denominations; Form; Global Bond. TIF Bonds may be issued in "authorized denominations" of $100,000 and any integral multiple of $5,000 in excess thereof. The TIF Bonds will be issued in certificated fully-registered form and may be issued as one or more Bonds maturing in serial installments; provided, that no Bond shall bear interest at more than one rate at any particular time.

Revenue Bonds; Non-Recourse to City. The Bonds will be issued as tax increment financing revenue bonds secured only by (i) the revenues and security pledged and provided under the Bond Indenture, including Statutory Service Payments and "Minimum Service Payments" or related "Supplemental Payments" (collectively "TIF Payments") and any other loan payments made under the Loan/Service Agreement, all of which will be assigned by the City to the Trustee under the Bond Indenture, (ii) the TIF Declaration/Mortgage described below, and the (iii) "Guaranties" described below. The Bonds will not be secured by (~~i~~x) any other revenues, including any tax revenues, of the City or (~~ii~~y) any obligation of the City except the obligation to transfer the TIF Payments to the Trustee at such times as are required under the Loan/Service Agreement and Bond Indenture. As such, the TIF Bonds will be special or limited non-recourse obligations of the City and will not be considered a debt of the City.

Rating; Credit Enhancement. The TIF Bonds will not be rated by any rating agency and will be issued without bond insurance or any other similar credit enhancement.

Additional Bonds. Additional Bonds are not expected to be issuable under the Bond Indenture.

Taxable Bonds. Interest on the TIF Bonds will not be excluded from gross income for federal income tax purposes. With certain exceptions, interest on, and any profit made on the sale, exchange or other disposition of the TIF Bonds, will be exempt from Ohio state and local taxation.

Preliminary Sources and Uses:

Project Costs. The current preliminary estimated sources and uses of funds for the Project, based on current estimates, projections, market conditions and assumptions and a draft of the Approved Project Budget, are as follows:

Sources:*	
Construction Loan	**$51,000,000**
TIF Bond Proceeds, including Earnings	**$23,~~940~~865,000**
City Greenhouse Purchase Price	**$ 369,632**
City Project Proceeds (maximum)	**$ 1,480,368**
Member Equity	**$ 3,~~257~~332,107**
Aggregate Project Sources	**$80,047,107**
Uses:*	
Greenhouse Purchase Price	**$ 369,632**
Site Preparation	**$ 3,100,000**
~~Architecture, Engineering and~~Arch., Eng., Design ~~$ 3,454,675~~	
~~City Connection/Impact Fees/~~, Permits ~~$ 783,000~~,	
Approvals $ 4,237,675	
Project Improvements Construction	**$56,985,000**
FF&E, TI and Project Soft Costs	**$ 6,885,550**
Bond/TIF Soft Costs, including Interest	**$ 5,465,000**
Contingency	**$ 3,004,250**
Aggregate Project Uses	**$80,047,107**

* All Project costs are preliminary, estimated, and subject to completion, execution and delivery of a "guaranteed maximum price" construction contract currently under negotiation by the Developer. Developer Member equity, and the Project sources and uses, do not include any allocation for Developer Parties' overhead related to the Project (estimated at $3,725,874).

TIF Bonds. The current preliminary estimated sources and uses of funds for the TIF Bonds, based on current information, estimates, projections, market conditions and assumptions, are as follows:

Sources:*	
TIF Bond Closing	**$20,025,000**
Deferred Deliveries	**$ 3,740,000**
Investment Earnings	**$ 100,000**
Aggregate TIF Bond Proceeds	**$23,~~765~~865,000**
Uses:*	
Project Fund Deposits	**$18,~~300~~400,000**
Bond Reserve Fund	**$ 815,000**
Capitalized Interest	**$ 3,230,000**
Transaction Costs Paid/Reimbursed	**$ 1,200,000**
Other Costs (during CAPI Period)	**$ 220,000**
Aggregate TIF Bond Uses	**$23,~~765~~865,000**

* All amounts are estimated or assumed. This assumes $24.2 million of TIF Bonds are issued and sold at 98.2% of par. All amounts will be adjusted and finalized (and may be adjusted significantly) as of the TIF Bond Closing date to reflect market conditions and pricing, known or revised estimated interest rates, costs, principal amounts, expectations and the TIF Projections.

Security for the Bonds:

Capitalized Interest and Other Payments: Subject to legal requirements, interest on the TIF Bonds is expected to be funded and paid from TIF Bond proceeds through completion of construction of the Project Improvements and until annual Statutory Service Payments are expected to be received in sufficient amounts to pay the scheduled principal and interest on the TIF Bonds ("Bond Service Charges") and associated "Administrative Expenses" (together with the Bond Service Charges, "Bond Payments"), including the annual or semiannual fees of the City, the Trustee and a qualified tax increment financing and/or special district administrator appointed by the City under the Bond Indenture ("TIF Administrator"), as well as anticipated additional costs of administering the trust estate under the Bond Indenture. Capitalized Bond Payments are not expected to extend beyond January 1, 2023 unless funded from Developer Party contributions (which will be required if the TIF Projections do not project a full year's collection of Statutory Service Payments in TY22 (collection year 2023)).

Reserve Fund or Funds. From and after the TIF Bond Closing, a "Bond Reserve" shall be funded in an amount equal to average semi-annual debt service on the TIF Bonds from the TIF Bond Closing through Final Maturity (on the assumption that all Bonds to be delivered on Deferred Delivery Dates are, in fact, delivered on the applicable Deferred Delivery Date). So long as no default has occurred, the Bond Reserve requirement may be reduced in equal amounts (1/4 of original Bond Reserve requirement) on each Maturity Date beginning on July 1, 2050 – with released amounts applied to debt service due on such date[s]. In addition to the Bond Reserve, depending on the TIF Projections and marketing requirements, there may be a supplemental reserve fund requirement in place for the period through completion, valuation and first full-year Statutory Service Payment collection.

Loan and Service Agreement Covenants; TIF Declaration and Mortgage. The Loan/Service Agreement will provide for the terms of the loan of the TIF Bond Proceeds to the Leasehold Owner ("TIF Loan"). The obligation to make loan financing payments (including amounts sufficient to make all Bond Payments) will be evidenced by a promissory note delivered by the Leasehold Owner to the Bond Trustee ("TIF Loan Note"). The Loan/Service Agreement will also provide for the "service agreement" covenants of the Leasehold Owner and the joinder of the Ground Lessee therein, and such service agreement covenants shall be binding on all transferees and subsequent owners of the interests of the Developer Parties in all or any portion of the Project Site (the Ground Lessee, Leasehold Owner and all such transferees and subsequent owners, "Owners"), but subject to apportionment of payment obligations in the event the Ground Lease is subdivided in accordance with its terms. Such covenants, including (without limitation) covenants relating to development of the Project Site consistent with the Development Agreement and the Approved Project Budget, the application for the tax exemption granted under the TIF Ordinance, the statutory liens resulting from that tax exemption and the payment of all TIF Payments, in amounts sufficient to provide for all Bond Payments, will run with the land and be binding on the leasehold interests of the Ground Lessee and Leasehold Owner (and other interests derived therefrom exclusive of individual unit and store leases), and will be evidenced and secured by a declaration and open-end mortgage instrument recorded in the County real estate records, with foreclosure procedures benefiting the City and Bond Trustee, in form and substance satisfactory to the City and Placement Agent ("TIF Declaration/Mortgage").

TIF Payments; Credits Against Loan Payments. It is anticipated that the County will collect and remit Statutory Service Payments to the City and that the City will transmit all such amounts, within twenty-one (21) days of final settlement with the County Fiscal Officer as to any amounts received, to the Bond Trustee, as assignee. Minimum Service Payments are expected to be invoiced by the Bond Trustee pursuant to direction of the TIF Administrator approximately

thirty (30) days before, and will be due and payable at least three (3) business days before, the next-succeeding semiannual Interest Payment Date. The Bonds will be secured, in part, by a senior pledge of and lien on all TIF Payments. It is expected that TIF Payments will always be sufficient to pay all Bond Payments when and as due and, if and to the extent that TIF Payments are timely made and available to make Bond Payments, such TIF Payments will be credited against the obligation of the Leasehold Owner to make payments to the Bond Trustee on the TIF Loan and TIF Loan Note.

School Compensation Payments. School Compensation Payments will be secured by a subordinate pledge of and lien on all Statutory Service Payments, and shall be paid annually within thirty (30) days after the end of each "Bond Year" (generally the period ending on a January 1 ~~Principal~~principal Maturity ~~date~~Date), in accordance with an acceptable report of the TIF Administrator calculating the annual School Compensation Payments due and payable for the applicable tax collection year. Any amounts remaining after the payment of all required School Compensation Payments for any year shall be applied in accordance with the 76:24 split required by the First Amendment to Development Agreement.

Owners: All Owners will be responsible for compliance with the covenants running with the land and evidenced by the TIF Declaration/Mortgage, including the Minimum Service Payment obligations. The Ground Lessee and Leasehold Owner will be the initial Owners and will be responsible for imposing all such covenants and related liens on their interests in the Project Site Parcel or Parcels, including obligations on each Owner to expressly transfer all such obligations to all succeeding Owners succeeding to such interests in any Project Site Parcel. Appropriate language consistent with the TIF Declaration/Mortgage must be included in any instrument transferring any portion of or interest in any of the Project Site Parcels to a subsequent Owner. Any such instruments shall be in form approved by the City and will require the signature of the transferee with respect to its acknowledgment and acceptance of all such covenants.

County Treasurer Agreement. To provide comfort that tax lien certificates relating to Project Site Parcels will not be sold at less than par, the County Treasurer, pursuant to an agreement with the City and/or Bond Trustee, will agree not to sell any tax lien certificate related to any Project Site Parcel for an amount less than 100% of the applicable tax lien without consent of the City and Bond Trustee.

Guaranties. The Developer Parties will jointly and severally guarantee timely completion of the Project Improvements in accordance with Development Agreement requirements under one or more completion guaranties in form and substance acceptable to the City and Placement Agent ("Completion Guaranty"). The Guarantor will guarantee the payment of all TIF Payments under a payment guaranty in form and substance acceptable to the City and Placement Agent ("Payment Guaranty"; together with the Completion Guaranty, "Guaranties"); provided, that such Payment Guaranty will be released at such time as the Statutory Service Payments have, for two consecutive tax collection years, met or exceeded 125% of the Bond Payments payable for the respective "Bond Year" ending on the January 1 immediately following the end of the applicable tax collection year.

City Requirements:

Development Agreement Generally. The Development Agreement will survive delivery of the TIF Bonds, Ground Lease and City Contribution, and completion of the Project Improvements, and the Developer Parties will confirm and perform their obligations thereunder except to the extent, if any, waived in writing by the City. The Loan/Service Agreement will include mutual agreement as to those Development Agreement requirements satisfied and outstanding.

Loan Commitment and Annual Fees. For issuing the Bonds and making the TIF Loan, the City will charge the Leasehold Owner a loan commitment fee equal to 0.4% of the principal amount of the TIF Bonds payable, in full (as to all TIF Bonds, regardless of the Delayed Delivery Dates of certain maturities), on the TIF Bond Closing date. In addition, the Leasehold Owner shall pay the City an annual loan maintenance fee of 0.2% of the outstanding principal amount of the TIF Bonds, payable semiannually in advance beginning on the TIF Bond Closing Date (pro-rated for the period prior to the first Interest Payment Date) and thereafter on each Interest Payment Date (based on outstanding principal amount at the beginning of the interest period ending on the applicable Interest Payment Date). In addition, the Leasehold Owner will be responsible for all Bond Trustee, TIF Administrator fees and charges, and other Administrative Expenses. All such amounts due on the TIF Bond Closing date and during the period when interest is capitalized, are expected to be paid or provided for from TIF Bond Proceeds. Thereafter, all such Administrative Expenses are expected to be paid from the Statutory Service Payments as part of the Bond Payments and will, to the extent established in the Bond Indenture, have priority over Bond Service Charges.

Indemnification. The Developer Parties hereby accept responsibility for and will defend and indemnify the City and Bond Trustee against all costs, expenses and liabilities relating to the issuance, administration, security and enforcement of the TIF Bonds, the construction of the Project Improvements (except to the extent payable from Net TIF Bond Proceeds or the City Contribution), and the operation and use of the Project including, without limitation, any and all claims for damages or injury to persons or property in, on or about the Project Site or the Project Improvements. The Ground Lessee, the Leasehold Owner and any other Owner will be required to name the City and Bond Trustee as additional insureds under applicable liability policies and as loss payees on casualty policies, including builders' risk policies, insuring the Project.

Inclusion and Prevailing Wages. Developer Parties shall use commercially reasonable efforts, and will require that the general contractor ("GC") use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve minority and female business enterprise ("MBE/FBE") participation goals acceptable to the City in connection with the construction of the Project Improvements, including utilization of certified MBE/FBE businesses in the construction of the Project Improvements at an aggregate level of 20% or greater. In addition, Developer Parties shall use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to ensure that laborers and mechanics employed on the Project are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for with respect to that work (determined in accordance with ORC Chapter 4115 requirements for such determinations) to the extent reasonably practicable consistent with the Approved Project Budget and, in any event, at an aggregate level of not less than ~~30~~35% of related Project Costs (of laborers and mechanics employed on the Project). Representatives of Developer Parties and of GC will provide a semiannual status report to the City through completion (with the first such report due by August 1, 2020 (for the period ending June 30, 2020), with respect to then-current and cumulative MBE/FBE participation and prevailing wage payments, in the construction of the Project Improvements, and an affidavit as to cumulative MBE/FBE participation and prevailing wage payments upon completion.

Developer Parties shall ~~also~~ use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve the goals of having a majority of workers participating in construction on the Project Improvements (excluding Developer employees) being residents of northeast

Ohio, and having the number of out-of-state workers (excluding Developer employees) not exceeding one-sixth (1/6) of the workforce on the Project Improvements. In furtherance of such goals, Developer and GC, together with applicable subcontractors, shall hold at least two worker outreach events in Cleveland Heights, with advance notice to the City, within six (6) months after the TIF Bond Closing date, to promote local worker participation on the Project. The Developer Parties agree to share, and will require that the GC agree to share (and require its subcontractors to share) with the City and its agents, including but not limited to the Regional Income Tax Authority, all information needed to facilitate tracking of project construction workers on a monthly basis to assure payment of appropriate income taxes due to the City from such employment. Developer Parties shall also use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve a diverse workforce constructing the Project Improvements.

Other Participants:

Placement Agent. The City designated RSA as the Placement Agent to market the TIF Bonds after discussion with the Developer. The TIF Bonds are expected to be privately placed by RSA with the Purchaser (expected to be one or two financial institutions, funds or other permitted investors, as established in the Bond Placement Agreement). Purchaser will provide and confirm, on delivery, representations acceptable to the City and Placement Agent regarding its investigation, investment intent, and non-distribution. Fees and expenses of RSA in structuring and placing the Bonds will be established in the Bond Placement Agreement with approval of the Developer and the City.

Bond Counsel. The City retained Squire Patton Boggs (US) LLP as Bond Counsel after discussion with the Developer. Except to the extent paid previously, or paid or reimbursed from TIF Bond proceeds, the Developer Parties accepted and hereby confirm their responsibility for the reasonable fees and expenses of Bond Counsel, whether incurred prior to or after the signing of this Term Sheet or any separate engagement agreement and whether or not any TIF Bonds are ever issued. Any fees previously paid may be reimbursed from TIF Bond proceeds.

Other Counsel. For purposes of the transactions contemplated herein, the Developer Parties have designated Thompson Hine LLP as their counsel, the City has designated Tucker Ellis LLP as its development counsel, and the Placement Agent has retained Vorys, Sater, Seymour and Pease LLP as its counsel. Associated fees and expenses relating to issuance of the Bonds and any fees and expenses of counsel to the Purchaser, are expected to be payable from proceeds of the TIF Bonds.

TIF Consultant. RSA will retain MuniCap, Inc. or other qualified consultant acceptable to the City, at the Developer's cost, for an acceptable and independent estimate of the projected Statutory Service Payments expected to be realized from the Project Site Parcels and pledged to the Bond Payments. These TIF Projections will be disclosed to the Purchasers and must show that, while taking into account all terms of the School Compensation Agreement (including no increases in valuation after valuation upon stabilization and 100% payment to the School District of Statutory Service Payments relating to any School District millage approved as new after March 20, 2018), the projected Statutory Service Payments from the Project Site Parcels (at the time of marketing the TIF Bonds) are, in each year of collection, expected to equal at least (i) 125% of the estimated Bond Payments to be paid therefrom, and (ii) 100% of the sum of the estimated Bond Payments and estimated School Compensation Payments to be paid therefrom. All related costs will be paid or reimbursed from Bond proceeds.

TIF Administrator. MuniCap, Inc., or other qualified company appointed by the City under the Bond Indenture and a separate Administration Agreement. Will

be responsible for Annual and Semiannual reports relating to administration of the TIF Bonds, application of available revenues, the need for and invoicing of any Supplemental Payments and any reporting required by the Purchaser.

Trustee. The Huntington National Bank, Cincinnati corporate trust office.

***Timetable*:** A preliminary critical path timeline has been issued and updated prior to the execution of this Term Sheet and will be further updated from time to time.

***Modification*:** This Term Sheet may be modified with the approval of all affected parties, but it is specifically understood and agreed that all final terms and conditions of the TIF Bonds will be established in the Financing Documents and in connection with the placement of the Bonds, and such terms and conditions may be different than those contained in this Term Sheet.

Subject to execution on behalf of the Developer Parties of this Term Sheet, the City will authorize Bond Counsel to commence drafting Financing Documents and other related documents for the issuance, sale and delivery of the TIF Bonds.

ROSS, SINCLAIRE & ASSOCIATES, LLC

_____

Daniel R. Blank, Managing Director

CITY OF CLEVELAND HEIGHTS, OHIO

_____

Tanisha Briley, City Manager

Approved as to form and correctness:

_____

William Hanna, Law Director

Acknowledged, Approved, Accepted and Agreed, as authorized by and on behalf of all Developer Parties:

F & C DEVELOPMENT, INC., DEVELOPER

_____

David Flaherty, Chief Executive Officer

FINAL

City of Cleveland Heights, Ohio
Taxable Economic Development TIF Revenue Bonds, Series 2020
(Top of the Hill Development Project)
("Bonds" or "TIF Bonds")

Preliminary Financing Term Sheet – February 12, 2020

Set forth below is a brief summary of certain terms relating to the TIF Bonds identified above and proposed to be issued by the City of Cleveland Heights, Ohio ("City"). The TIF Bonds are being issued to provide the "TIF Financing" contemplated by Section 8 of the Development Agreement dated February 21, 2018 between the City and F & C Development, Inc., an Indiana corporation qualified to transact business in Ohio ("Developer"), as amended and supplemented by a First Amendment to Development Agreement dated as of December 7, 2018 and a Second Amendment to Development Agreement approved December 2, 2019 (collectively, as further amended and supplemented, "Development Agreement").

The City has previously acquired title to approximately four (4) acres of land commonly referred to as "Top of the Hill" and comprised of contiguous Parcel Numbers 685-18-008, 685-18-009, 685-18-010, 685-18-011, 685-18-012, 685-18-013, 685-18-016, 685-18-018 and 685-18-019 (each a "Parcel" and, collectively, "Parcels"), and has agreed to consolidate the Parcels with a portion of Edwards Road vacated or to be vacated, subject to reserved easements, pursuant to Ordinance No. 81-2019 enacted September 16, 2019, and then lease the consolidated site ("Project Site") to Developer (or a designated affiliate) for a term of 99 years at nominal rent under a Ground Lease, the form and principal terms of which have been established under the Development Agreement and the First Amendment thereto (as completed, executed and delivered, "Ground Lease"). All Parcels other than Parcel 685-18-011 ("Greenhouse Parcel") have been owned by the City for an extended period of time. The Greenhouse Parcel was acquired by Developer for transfer to the City and was so transferred on or about November 13, 2019 in accordance with the Development Agreement for a deferred payment of $369,632.48 ("Greenhouse Purchase Price").

Pursuant to the Development Agreement and Ground Lease, Developer (or a designated affiliate) is to provide for the acquisition, construction, equipping, installation, furnishing and other improvement of a project comprised of the following improvements: approximately 261 market-rate apartments, approximately 11,400 square feet of first floor restaurant, retail and commercial space, a public parking garage resulting in approximately 550 parking spaces, public gathering and green spaces, and all sidewalks, driveways, access ways and utility connections necessary for the foregoing improvements ("Project Improvements" and together with the Project Site, "Project"). The City has determined that the Project constitutes a "project" within the meaning of Ohio Revised Code ("ORC") Chapter 165, as enacted and amended from time to time pursuant to Article VIII, Section 13, of the Ohio Constitution (collectively, with applicable provisions of ORC Chapter 1724, the "Bond Act"), and has determined that it may, subject to certain conditions, issue the TIF Bonds under the Bond Act and make proceeds of the sale thereof ("TIF Bond Proceeds"), together with a "City Contribution" (defined below), available to Developer to finance a portion of the costs of the Project in the manner contemplated herein. The City has authorized preparation of this preliminary financing term sheet ("Term Sheet") in anticipation of the issuance and sale of the TIF Bonds.

In addition to providing the Ground Lease and making the TIF Bond Proceeds available for costs of the Project, the City has agreed in the Development Agreement to make a contribution of up to $1.85 million (as finally determined, "City Contribution") available to Developer to provide funding for a portion of the costs of the Project (including payment of the Greenhouse Purchase Price and provision for a portion of the costs of the Project Improvements), as reflected in an agreed budget for costs of the Project prepared by Developer and approved by the City ("Approved Project Budget"). All other costs of the Project are to be borne by the Developer/affiliates except to the extent if any provided in the Development Agreement. Under the Development Agreement, all cost overruns relating to the Project Improvements are to be borne by the Developer, and the City has no responsibility whatsoever therefor.

The Developer has requested that the City now take the steps necessary to issue the TIF Bonds consistent with this Term Sheet and a legal structure that includes the following elements (among others): (i) the City will lease the Project Site under the Ground Lease to Cleveland Heights FC II, LLC, an Ohio limited liability company ("Ground Lessee"); (ii) the City will pay the Greenhouse Purchase Price to Developer and will provide the balance of the City Contribution ("City Project Proceeds") to Ground Lessee, solely for use as a tenant improvement contribution to pay costs of Project Improvements; (iii) Ground Lessee will sublease the Project Site, under a sub-ground lease co-terminous with, and incorporating all material terms of, the Ground Lease ("Sub-Ground Lease"), to Cleveland Heights FC III, LLC, an Ohio limited liability company ("Leasehold Owner"), and will transfer the City Project Proceeds to Leasehold Owner, solely for use as a tenant improvement contribution to pay costs of Project Improvements; (iv) rent under the Sub-Ground Lease will be at market, as determined by Developer, reflecting the reasonable value of the Sub-Ground Lease and of the tenant improvement contribution of the City Project Proceeds; (v) the City will loan the TIF Bond Proceeds to Leasehold Owner to pay a portion of the costs of the

Project Improvements consistent with the Approved Project Budget; and (vi) Leasehold Owner will obtain a first-mortgage construction loan ("Construction Loan") from Goldman Sachs Bank USA ("Construction Lender") which, together with (x) City Project Proceeds plus (y) net TIF Bond Proceeds (net of all transactional and financing costs) plus (z) member-funded equity contributions to Leasehold Owner ("Member Equity"), is required to be sufficient to pay all costs of the Project Improvements consistent with the Approved Project Budget.

Developer has represented to the City that: (i) Ground Lessee will be owned and controlled entirely by principals of Developer and its affiliates through Cleveland Heights FCS, Inc., an Ohio s-corporation, (ii) Leasehold Owner will be owned entirely by Cleveland Heights FC Owners, LLC, an Ohio limited liability company ("Leasehold Owner Parent"), and (iii) Leasehold Owner and Leasehold Owner Parent will be managed and controlled by principals of Developer and its affiliates. Developer, Ground Lessee, Leasehold Owner, Leasehold Owner Parent and David M. Flaherty (an individual and Indiana resident, and herein the "Guarantor") are referred to herein, collectively, as the "Developer Parties".

This Term Sheet is provided by Ross, Sinclaire & Associates, LLC ("RSA" or "Placement Agent") and the City to the Developer Parties in anticipation of entering into agreements pertaining to the structuring and marketing of the TIF Bonds and is preliminary and subject to change. It is intended to serve as the basis for such structuring and marketing, but is not definitive or complete; all terms, costs and other items included herein are preliminary and will be finalized in the documentation providing for the issuance, sale and delivery of the Bonds, including the Placement Agreement, Loan/Service Agreement, Bond Indenture, TIF Declaration/Mortgage and Guaranties, all referred to below.

Description of the Project:

Project; Authorization: The Project is generally described in the Introduction to this Term Sheet and is comprised of the Project Site and Project Improvements authorized or to be authorized under each of the following: (1) the Bond Act, (2) the Development Agreement, (3) ORC §5709.41 and related statutory provisions (collectively, "TIF Act" and, together with the Bond Act, "Authorizing Acts"), (4) an Ordinance passed by City Council under the TIF Act and effective on or after January 1, 2020 ("TIF Ordinance"), and (5) an ordinance authorizing the TIF Bonds ("Bond Ordinance").

Project Costs: Project Costs payable from TIF Bond Proceeds will include costs of acquisition, construction, equipping, installation, furnishing and other improvement of the Project Site and Project Improvements and related costs permitted under the Authorizing Acts, including costs of issuing the TIF Bonds and funding required capitalized interest and reserves. Aggregate Project Costs are estimated at approximately $74,887,107, as shown under "*Preliminary Sources and Uses*" below. Aggregate TIF Bond Proceeds are currently projected at up to approximately $24.2 million, with approximately $18.6 million available, together with investment earnings on unspent construction-period TIF Bond proceeds (currently estimated at approximately $100,000) (collectively "Net TIF Bond Proceeds"), for construction and related costs of the Project Improvements, all as further described below under *Preliminary Sources and Uses*. Project Costs that cannot be funded from TIF Bond Proceeds must be funded, or available without material conditions, at or prior to the closing of the initial TIF Bond issuance ("TIF Bond Closing"), including all Construction Loan proceeds, City Project Proceeds, and member equity contributions to Leasehold Owner.

TIF Bond Proceeds: The TIF Bonds are expected to be issued in such amount as can be supported by payments in lieu of exempted taxes required under the TIF Act and TIF Ordinance ("Statutory Service Payments") derived from improvements to the Project Site Parcels, as projected by MuniCap, Inc. ("TIF Consultant") consistent with (i) such information as may be available regarding the prospective completed and stabilized tax valuation (and related timing) of the Project, and (ii) requirements under the Development Agreement and a Compensation Agreement dated March 20, 2018 between the City and the Cleveland Heights-University Heights City School District ("School District"), as supplemented by an Addendum to Compensation Agreement dated as of November 25, 2019 between the City and School District (as supplemented, "School Compensation Agreement"). The net proceeds of the TIF Bonds will be

made available for and applied towards the payment of the Project Costs in accordance with (x) a Loan and Service Agreement between the City and Leasehold Owner, joined as to all Service Agreement covenants by Ground Lessee ("Loan/Service Agreement") and (y) a Trust Indenture ("Bond Indenture") between the City and a qualified corporate bond trustee ("Trustee"). Bond issuance costs and other specified Project Costs to be paid or reimbursed at or promptly after the TIF Bond Closing will be disbursed in accordance with direction given in the Bond Indenture. Funded interest and administrative expenses (for the period prior to anticipated receipt of Statutory Service Payments) will be disbursed in accordance with a schedule and direction included in the Bond Indenture. Amounts available for remaining costs of the Project Improvements will be disbursed on request of Developer, with approval of the City, in accordance with the Loan/Service Agreement and Bond Indenture.

Issuance and Sale of TIF Bonds:

Subject to approval of the Bond Ordinance by City Council, and to satisfaction of the conditions established in the Development Agreement, School Compensation Agreement, Bond Ordinance, Bond Indenture and Loan/Service Agreement, and based on satisfactory documentation and legal opinion of Squire Patton Boggs (US) LLP, bond counsel to the City ("Bond Counsel"), the City expects to issue (and the Placement Agent expects to place) the TIF Bonds to finance a portion of the costs of the Project Improvements. The TIF Bonds will be sold by the City, and placed by the Placement Agent, pursuant to a bond placement agreement ("Placement Agreement") among the Placement Agent, the City, such Developer Parties as are acceptable to the Placement Agent and City, and, if applicable, the purchaser or purchasers of the TIF Bonds (collectively, "Purchaser"). To the extent required by the Purchaser for purposes of locking an interest rate or otherwise, parties to this Term Sheet agree to review and, if necessary sign a supplemental or separate term sheet further establishing agreed material terms of the TIF Bonds.

General Terms of the TIF Bonds

Principal Amount; Term; Serial Bonds. The principal amount of TIF Bonds issued for the Project is currently not expected to exceed approximately Twenty Six Million Dollars ($26,000,000) and could vary significantly based on the projected tax valuation of the Project. That principal amount (and the related Net TIF Bond Proceeds) will depend on the amount of Statutory Service Payments projected by the TIF Consultant to be generated by the "*improvement*" (as defined in the TIF Act and herein "TIF Improvement") to Project Site Parcels resulting from construction of the Project Improvements, the sale prices of and interest rates on the TIF Bonds, and other factors. The projected Statutory Service Payments ("TIF Projections") will depend on the estimated valuation of the Project, as projected by the TIF Consultant consistent with County Fiscal Office assessor valuation protocols, projected "effective tax rates" of levies exempted by the TIF Ordinance, and the limits established by the School District compensation regime under the School Compensation Agreement. The actual Statutory Service Payments will differ from the TIF Projections and the variance could be significant. Consistent with the Bond Act, City Charter and Bond Ordinance, the TIF Bonds will mature serially within 30 years from their respective dates of issuance, with a final maturity of January 1, 2052 ("Final Maturity"). TIF Bonds are expected to mature serially in semiannual installments established under the Bond Indenture on January 1 and July 1 of each year from July 1, 2023 through Final Maturity ("Maturity Dates"). The term of the TIF Bonds may be reduced based upon market conditions and will be established in the Placement Agreement.

Interest Rates; Stepped-Coupon. Interest will be payable semiannually on January 1 and July 1 of each year, commencing July 1, 2020 "Interest Payment Dates"). It is anticipated that all outstanding TIF Bonds will bear interest at the same fixed annual interest rate at any given time, but that the Bonds will have "stepped-coupon" interest rates established in the Bond Indenture and estimated

and summarized as follows: (i) from the TIF Bond Closing date through June 30, 2028, outstanding TIF Bonds will bear interest at approximately 5.00% per year ("Initial Rate"); (ii) from July 1, 2040 until maturity and final payment, outstanding TIF Bonds will bear interest at approximately 6.00% per year ("Final Rate"); and (iii) from July 1, 2028 through June 30, 2040, outstanding TIF Bonds will bear interest at an agreed rate between the Initial Rate and the Final Rate ("Second Rate"). Interest will be calculated for all periods, including the initial period, for a 360-day year comprised of twelve 30-day months. The interest rate or rates on the TIF Bonds are subject to market conditions at the time of pricing, and will be established in the Placement Agreement and may include a floor and ceiling (based on an agreed index and margin) for the Second Rate and Final Rate; provided, that debt service coverage requirements will, in that event, be determined based on the "ceiling" rates for the Second Rate and Final Rate periods.

Sale and Delivery; Deferred Deliveries. All of the TIF Bonds will be sold under the Placement Agreement for delivery as follows: (1) Bonds maturing on or before January 1, 2050 will be authenticated and delivered to the Purchaser at TIF Bond Closing, (2) Bonds maturing on July 1, 2050 will be authenticated and delivered to the Purchaser on July 1, 2020 ("First Deferred Delivery Date"), (3) Bonds maturing on January 1, 2051 will be authenticated and delivered to the Purchaser on January 4, 2021 ("Second Deferred Delivery Date"), (4) Bonds maturing on July 1, 2051 will be authenticated and delivered to the Purchaser on July 1, 2021 ("Third Deferred Delivery Date"), and (5) Bonds maturing on January 1, 2052 will be authenticated and delivered to the Purchaser on January 3, 2022 ("Final Deferred Delivery Date"). The process for delivery of and payment for Bonds to be delivered on each "Deferred Delivery Date" will be established in the Bond Indenture and Placement Agreement.

Optional Redemption**.** Subject to market conditions, it is expected that the TIF Bonds will be subject to optional redemption at par approximately five (5) years after the TIF Bond Closing date.

Denominations; Form; Global Bond. TIF Bonds may be issued in "authorized denominations" of $100,000 and any integral multiple of $5,000 in excess thereof. The TIF Bonds will be issued in certificated fully-registered form and may be issued as one or more Bonds maturing in serial installments; provided, that no Bond shall bear interest at more than one rate at any particular time.

Revenue Bonds; Non-Recourse to City. The Bonds will be issued as tax increment financing revenue bonds secured only by (i) the revenues and security pledged and provided under the Bond Indenture, including Statutory Service Payments and "Minimum Service Payments" or related "Supplemental Payments" (collectively "TIF Payments") and any other loan payments made under the Loan/Service Agreement, all of which will be assigned by the City to the Trustee under the Bond Indenture, (ii) the TIF Declaration/Mortgage described below, and the (iii) "Guaranties" described below. The Bonds will not be secured by (x) any other revenues, including any tax revenues, of the City or (y) any obligation of the City except the obligation to transfer the TIF Payments to the Trustee at such times as are required under the Loan/Service Agreement and Bond Indenture. As such, the TIF Bonds will be special or limited non-recourse obligations of the City and will not be considered a debt of the City.

Rating; Credit Enhancement. The TIF Bonds will not be rated by any rating agency and will be issued without bond insurance or any other similar credit enhancement.

Additional Bonds. Additional Bonds are not expected to be issuable under the Bond Indenture.

Taxable Bonds. Interest on the TIF Bonds will not be excluded from gross income for federal income tax purposes. With certain exceptions, interest on, and any profit made on the sale, exchange or other disposition of the TIF Bonds, will be exempt from Ohio state and local taxation.

Preliminary Sources and Uses:

Project Costs. The current preliminary estimated sources and uses of funds for the Project, based on current estimates, projections, market conditions and assumptions and a draft of the Approved Project Budget, are as follows:

Sources:*	
Construction Loan	**$51,000,000**
TIF Bond Proceeds, including Earnings	**$23,865,000**
City Greenhouse Purchase Price	**$ 369,632**
City Project Proceeds (maximum)	**$ 1,480,368**
Member Equity	**$ 3,332,107**
Aggregate Project Sources	**$80,047,107**

Uses:*	
Greenhouse Purchase Price	**$ 369,632**
Site Preparation	**$ 3,100,000**
Arch., Eng., Design, Permits, Approvals	**$ 4,237,675**
Project Improvements Construction	**$56,985,000**
FF&E, TI and Project Soft Costs	**$ 6,885,550**
Bond/TIF Soft Costs, including Interest	**$ 5,465,000**
Contingency	**$ 3,004,250**
Aggregate Project Uses	**$80,047,107**

* All Project costs are preliminary, estimated, and subject to completion, execution and delivery of a "guaranteed maximum price" construction contract currently under negotiation by the Developer. Developer Member equity, and the Project sources and uses, do not include any allocation for Developer Parties' overhead related to the Project (estimated at $3,725,874).

TIF Bonds. The current preliminary estimated sources and uses of funds for the TIF Bonds, based on current information, estimates, projections, market conditions and assumptions, are as follows:

Sources:*	
TIF Bond Closing	**$20,025,000**
Deferred Deliveries	**$ 3,740,000**
Investment Earnings	**$ 100,000**
Aggregate TIF Bond Proceeds	**$23,865,000**

Uses:*	
Project Fund Deposits	**$18,400,000**
Bond Reserve Fund	**$ 815,000**
Capitalized Interest	**$ 3,230,000**
Transaction Costs Paid/Reimbursed	**$ 1,200,000**
Other Costs (during CAPI Period)	**$ 220,000**
Aggregate TIF Bond Uses	**$23,865,000**

* All amounts are estimated or assumed. This assumes $24.2 million of TIF Bonds are issued and sold at 98.2% of par. All amounts will be adjusted and finalized (and may be adjusted significantly) as of the TIF Bond Closing date to reflect market conditions and pricing, known or revised estimated interest rates, costs, principal amounts, expectations and the TIF Projections.

Security for the Bonds:

Capitalized Interest and Other Payments: Subject to legal requirements, interest on the TIF Bonds is expected to be funded and paid from TIF Bond proceeds through completion of construction of the Project Improvements and until annual Statutory Service Payments are expected to be received in sufficient

amounts to pay the scheduled principal and interest on the TIF Bonds ("Bond Service Charges") and associated "Administrative Expenses" (together with the Bond Service Charges, "Bond Payments"), including the annual or semiannual fees of the City, the Trustee and a qualified tax increment financing and/or special district administrator appointed by the City under the Bond Indenture ("TIF Administrator"), as well as anticipated additional costs of administering the trust estate under the Bond Indenture. Capitalized Bond Payments are not expected to extend beyond January 1, 2023 unless funded from Developer Party contributions (which will be required if the TIF Projections do not project a full year's collection of Statutory Service Payments in TY22 (collection year 2023)).

Reserve Fund or Funds. From and after the TIF Bond Closing, a "Bond Reserve" shall be funded in an amount equal to average semi-annual debt service on the TIF Bonds from the TIF Bond Closing through Final Maturity (on the assumption that all Bonds to be delivered on Deferred Delivery Dates are, in fact, delivered on the applicable Deferred Delivery Date). So long as no default has occurred, the Bond Reserve requirement may be reduced in equal amounts (1/4 of original Bond Reserve requirement) on each Maturity Date beginning on July 1, 2050 – with released amounts applied to debt service due on such date[s]. In addition to the Bond Reserve, depending on the TIF Projections and marketing requirements, there may be a supplemental reserve fund requirement in place for the period through completion, valuation and first full-year Statutory Service Payment collection.

Loan and Service Agreement Covenants; TIF Declaration and Mortgage. The Loan/Service Agreement will provide for the terms of the loan of the TIF Bond Proceeds to the Leasehold Owner ("TIF Loan"). The obligation to make loan financing payments (including amounts sufficient to make all Bond Payments) will be evidenced by a promissory note delivered by the Leasehold Owner to the Bond Trustee ("TIF Loan Note"). The Loan/Service Agreement will also provide for the "service agreement" covenants of the Leasehold Owner and the joinder of the Ground Lessee therein, and such service agreement covenants shall be binding on all transferees and subsequent owners of the interests of the Developer Parties in all or any portion of the Project Site (the Ground Lessee, Leasehold Owner and all such transferees and subsequent owners, "Owners"), but subject to apportionment of payment obligations in the event the Ground Lease is subdivided in accordance with its terms. Such covenants, including (without limitation) covenants relating to development of the Project Site consistent with the Development Agreement and the Approved Project Budget, the application for the tax exemption granted under the TIF Ordinance, the statutory liens resulting from that tax exemption and the payment of all TIF Payments, in amounts sufficient to provide for all Bond Payments, will run with the land and be binding on the leasehold interests of the Ground Lessee and Leasehold Owner (and other interests derived therefrom exclusive of individual unit and store leases), and will be evidenced and secured by a declaration and open-end mortgage instrument recorded in the County real estate records, with foreclosure procedures benefiting the City and Bond Trustee, in form and substance satisfactory to the City and Placement Agent ("TIF Declaration/Mortgage").

TIF Payments; Credits Against Loan Payments. It is anticipated that the County will collect and remit Statutory Service Payments to the City and that the City will transmit all such amounts, within twenty-one (21) days of final settlement with the County Fiscal Officer as to any amounts received, to the Bond Trustee, as assignee. Minimum Service Payments are expected to be invoiced by the Bond Trustee pursuant to direction of the TIF Administrator approximately thirty (30) days before, and will be due and payable at least three (3) business days before, the next-succeeding semiannual Interest Payment Date. The Bonds will be secured, in part, by a senior pledge of and lien on all TIF Payments. It is expected that TIF Payments will always be sufficient to pay all Bond Payments

when and as due and, if and to the extent that TIF Payments are timely made and available to make Bond Payments, such TIF Payments will be credited against the obligation of the Leasehold Owner to make payments to the Bond Trustee on the TIF Loan and TIF Loan Note.

School Compensation Payments. School Compensation Payments will be secured by a subordinate pledge of and lien on all Statutory Service Payments, and shall be paid annually within thirty (30) days after the end of each "Bond Year" (generally the period ending on a January 1 principal Maturity Date), in accordance with an acceptable report of the TIF Administrator calculating the annual School Compensation Payments due and payable for the applicable tax collection year. Any amounts remaining after the payment of all required School Compensation Payments for any year shall be applied in accordance with the 76:24 split required by the First Amendment to Development Agreement.

Owners: All Owners will be responsible for compliance with the covenants running with the land and evidenced by the TIF Declaration/Mortgage, including the Minimum Service Payment obligations. The Ground Lessee and Leasehold Owner will be the initial Owners and will be responsible for imposing all such covenants and related liens on their interests in the Project Site Parcel or Parcels, including obligations on each Owner to expressly transfer all such obligations to all succeeding Owners succeeding to such interests in any Project Site Parcel. Appropriate language consistent with the TIF Declaration/Mortgage must be included in any instrument transferring any portion of or interest in any of the Project Site Parcels to a subsequent Owner. Any such instruments shall be in form approved by the City and will require the signature of the transferee with respect to its acknowledgment and acceptance of all such covenants.

County Treasurer Agreement. To provide comfort that tax lien certificates relating to Project Site Parcels will not be sold at less than par, the County Treasurer, pursuant to an agreement with the City and/or Bond Trustee, will agree not to sell any tax lien certificate related to any Project Site Parcel for an amount less than 100% of the applicable tax lien without consent of the City and Bond Trustee.

Guaranties. The Developer Parties will jointly and severally guarantee timely completion of the Project Improvements in accordance with Development Agreement requirements under one or more completion guaranties in form and substance acceptable to the City and Placement Agent ("Completion Guaranty"). The Guarantor will guarantee the payment of all TIF Payments under a payment guaranty in form and substance acceptable to the City and Placement Agent ("Payment Guaranty"; together with the Completion Guaranty, "Guaranties"); provided, that such Payment Guaranty will be released at such time as the Statutory Service Payments have, for two consecutive tax collection years, met or exceeded 125% of the Bond Payments payable for the respective "Bond Year" ending on the January 1 immediately following the end of the applicable tax collection year.

City Requirements:

Development Agreement Generally. The Development Agreement will survive delivery of the TIF Bonds, Ground Lease and City Contribution, and completion of the Project Improvements, and the Developer Parties will confirm and perform their obligations thereunder except to the extent, if any, waived in writing by the City. The Loan/Service Agreement will include mutual agreement as to those Development Agreement requirements satisfied and outstanding.

Loan Commitment and Annual Fees. For issuing the Bonds and making the TIF Loan, the City will charge the Leasehold Owner a loan commitment fee equal to 0.4% of the principal amount of the TIF Bonds payable, in full (as to all TIF Bonds, regardless of the Delayed Delivery Dates of certain maturities), on the TIF Bond Closing date. In addition, the Leasehold Owner shall pay the City an

annual loan maintenance fee of 0.2% of the outstanding principal amount of the TIF Bonds, payable semiannually in advance beginning on the TIF Bond Closing Date (pro-rated for the period prior to the first Interest Payment Date) and thereafter on each Interest Payment Date (based on outstanding principal amount at the beginning of the interest period ending on the applicable Interest Payment Date). In addition, the Leasehold Owner will be responsible for all Bond Trustee, TIF Administrator fees and charges, and other Administrative Expenses. All such amounts due on the TIF Bond Closing date and during the period when interest is capitalized, are expected to be paid or provided for from TIF Bond Proceeds. Thereafter, all such Administrative Expenses are expected to be paid from the Statutory Service Payments as part of the Bond Payments and will, to the extent established in the Bond Indenture, have priority over Bond Service Charges.

Indemnification. The Developer Parties hereby accept responsibility for and will defend and indemnify the City and Bond Trustee against all costs, expenses and liabilities relating to the issuance, administration, security and enforcement of the TIF Bonds, the construction of the Project Improvements (except to the extent payable from Net TIF Bond Proceeds or the City Contribution), and the operation and use of the Project including, without limitation, any and all claims for damages or injury to persons or property in, on or about the Project Site or the Project Improvements. The Ground Lessee, the Leasehold Owner and any other Owner will be required to name the City and Bond Trustee as additional insureds under applicable liability policies and as loss payees on casualty policies, including builders' risk policies, insuring the Project.

Inclusion and Prevailing Wages. Developer Parties shall use commercially reasonable efforts, and will require that the general contractor ("GC") use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve minority and female business enterprise ("MBE/FBE") participation goals acceptable to the City in connection with the construction of the Project Improvements, including utilization of certified MBE/FBE businesses in the construction of the Project Improvements at an aggregate level of 20% or greater. In addition, Developer Parties shall use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to ensure that laborers and mechanics employed on the Project are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for with respect to that work (determined in accordance with ORC Chapter 4115 requirements for such determinations) to the extent reasonably practicable consistent with the Approved Project Budget and, in any event, at an aggregate level of not less than 35% of related Project Costs (of laborers and mechanics employed on the Project). Representatives of Developer Parties and of GC will provide a semiannual status report to the City through completion (with the first such report due by August 1, 2020 (for the period ending June 30, 2020), with respect to then-current and cumulative MBE/FBE participation and prevailing wage payments, in the construction of the Project Improvements, and an affidavit as to cumulative MBE/FBE participation and prevailing wage payments upon completion.

Developer Parties shall use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve the goals of having a majority of workers participating in construction on the Project Improvements (excluding Developer employees) being residents of northeast Ohio, and having the number of out-of-state workers (excluding Developer employees) not exceeding one-sixth (1/6) of the workforce on the Project Improvements. In furtherance of such goals, Developer and GC, together with applicable subcontractors, shall hold at least two worker outreach events in Cleveland Heights, with advance notice to the City, within six (6) months after

the TIF Bond Closing date, to promote local worker participation on the Project. The Developer Parties agree to share, and will require that the GC agree to share (and require its subcontractors to share) with the City and its agents, including but not limited to the Regional Income Tax Authority, all information needed to facilitate tracking of project construction workers on a monthly basis to assure payment of appropriate income taxes due to the City from such employment. Developer Parties shall also use commercially reasonable efforts, and will require that the GC use commercially reasonable efforts (including requiring subcontractors to use commercially reasonable efforts), to achieve a diverse workforce constructing the Project Improvements.

Other Participants:

Placement Agent. The City designated RSA as the Placement Agent to market the TIF Bonds after discussion with the Developer. The TIF Bonds are expected to be privately placed by RSA with the Purchaser (expected to be one or two financial institutions, funds or other permitted investors, as established in the Bond Placement Agreement). Purchaser will provide and confirm, on delivery, representations acceptable to the City and Placement Agent regarding its investigation, investment intent, and non-distribution. Fees and expenses of RSA in structuring and placing the Bonds will be established in the Bond Placement Agreement with approval of the Developer and the City.

Bond Counsel. The City retained Squire Patton Boggs (US) LLP as Bond Counsel after discussion with the Developer. Except to the extent paid previously, or paid or reimbursed from TIF Bond proceeds, the Developer Parties accepted and hereby confirm their responsibility for the reasonable fees and expenses of Bond Counsel, whether incurred prior to or after the signing of this Term Sheet or any separate engagement agreement and whether or not any TIF Bonds are ever issued. Any fees previously paid may be reimbursed from TIF Bond proceeds.

Other Counsel. For purposes of the transactions contemplated herein, the Developer Parties have designated Thompson Hine LLP as their counsel, the City has designated Tucker Ellis LLP as its development counsel, and the Placement Agent has retained Vorys, Sater, Seymour and Pease LLP as its counsel. Associated fees and expenses relating to issuance of the Bonds and any fees and expenses of counsel to the Purchaser, are expected to be payable from proceeds of the TIF Bonds.

TIF Consultant. RSA will retain MuniCap, Inc. or other qualified consultant acceptable to the City, at the Developer's cost, for an acceptable and independent estimate of the projected Statutory Service Payments expected to be realized from the Project Site Parcels and pledged to the Bond Payments. These TIF Projections will be disclosed to the Purchasers and must show that, while taking into account all terms of the School Compensation Agreement (including no increases in valuation after valuation upon stabilization and 100% payment to the School District of Statutory Service Payments relating to any School District millage approved as new after March 20, 2018), the projected Statutory Service Payments from the Project Site Parcels (at the time of marketing the TIF Bonds) are, in each year of collection, expected to equal at least (i) 125% of the estimated Bond Payments to be paid therefrom, and (ii) 100% of the sum of the estimated Bond Payments and estimated School Compensation Payments to be paid therefrom. All related costs will be paid or reimbursed from Bond proceeds.

TIF Administrator. MuniCap, Inc., or other qualified company appointed by the City under the Bond Indenture and a separate Administration Agreement. Will be responsible for Annual and Semiannual reports relating to administration of the TIF Bonds, application of available revenues, the need for and invoicing of any Supplemental Payments and any reporting required by the Purchaser.

Trustee. The Huntington National Bank, Cincinnati corporate trust office.

***Timetable*:** A preliminary critical path timeline has been issued and updated prior to the execution of this Term Sheet and will be further updated from time to time.

***Modification*:** This Term Sheet may be modified with the approval of all affected parties, but it is specifically understood and agreed that all final terms and conditions of the TIF Bonds will be established in the Financing Documents and in connection with the placement of the Bonds, and such terms and conditions may be different than those contained in this Term Sheet.

Subject to execution on behalf of the Developer Parties of this Term Sheet, the City will authorize Bond Counsel to commence drafting Financing Documents and other related documents for the issuance, sale and delivery of the TIF Bonds.

ROSS, SINCLAIRE & ASSOCIATES, LLC

_____

Daniel R. Blank, Managing Director

CITY OF CLEVELAND HEIGHTS, OHIO

_____

Tanisha Briley, City Manager

Approved as to form and correctness:

_____

William Hanna, Law Director

Acknowledged, Approved, Accepted and Agreed, as authorized by and on behalf of all Developer Parties:

F & C DEVELOPMENT, INC., DEVELOPER

_____

David Flaherty, Chief Executive Officer

Proposed: 01/21/2020

ORDINANCE NO. 6-2020 (F), *Third Reading*

By Council Member Hart

An Ordinance providing for the issuance and sale of not to exceed $1,850,000 of economic development nontax revenue bond anticipation notes, in anticipation of the issuance of bonds, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code, and declaring an emergency.

WHEREAS, the City is authorized and empowered by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII of the Ohio Constitution and Chapter 165 of the Revised Code, among other things, (i) to issue bond anticipation notes and bonds to acquire, construct, reconstruct, equip, or improve a "project" as defined in Section 165.01 of the Revised Code, comprising an industrial, commercial or research facility, located within the boundaries of the City, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; (ii) to secure such notes and bonds by a pledge of nontax revenues, as provided herein; and (iii) to pass this Ordinance and enter into related agreements, upon the terms and conditions provided herein; and

WHEREAS, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City, the City has determined to issue the economic development nontax revenue bond anticipation notes described in Section 3, in anticipation of the issuance of the bonds described in Section 5, to provide funds necessary to pay a portion of the costs of the acquisition of a portion of, and redevelopment by F & C Development, Inc. (together with certain designated affiliates, the Developer) of, the site generally known as "Top of the Hill" located on approximately four acres of land situated between Euclid Heights Boulevard and Cedar Road at the top of Cedar Hill in the City, the Top of the Hill site being leased to the Developer pursuant to a development agreement between the City and the Developer, with improvements to include (i) approximately 261 market-rate apartments, (ii) approximately 11,400 square feet of first floor restaurant, retail and commercial space, (iii) a public parking garage resulting in approximately 550 parking spaces, (iv) public gathering and green spaces and (v) all sidewalks, driveways, access ways and utility connections necessary for the improvements described in (i) through (iv) above; and

WHEREAS, the Cleveland Heights Community Improvement Corporation, as the City's designated community improvement corporation, has approved the project described above as a

project in accordance with the plan for the industrial, commercial, distribution and research development of the City confirmed by the City pursuant to Section 1724.10 of the Revised Code;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, Ohio, that:

SECTION 1. Definitions. In addition to the words and terms defined elsewhere in this Ordinance or by reference to the Act, unless the context or use clearly indicates another meaning or intent:

"Act" means Chapter 165 of the Revised Code, as enacted and amended pursuant to Section 13 of Article VIII of the Ohio Constitution.

"Bonds" means the bonds in anticipation of which the Notes are issued, the estimated terms of which are described in Section 5.

"City Manager" means the City Manager or any person serving in an interim or acting capacity with respect to that office.

"Director of Finance" means the Director of Finance or any person serving in an interim or acting capacity with respect to that office.

"Director of Law" means the Director of Law or the person at the time performing the duties of the chief legal officer of the City.

"Nontax Revenues" means all moneys of the City which are not moneys raised by taxation, to the extent available for the purpose of paying Note service charges, including, but not limited to the following: (a) proceeds from the sale or lease of all or a portion of the Project Site; (b) grants from the United States of America and the State; (c) payments in lieu of taxes now or hereafter authorized by State statute to the extent not pledged to pay debt charges on other City indebtedness; (d) fines and forfeitures which are deposited in the City's General Fund; (e) fees deposited in the City's General Fund for services provided and from properly imposed licenses and permits; (f) investment earnings on the City's General Fund and which are credited to the City's General Fund; (g) investment earnings on other funds of the City that are credited to the City's General Fund, including, without limitation, investment earnings on the Project Fund which are paid into the General Fund; (h) proceeds from the sale of assets which are deposited in the City's General Fund; (i) gifts and donations; (j) all rental payments which are deposited in the City's General Fund; and (k) any moneys in the Project Fund which are not needed to pay costs of the Project.

"Note Purchase Agreement" means a note purchase agreement, if any, between the City and the Original Purchaser of the Notes.

"Note service charges" means, for any period of time, the principal of and interest required to be paid by the City on the Notes for such time period.

"Notes" means the Economic Development Nontax Revenue Bond Anticipation Notes, Series 2020 (Top of the Hill Project), authorized in Section 3.

"Ordinance" means this Ordinance as amended or supplemented from time to time.

"Original Purchaser" means the purchaser to whom the Notes are sold in accordance with Section 7.

"Parity Obligations" means bonds, notes or other obligations of or guaranties by the City payable from Nontax Revenues on a parity with or prior to the Notes or Bonds.

"Paying Agent" means a bank or trust company designated by the Director of Finance to serve as paying agent for the Notes in the Certificate of Award, or the Director of Finance if agreed to by the Director of Finance and the Original Purchaser.

"Project" means the acquisition of a portion of, and redevelopment by F & C Development, Inc. (together with certain designated affiliates) of, the Project Site, with improvements to include (i) approximately 261 market-rate apartments, (ii) approximately 11,400 square feet of first floor restaurant, retail and commercial space, (iii) a public parking garage resulting in approximately 550 parking spaces, (iv) public gathering and green spaces and (v) all sidewalks, driveways, access ways and utility connections necessary for the improvements described in (i) through (iv) above.

"Project Fund" means the Project Fund described in Section 8.

"Project Site" means the approximately four acres of land situated between Euclid Heights Boulevard and Cedar Road at the top of Cedar Hill in the City.

Any reference herein to the City, to this Council, or to any officer or member of either, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act or the Revised Code includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no such amendment, modification,

revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the City or the holder of the Notes under this Ordinance, the Notes or any other instrument or document entered into in connection with any of the foregoing, including, without limitation, any alteration of the obligation to pay the Note service charges in the amount and manner, at the times and from the sources provided in this Ordinance, except as permitted herein.

SECTION 2. Council Determinations. This Council determines that (i) the Project is a "project" as defined in the Act and is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution; (ii) the utilization of the Project is in furtherance of the purposes of the Act and will benefit the people of the City and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; and (iii) it is necessary for the City to borrow money, by the issuance and sale of the Notes, as provided herein, to provide funds necessary to pay a portion of the costs of the Project.

SECTION 3. Authorized Principal Amount of Notes; Dating; Interest Rate; Parity Obligations. This Council determines it to be necessary to issue, and the City shall, issue, sell and deliver, as provided and authorized herein the Notes, in anticipation of the issuance of Bonds, in an aggregate principal amount not to exceed $1,850,000 for the purpose of paying a portion of the costs of the Project. The Notes shall be designated "Economic Development Nontax Revenue Bond Anticipation Notes, Series 2020 (Top of the Hill Project)", or as otherwise designated by the Director of Finance in the Certificate of Award (as defined below).

The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 7 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The aggregate principal amount of and rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

The City may in the future issue Parity Obligations. The Director of Finance may agree in the Certificate of Award to reasonable limits on the future issuance of Parity Obligations, consistent with that officer's determination of the best interest of and financial advantages to the City; provided, that any limit on the maximum annual aggregate of estimated service charges on the Bonds and required payments on any existing Parity Obligations and proposed Parity Obligations payable from Nontax Revenues shall not be less than 50% of estimated Nontax Revenues for the fiscal year immediately following the issuance of the proposed Parity Obligations.

SECTION 4. Payment of Debt Charges; Paying Agent; Prepayment. The Note service charges shall be payable in lawful money of the United States of America, or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, and shall be payable, without deduction for services of the Paying Agent, at the designated office of the Paying Agent.

If agreed to by the Original Purchaser, the Notes shall be prepayable in whole or in part, without penalty or premium, at the option of the City, at any time or at any time following a period of no prepayment agreed to by the Original Purchaser (the Prepayment Date). Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes to be prepaid, together with interest accrued thereon to the Prepayment Date. The City's right of prepayment shall be exercised by mailing a notice of prepayment, stating the principal amount to be prepaid, the Prepayment Date and the name and address of the Paying Agent, by certified or registered mail to the Original Purchaser of the Notes not less than 30 days prior to the Prepayment Date, unless such notice is waived by the Original Purchaser. If money for prepayment is on deposit with the Paying Agent on the Prepayment Date following the giving of that notice, interest on the principal amount prepaid shall cease to accrue on the Prepayment Date. The Director of Finance may request the Original Purchaser of the Notes to use its best efforts to arrange for the delivery of the Notes at the designated office of the Paying Agent for prepayment, surrender and cancellation if the Notes have been prepaid in whole, or for replacement with a Note or Notes in the principal amount then outstanding, if the Notes has been prepaid in part.

SECTION 5. Estimated Bond Terms. It is necessary that Bonds be issued in an aggregate principal amount not to exceed $1,850,000 for the purpose of paying a portion of the costs of the Project, which Bonds are anticipated to be dated approximately February 1, 2021, shall bear interest at the now estimated rate of 6% per year, payable semiannually until the principal amount is paid; and such Bonds are estimated to mature in 30 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are not more than three times the amount of those payments in any other fiscal year. Nothing in this Ordinance shall prevent the City from retiring all or any portion of the Notes with the proceeds of bond anticipation notes, or with the proceeds of Bonds or other obligations containing terms different than those described in this Ordinance.

SECTION 6. Execution of Notes; Book Entry System. The Notes shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, provided that no Note shall be issued in a denomination less than $100,000. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated

form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and in this Ordinance:

"Book entry form" or "book entry system" means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes deposited and maintained in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and deposited and maintained in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes

from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 7. Award and Sale of the Notes.

(a) To the Original Purchaser. The Notes shall be sold at not less than 97% of par at private sale by the Director of Finance in accordance with law and the provisions of this Ordinance. The Director of Finance shall, in accordance with that officer's determination of the best interests of and financial advantages to the City and based on conditions then existing in the financial markets, consistently with the provisions of this Ordinance, establish the aggregate principal amount of and interest rate to be borne by the Notes and their maturity and other terms required in this Ordinance to be set forth in the Certificate of Award, sign the Certificate of Award evidencing that sale to the selected Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price.

A Note Purchase Agreement is approved, and the City Manager and the Director of Finance are authorized to sign and deliver, on behalf of the City, the Note Purchase Agreement with such necessary and customary terms and conditions that are not inconsistent with the provisions of this Ordinance, are not materially adverse to the interests of the City and are approved by the City Manager and the Director of Finance. Such approval by the City Manager and the Director of Finance shall be evidenced conclusively by the signing of the Note Purchase Agreement by the City Manager and the Director of Finance.

The City Manager, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements, paying agent agreement, term sheet, placement agreement and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

(b) Application for Rating; Financing Costs. The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those

rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Appropriation and Expenditure of Proceeds of Notes; Project Fund. The proceeds from the sale of the Notes shall be deposited and credited to a separate account or fund (the Project Fund). Moneys in the Project Fund shall be invested in accordance with the provisions of the City's Charter, Codified Ordinances and investment policy. Those proceeds are hereby appropriated and shall be used to pay costs of the Project, including, without limitation, financing costs in connection with the issuance of the Notes and reimbursement of any funds advanced to pay costs of the Project by the City, and are hereby appropriated for that purpose. The expenditure of funds for the foregoing purpose is hereby authorized.

SECTION 9. Payment and Security of the Notes. The Notes and the Bonds shall be special obligations of the City, and the Note service charges on the Notes and the debt charges on any Bonds issued to retire the Notes shall be payable solely from the Nontax Revenues, and the payment of Note service charges is secured by a pledge of and lien on the Nontax Revenues on deposit in the Bond Fund, as described below. The Notes and any Bonds issued to retire the Notes are not and shall not be secured by an obligation or pledge of any money raised by taxation. The Notes and any Bonds issued to retire the Notes do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the City, and the holder or holders thereof have and shall have no right to have taxes levied by the City for the payment of Note service charges on the Notes or debt charges on any Bonds issued to retire the Notes.

There is hereby created a separate account or fund designated as the "Top of the Hill Retirement Fund" (the Note Fund) into which Nontax Revenues shall be deposited on or prior to the date of maturity of the Notes in an amount sufficient to pay Note service charges on the Notes. The City covenants and agrees that while the Notes are outstanding, it will appropriate and maintain Nontax Revenues at such times and in such amounts as will be sufficient, together with the proceeds of the Bonds or renewal notes issued in anticipation of the Bonds available for the purpose, to pay the Note service charges on the Notes and required payments on Parity Obligations when due and will so restrict the issuance of future Parity Obligations as will ensure the continuing availability for appropriation of sufficient Nontax Revenues to pay Note service charges and required payments on outstanding Parity Obligations when due, which Nontax Revenues are hereby selected by the City pursuant to Section 165.12 of the Revised Code as moneys that are not raised by taxation.

The par value to be received from the sale of any Bonds issued to retire the Notes or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent

necessary, be used to pay the Note service charges on the Notes at maturity and are pledged for that purpose.

Nothing herein shall be construed as requiring the City to use or apply to the payment of Note service charges on the Notes any funds or revenues from any source other than Nontax Revenues. Nothing herein, however, shall be deemed to prohibit the City, of its own volition, from using, to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of this Ordinance or of the Notes.

SECTION 10. City Covenants. In addition to other representations and warranties of the City contained in this Ordinance, the City covenants and agrees that:

(a) Payment of Note Service Charges. Except to the extent paid from the proceeds of refunding bond anticipation notes or the Bonds, the City will, solely from the Nontax Revenues, pay or cause to be paid the Note service charges on the dates, at the places and in the manner provided herein and in the Notes. For that purpose, in each year while the Notes are outstanding, this Council, after providing for the payment of debt charges payable on the City's general obligation securities in that year from sources available for that purpose, will appropriate Nontax Revenues required to pay, and for the purpose of paying, the Note service charges due and required payments on Parity Obligations due in that year. Further, this Council will give effect to such appropriations in all ordinances it passes thereafter in that year appropriating money for expenditure and encumbrance and limit the other appropriations of Nontax Revenues in that year to the amount available after deducting the amount required for the payment of debt charges payable on the City's general obligation securities and to pay those Note service charges and required payments on Parity Obligations.

(b) Performance of Covenants and City Actions. The City will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions to be performed on its part under this Ordinance and the Notes and under all proceedings of this Council pertaining thereto. The City represents that (i) it is a municipal corporation, duly organized and existing under and by virtue of the laws of the State; (ii) it is, and upon delivery of the Notes covenants that it will be, duly authorized by the Constitution and laws of the State, to issue the Notes and any Bonds issued to retire the Notes and to provide the security for payment of the Note service charges in the manner and to the extent set forth herein and in the Notes; (iii) all actions on its part for the issuance of the Notes have been or will be taken duly and effectively; and (iv) the Notes will be a valid and enforceable special obligations of the City according to their terms. Each obligation of the City required to be undertaken pursuant to the Ordinance and the Notes is binding upon the City, and upon each officer or employee of the City as may from time to time have the authority under law to take any action on behalf of the City as may be necessary to perform all or any part of such obligation, as a duty of the City and of each of those officers and employees resulting from an office, trust or

station within the meaning of Section 2731.01 of the Revised Code, providing for enforcement by writ of mandamus.

(c) Inspection of Project Books. All books and documents in the City's possession relating to the Project and the Nontax Revenues shall be open at all times during the City's regular business hours to inspection by such accountants or other agents of the holder of the Notes as the holder of the Notes may from time to time designate.

(d) Transcript of Proceedings. The Clerk of Council, or another appropriate officer of the City, shall furnish to the Original Purchaser a true transcript of proceedings, certified by that officer, of all proceedings had with reference to the issuance of the Notes along with such information from the records as is necessary to determine the regularity and validity of the issuance of the Notes.

SECTION 11. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Internal Revenue Code of 1986, as amended (the Code), or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as "qualified tax-exempt obligations" if such designation is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such

compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 12. Discharge of Notes and Related Covenants. If the City shall pay or cause to be paid and discharged the Notes, the covenants, agreements and other obligations of the City hereunder and in the Notes shall be discharged and satisfied.

SECTION 13. Payments on Sundays and Legal Holidays. If any date on which Note service charges are due shall be a Sunday or a day on which the holder of the Notes is required, or authorized or not prohibited, by law (including executive orders) to close and is closed, then payment of Note service charges need not be made on that date but may be made on the next succeeding business day on which the holder is open for business with the same force and effect as if made on the due date and no interest shall accrue for the period after that date.

SECTION 14. Notification of Note Issuance. The City Manager is directed to deliver or cause to be delivered the notification required by Section 165.03(D) of the Revised Code to the Director of the Ohio Development Services Agency.

SECTION 15. Satisfaction of Conditions to Issue Notes. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 16. Severability. Each section of this Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision of any section thereof to be invalid or void shall not be deemed nor held to affect the validity of any other section or subdivision of this Ordinance.

SECTION 17. Ratification. Each action taken by the City and any officer of the City in connection with the Project and the Notes is hereby ratified and confirmed and shall be given full force and effect as of the time such action was taken.

SECTION 18. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 19. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 20. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to meet its contractual commitments for the undertaking of the Project and so that the City may provide for additional jobs and employment opportunities and improve the economic welfare of the City and its residents; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

_____

JASON S. STEIN, Mayor
President of Council

_____

SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

PASSED: _____ ___, 2020

Proposed:

RESOLUTION NO. 14-2020 (F)

By Council Member

A Resolution urging the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation to protect the Federal Community Reinvestment Act by ensuring that current efforts to modernize regulations do not weaken the requirement of lending institutions to meet the credit needs of low- and moderate-income and marginalized communities across our Nation; and declaring an emergency.

WHEREAS, the City of Cleveland Heights is a community of diverse income and wealth that supports the financial stability of all of its citizens; and

WHEREAS, the Community Reinvestment Act ("CRA") was a landmark civil rights law passed in 1977 to discourage the practice of 'redlining' by financial institutions, where access to home loans, business loans, and other banking services has either been denied outright or made less available to communities with racial, ethnic, and religious minority populations; and

WHEREAS, lack of access to loans and other financial services not only impacts racial, ethnic, and religious minorities, but also undermines the housing value of non-minority property owners who live in communities impacted by lack of access; and

WHEREAS, since 1996, according to analysis of bank lending data by the National Community Reinvestment Coalition ("NCRC"), CRA-covered banks issued almost 29 million small business loans in low- and moderate-income tracts, totaling $1.156 trillion, and $1.179 trillion in community development loans that support affordable housing and economic development projects benefiting low- and moderate-income communities; and

WHEREAS, a 2016 review of the CRA examinations of intermediate small banks ("ISBs")/mid-sized banks found that ISBs produced over $9.3 billion of community development ("CD") loans and grants; and

WHEREAS, despite the tremendous benefits of CRA to communities, the full potential of CRA has not been realized because it has not been updated to take into account changes in the banking industry and the economy; and

WHEREAS, independent mortgage companies not covered by CRA now make more than 50 percent of the home mortgage loans in America and financial technology ("Fintech") companies that operate via the internet are rapidly increasing their lending and are also not covered by CRA; and

WHEREAS, notwithstanding the need to modernize CRA, recent changes to CRA

regulations proposed by the Federal Deposit Insurance Corporation ("FDIC") and the Office of the Comptroller of the Currency ("OCC") would, under the guise of modernization, substantially weaken CRA; and

WHEREAS, these proposed changes include:

- allowing banks to get CRA credit for investments in sports stadiums, roads, bridges, and other infrastructure projects that are disconnected from CRA's purpose of ending redlining and supporting underserved people and their communities;
- raising the asset threshold of banks covered by CRA which would exempt more banks from examination of their community lending and investments;
- allowing banks to choose which of their geographic assessment areas to serve and which to ignore, essentially making redlining legal once again; and
- eliminating the three tests on which banks are currently evaluated (1-lending, 2-investing and 3-providing retail banking services) and replacing these with a single test that would enable banks to, for example, provide branch banking services but no mortgage lending, or invest in major development projects and offer no branch banking services.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council believes that, in order for CRA to continue to fulfill its intended mission, regulations should be strengthened to reflect changes in mortgage lending, technology and markets and must not be weakened by allowing covered institutions to disregard the credit needs of low- and-moderate income and marginalized communities.

SECTION 2. This Council supports and encourages the modernization of CRA to apply it to non-bank institutions that are not presently covered by CRA such as mortgage companies and financial technology companies.

SECTION 3. This Council opposes raising the asset threshold of banks covered by CRA, as this would exempt more banks, such as ISBs/mid-sized banks, from examination of their community development lending and investments.

SECTION 4. This Council opposes permitting banks to ignore geographic assessment areas and instead should continue to be graded based on every geographic area where they lend or receive a significant percentage of their deposits and not be allowed to ignore the credit needs of distressed and vulnerable communities.

SECTION 5. The Council opposes the replacement of the three-tiered system of evaluating a bank's performance with the 'one ratio' system that reduces the need for banks to focus on all three critical community banking needs: lending, investment, and retail banking

services.

SECTION 6. This Council opposes any proposals that would weaken the penalties for discrimination under CRA.

SECTION 7. This Council opposes giving CRA credit to banks for investing in large infrastructure projects such as bridges, highways. and sports stadiums, thereby weakening the incentive for banks to invest in local housing and community development projects.

SECTION 8. This Council supports a CRA with a clearly defined grading system that emphasizes lending, bank branches, fair lending performance, and responsible loan products for working class families.

SECTION 9. This Council supports efforts to hold a bank accountable if it has a less than satisfactory CRA exam, or wishes to acquire a bank with a better CRA grade, and urge agencies to recognize and encourage Community Benefit Agreements and efforts that motivate banks to responsibly make more loans, investments, and services available to traditionally underserved communities.

SECTION 10. The Clerk of Council shall submit this resolution by March 9, 2020 to:

Email: cra.reg@occ.treas.gov
Mail: Chief Counsel's Office
Attention: Comment Processing, Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

SECTION 11. Notice of the passage of this Resolution shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 12. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to submit this Resolution to the OCC during the public comment period ending March 9, 2020. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

_____
JASON S. STEIN, Mayor
President of Council

_____
SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

PASSED:

Proposed: 2/3/2020

ORDINANCE NO. 12-2020 (PD) , Second Reading

By Council Member Hart

An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; confirming a compensation agreement with the Cleveland Heights-University Heights City School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43; rescinding Ordinance No. 116-2019 adopted on December 2, 2019~~; rescinding~~ and Ordinance No. 16-2018 adopted on March 19, 2018, each except as stated herein; and declaring an emergency.

WHEREAS, the City of Cleveland Heights (the "City") owns certain parcels of real property located at the intersection of Cedar Road and Euclid Heights Boulevard and referred to as the "Top of the Hill Property," which parcels are described in Exhibit A hereto (collectively referred to herein as the "TIF Area," with the parcels comprising the real property within the TIF Area, as improved, referred to herein as the "Parcels"); and

WHEREAS, Ohio Revised Code ("R.C.") Section 5709.41 provides that this Council may, under certain circumstances, declare Improvements (as defined in R.C. Section 5709.41) to the Parcels to be a public purpose, thereby exempting those Improvements from real property taxation; and

WHEREAS, pursuant to R.C. Section 5709.41, said exemption may not exceed 75% of such Improvements for up to ten (10) years without the approval of the board of education of the city, local or exempted village school district within the territory in which the Parcels are located; and

WHEREAS, the City has entered into a Development Agreement (the "Development Agreement") with F & C Development, Inc. pursuant to which a development entity established by F & C Development, Inc. (such entity, "the Developer") will lease the Parcels from the City and improve the Parcels by building thereon a mixed-use development which will include construction of (a) approximately 261 market-rate apartments, (b) approximately 11,400 square feet of first floor restaurant, retail and commercial space, (c) a public parking garage resulting in 550 parking spaces, (d) public gathering and green spaces, and (e) all sidewalks, driveways, access ways and utility connections (all of the foregoing being referred to herein collectively as the "Development"); and

WHEREAS, on March 19, 2018, this Council passed Ordinance No. 16-2018 ("Ordinance No. 16-2018") authorizing a Compensation Agreement dated March 20, 2018 ("Base Compensation Agreement") with the Board of Education of the Cleveland Heights-University Heights City School District ("School District"), declaring certain Improvements to certain parcels included in the Top of the Hill Property to be a public purpose, declaring such

Improvements to be exempt from real property taxation, and making provision for the collection of service payments in lieu of the exempted real property taxes; and

WHEREAS, on December 2, 2019, this Council passed Ordinance No. 116-2019 on request of the Developer and for the purposes stated therein ("Ordinance No. 116-2019" and, together with Ordinance No. 16-2018, the "Prior Ordinances"), rescinding Ordinance No. 16-2018 (except to the extent expressly saved in Section 1 of Ordinance No. 116-2019), confirming the Base Compensation Agreement and approving an Addendum thereto, declaring Improvements to certain parcels included in the Top of the Hill Property to be a public purpose under R.C. Section 5709.41, declaring such Improvements to be exempt from real property taxation for a period of thirty (30) years commencing with tax year 2021 (the "Exemption Period"), and making provision for the collection of service payments in lieu of the exempted real property taxes; and

WHEREAS, the financing for the Development, including the issuance of tax increment financing revenue bonds of the City ("TIF Bonds"), secured by a pledge of the anticipated service payments in lieu of exempted real property taxes to be paid by the owners of the Parcels included in the Development ("Service Payments," as further defined below) is being finalized, and in conjunction with such TIF Bond financing, the City desires to enact this Ordinance to ensure that the Ohio Department of Taxation will, upon application for the applicable real property tax exemptions, recognize and approve an Exemption Period of thirty (30) years commencing with tax year 2021 for each of the Parcels included in the Development; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide that the owner of the Development (initially, the Developer) be required to make Service Payments with respect to the Improvements to the Parcels pursuant to R.C. Section 5709.42; and

WHEREAS, the City and School District have entered into the Base Compensation Agreement and, on request of the City, ~~the School District has authorized~~ an Addendum to such Base Compensation Agreement (the "Addendum"; the Base Compensation Agreement, as amended and supplemented by the Addendum, is referred to herein as the "Compensation Agreement~~"),~~") to evidence that (1) the description of the Development ~~has~~had been modified since the date of the Base Compensation Agreement, and (2) the first year of the Exemption Period described in such Base Compensation Agreement may be tax year 2021; and

WHEREAS, under the Compensation Agreement, the Board of Education of the School District waived any notice periods prescribed in R.C. Section 5709.41 and 5709.83, approved a 100% exemption for the Improvements to the Parcels under R.C. Section 5709.41 for thirty (30) years, and waived any other rights to compensation related to the grant of that exemption; and

WHEREAS, R.C. Section 5709.85(A) requires the legislative authority of any municipal corporation granting an exemption from taxation under R.C. Section 5709.41 to create a tax incentive review council ("TIRC"), which TIRC is required to perform an annual review of exemptions from taxation granted pursuant to R.C. Section 5709.41, and the City has previously created a TIRC;

BE IT ORDAINED by the Council of the City of Cleveland Heights, that:

SECTION 1. The Prior Ordinances are hereby rescinded in their entirety; provided, however, that the authority granted in Section 5 of Ordinance No. 16-2018 (to enter into the Base Compensation Agreement), as saved, adopted, confirmed, ratified and incorporated in Section 1 of Ordinance No. ~~116-2019, is~~116-2019, and the authority granted in Section 6 of Ordinance No. 116-2019 (to execute and deliver the Addendum) are hereby saved, adopted, confirmed, ratified and incorporated herein, effective as of the effective date of the respective Prior Ordinance~~ No. 16-2018~~, and the execution and delivery of the Base Compensation Agreement and Addendum by the City pursuant to that ~~Section 5~~authority is hereby approved, adopted, ratified and confirmed as fully as if ~~either~~such sections of the Prior Ordinances had remained in effect.

SECTION 2. The Improvements (other than those Improvements, if any, to be used for residential purposes as such term is used in R.C. Section 5709.41(B)) to the Parcels on which the Developer will construct the Development are hereby declared to be a public purpose for purposes of R.C. Section 5709.41. One hundred percent (100%) of the increase in the assessed value of the Parcels (which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.41) shall be exempt from real property taxation for a period of thirty (30) years commencing with tax year 2021.

SECTION 3. As provided in R.C. Section 5709.42, the owner of the Development (initially, the Developer) is hereby required to make annual service payments for a period of thirty (30) years in lieu of taxes to the County Fiscal Officer on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable if the Improvements were not exempt from taxation (with the payments in lieu of taxes, including any penalties, interest and rollback payments, collectively referred to as "PILOTS"). The County Fiscal Officer shall remit all PILOTS to the City. In addition to the payment of PILOTS described herein, in accordance with the Compensation Agreement, in connection with any TIF Debt (as defined in the Compensation Agreement), the owner(s) of the Development may also be required to make minimum service payments (the "Minimum Service Payments" and, together with the PILOTs, the "Service Payments") as described in the Compensation Agreement.

This Council hereby authorizes the City Manager or designee (the "City Manager") or an officer of the City who succeeds to the functions, duties or responsibilities of the City Manager pursuant to or by operation of law or who is fully authorized to perform such functions or duties (an "Authorized Officer") to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those PILOTS from the County Fiscal Officer or collect the Minimum Service Payments from the Developer and to make such arrangements as are necessary and proper for payment of the portion of PILOTS and/or Minimum Service Payments dedicated to TIF Debt to be paid, if appropriate, to the trustee for any TIF Debt. Any late payments of PILOTS shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time.

No Owner of any portion of the Development shall, under any circumstances, be required in any tax year to both pay PILOTS with respect to an Improvement and reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing

authorities had the Improvements not been exempted from taxation to the extent set forth in this Ordinance.

SECTION 4. The City Manager or an Authorized Officer shall make, or cause to be made, payments to the School District as described in the Compensation Agreement.

SECTION 5. This Council hereby establishes pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Top of the Hill Urban Redevelopment Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited the PILOTS distributed to the City with respect to the Improvements on the Parcels by or on behalf of the County Fiscal Officer as provided in Section 5709.42 of the Revised Code. One hundred percent (100%) of the moneys collected shall be deposited in the Fund and shall be retained by the City and used for any or all of the following purposes:

(i) Payment of all costs associated with the construction of the Development, including costs incurred by the City or other governmental entity, and including debt service and related costs or obligations or loans issued by the City, the State of Ohio or other governmental entity;

(ii) Construction, operation and maintenance of public improvements and publicly-owned facilities on the Parcels, including, but not limited to, streets, storm and sanitary sewers, water treatment facilities and water transmission lines, sidewalks, curbs, street trees and furniture, transitway improvements, off-street parking facilities, street lighting and signalization, pedestrian walkways, and public parks and plazas, whether owned by the City or other governmental entity by agreement with the City, and associated land acquisition and demolition, planning and engineering costs;

(iii) Land and building acquisition, demolition, site preparation, and relocation expenses related to the Development;

(iv) Compensating the School District pursuant to the Compensation Agreement; and

(v) Any other expenditures made with respect to the Parcels in accordance with the Development Agreement or other agreements entered into in connection with development of the Parcels provided such expenditures are otherwise permitted by law.

The Fund shall remain in existence so long as such PILOTS are collected, after which said Fund may be dissolved in accordance with said Section 5709.43 and transferred to the General Fund or any other fund as permitted by applicable law.

SECTION 6. The Compensation Agreement, including the Base Compensation Agreement and the Addendum, each in the form attached to this Ordinance as Exhibit B, is hereby authorized, approved and ratified, with changes or amendments thereto, not inconsistent with this Ordinance and not substantially adverse to the City, as determined by the Director of Law and which are approved by the City Manager or an Authorized Officer. ~~The City Manager or an Authorized Officer, for and in the name of the City, is hereby authorized to execute the Addendum to the Compensation Agreement.~~ The approval of any such changes or amendments by the City Manager or an Authorized Officer, and the character of ~~the~~those changes or

amendments as not being inconsistent with this Ordinance and not being materially adverse to the City, shall be evidenced conclusively by the execution thereof by the City Manager or an Authorized Officer with the concurrence of the Director of Law. This Council further hereby authorizes and directs the City Manager or an Authorized Officer to make such arrangements as are necessary and proper for payments to be made to the School District pursuant to the Compensation Agreement.

SECTION 7. The City Manager or an Authorized Officer is authorized and directed to sign any other documents, instruments or certificates as are necessary or appropriate to consummate or implement the actions described herein, or contemplated by this Ordinance, including an agreement or agreements with the Developer to provide for the payment of PILOTS and Minimum Service Payments described in this Ordinance and in the Compensation Agreement.

SECTION 8. Pursuant to R.C, Section 5709.41, the City Manager is hereby directed to deliver a copy of this Ordinance to the Director of Development Services of the State within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 3 hereof remains in effect, the City Manager or an Authorized Officer shall prepare and submit to the Director of Development Services of the State the status report required under R.C. Section 5709.41(E).

SECTION 9. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

SECTION 10. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 11. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to implement the financing for the Development, including the issuance of the TIF Bonds, as soon as possible. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

_____

JASON STEIN, Mayor
President of the Council

_____

SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

ORDINANCE NO. 12-2020

PASSED: _____ __, 2020

EXHIBIT A

DESCRIPTION OF PARCELS INCLUDED IN TIF AREA

(Identified by Parcel Number)

685-18-008

685-18-009

685-18-010

685-18-011

685-18-012

685-18-013

685-18- 016

685-18-018

685-18-019

EXHIBIT B

COMPENSATION AGREEMENT AND FORM OF ADDENDUM

(See Attached)

EXHIBIT B

COMPENSATION AGREEMENT

This Compensation Agreement (this "Agreement"), is made and entered into on this day of March 20, 2018, by and between the CITY OF CLEVELAND HEIGHTS, OHIO (the "City"), a municipal corporation organized and existing under the laws of the State of Ohio, and the CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT (the "School District"), a city school district organized and existing under the laws of the State of Ohio.

WITNESSETH:

WHEREAS, the City owns (or may acquire) certain real property located at the intersection of Cedar Road and Euclid Heights Boulevard and sometimes referred to herein as the "Top of the Hill Property" more particularly depicted in Exhibit A attached hereto; and

WHEREAS, by Ordinance to be introduced in Cleveland Heights City Council (including any amendments thereto, the "TIF Ordinance"), the City proposes to establish a tax increment financing area with respect to the Top of the Hill Property, to exempt from real property taxation improvements to be made to the Top of the Hill Property pursuant to Section 5709.41 of the Ohio Revised Code (the "TIF Statute") and to require the development entity to be established by F & C Development, Inc. to lease from the City and improve the parcels included in the Top of the Hill Property (such entity, the "Developer"), to make Service Payments In Lieu of Taxes in an amount equal to the amount of real property taxes that would have been payable if the Improvements described below had not been exempted from taxation under the TIF Ordinance (those payments in lieu of taxes, together with any related penalties, interest and rollback payments, are collectively referred to herein as "PILOTS"), and to use such PILOTS to pay a portion of the principal of, interest on and premium, if any, with respect to bonds expected to be issued by the Cleveland-Cuyahoga County Port Authority (or any other such governmental authority as may be designated by the City) or other financing and any renewals or refunding thereof (collectively, the "TIF Debt") which may be issued or entered into to pay the cost of acquisition and construction of improvements as part of the proposed Top of the Hill Property development; and

WHEREAS, by the TIF Ordinance, the City intends to designate the parcels depicted in Exhibit A hereto (collectively referred to herein as the "TIF Area"), with the parcels comprising the real property within the TIF Area, as improved, referred to hereinafter as the "Parcels"; and

WHEREAS, the City has provided information to the School District with respect to a proposed mixed-use development of the Parcels which will include construction of (a) 200 luxury market-rate apartments, (b) 15,000 square feet of first floor restaurant, retail and commercial space, (c) a public parking garage containing 525 parking spaces, (d) public gathering and green spaces, (e) 20 for-sale townhomes, (f) a nationally-branded hotel or boutique hotel, (g) all sidewalks, driveways, access ways and utility connections, and which will potentially include (h) "Class A" office space (all of the foregoing being referred to herein collectively as the "Improvements"); and

WHEREAS, the City and the School District will derive substantial and significant benefits from the Improvements; and

WHEREAS, the City, in the TIF Ordinance, intends to declare the Improvements (other than those Improvements, if any, to be used for residential purposes as such term is used in Section 5709.41(B) of the Ohio Revised Code) to be for a "public purpose" and exempted 100% of the assessed valuation of the Improvements from real property taxation for a period not to exceed thirty (30) years in accordance with Section 5709.41 of the Ohio Revised Code; and

WHEREAS, on March [13], 2018, the Board of the School District adopted a resolution (the "School District Resolution") approving this Agreement and the exemption of the Improvements as will be provided in the TIF Ordinance (the "TIF Exemption"); and

WHEREAS, to facilitate the construction of the Improvements and to compensate the School District for a portion of the revenue that the School District would have received had the Improvements been made and not been exempted from taxation, the City and the School District have determined to enter into this Agreement, on the terms as hereinafter provided;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and to induce the Developer to proceed with the construction of the Improvements, the parties hereto agree as follows:

Section 1. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

"Base Value" means the assessed value (35% of market value under current law) of the Parcels within the TIF Area for tax year 2017.

"Exempted Value" means the assessed value (35% of market value under current law) of the Parcels within the TIF Area over the Base Value that is to be exempted from real estate taxation under the TIF Ordinance and the TIF Statute.

"Exemption Year" means, for any Parcel, any calendar year in which Improvements would be taxable but for the exemption from taxation pursuant to the TIF Ordinance.

"$44 Million Fair Market Value Threshold" means, for purposes of determining School Payments under Section 2(A) hereof, that portion of the market value of the Parcels within the TIF Area (excluding any Townhome Parcels) that is equal to or less than $44,000,000.

"$50 Million Fair Market Value Threshold" means, for purposes of determining School Payments under Section 2(A) hereof, that portion of the market value of the Parcels within the TIF Area (excluding any Townhome Parcels) that is equal to or greater than $50,000,000.

"New School District Levies" means any School District levies first effective on or after the date of this Agreement. New School District Levies shall not include any replacement tax levies, to the extent of the effective rate of the levy that is being replaced, or any renewal levies. For example, if an existing levy has an effective tax rate of 10 mills as of the date of the replacement levy and 5 effective new mills are approved with the replacement of the existing levy,

New School District Levies shall exclude the prior existing effective millage (10 effective mills) and include the new 5 mills. The existing levies included in the School District's Effective Millage as of the 2017 tax year are set forth in Schedule I hereto.

"PILOTS to be received at the "$44 Million Fair Market Threshold" means the PILOTS to be received by the City in any Exemption Year determined at the $44 Million Fair Market Value Threshold.

"PILOTS to be received at the "$50 Million Fair Market Threshold" means the PILOTS to be received by the City determined at the $50 Million Fair Market Value Threshold.

"School District's Effective Millage" means the rate of real property tax millage applicable to the Parcels determined for the School District pursuant to Section 319.301 of the Ohio Revised Code in effect for any particular Exemption Year; provided, however, that the School District's Effective Millage shall not include any millage related to New School District Levies.

"Townhome Parcel" means any Parcel or portion thereof upon which is constructed a townhome or other Improvements to be used for residential purposes as such term is used in Section 5709.41(B) of the Ohio Revised Code.

Section 2. City Payments to School District. Unless otherwise agreed to in writing by the City and the School District, with respect to Improvements located within the TIF Area, for each Exemption Year for such Improvements, the City agrees to pay the School District the payments determined under subsection (A) of this Section 2 (referred to herein as the "School Payments"):

(A) School District Portion. The amounts calculated under the following clauses for each Exemption Year:

(1) In any Exemption Year in which the market value of the Parcels in the TIF Area (excluding any Townhome Parcels) have a market value of equal to or less than the $44 Million Fair Market Value Threshold, semi-annual payments equal to 25% of the tax revenue that the School District would have received with respect to that Exemption Year on the Exempted Value but for the TIF Exemption, based on the School District's Effective Millage.

(2) In addition to the School Payments required by subsection (A)(1) hereof (i.e., the 25% payment calculated on the market value less than or equal to the $44 Million Fair Market Value Threshold), in any Exemption Year in which the market value of the Parcels in the TIF Area (excluding any Townhome Parcels) have a market value of greater than the $44 Million Fair Market Value Threshold but less than the $50 Million Fair Market Value Threshold, semi-annual payments equal to 33.33% of the tax revenue that the School District would have received with respect to that Exemption Year on that portion of the Exempted Value attributable to that portion of the market value of the Parcels in the TIF Area (other than any Townhome Parcels) in excess of the $44 Million Fair Market Value Threshold but for the TIF Exemption, based on the School District's Effective Millage.

(3) In addition to the School Payments required by subsections (A)(1) and (A)(2) hereof (i.e., the 25% payment calculated on the market value less than or equal to the $44 Million Fair Market Value Threshold and the 33.33% payment calculated on the market value greater than the $44 Million Fair Market Value Threshold and less than or equal to the $50 Million Fair Market Value Threshold), in any Exemption Year in which the market value of the Parcels in the TIF Area (excluding any Townhome Parcels) have a market value equal to or greater than the $50 Million Fair Market Value Threshold, semi-annual payments equal to 50% of the tax revenue that the School District would have received with respect to that Exemption Year on that portion of the Exempted Value attributable to that portion of the market value of the Parcels in the TIF Area (other than any Townhome Parcels) in excess of the $50 Million Fair Market Value Threshold but for the TIF Exemption, based on the School District's Effective Millage..

(4) In addition to the School Payments required by subsections (A)(1), (A)(2) and (A)(3) hereof, semi-annual payments equal to 100% of the of the tax revenue that the School District would have received with respect to that Exemption Year from the New School District Levies, if any.

(B) Timing of Payments. The City shall cause the School Payments to be made semiannually within thirty (30) days after PILOT payments are received by the City from the Treasurer of Cuyahoga County, Ohio (the "Treasurer"). Such payments due to the School District shall be made by the City solely from the PILOTs it receives from the Treasurer. The City may provide that such amounts shall be paid directly by the Treasurer to the School District and shall not be paid to the City.

(C) Bond Issuance Test. Unless the School District consents as hereinafter described, no TIF Debt shall be issued by the City, the Cleveland-Cuyahoga County Port Authority or any such other governmental authority as may be designated by the City unless at the time of authorization of the TIF Debt the projected PILOTs based on the projected market value of the Exempted Property, according to pro forma projections presented to both the City and the School District, which projections shall assume no growth in value, will result in a debt service coverage ratio of not less than 1.25:1 for all of the TIF Debt, including principal and interest then due or coming due in the next succeeding 12-month period and administrative expenses of the City and the Cleveland-Cuyahoga County Port Authority (or any such other governmental authority as may be designated by the City) with respect to the TIF Debt, including but not limited to the fees of any trustee for the TIF Debt (the "Minimum Debt Service Coverage Ratio Requirement"). If the School District consents in writing, TIF Debt may be issued by the City, the Cleveland-Cuyahoga County Port Authority or any other such governmental authority as may be designated by the City even if the Minimum Debt Service Coverage Ratio Requirement is not satisfied. Such consent by the School District is in the sole and absolute discretion of the School District. It is the intention of the parties hereto that there will always be sufficient PILOTs during any given calendar year to pay both the debt service described in Section 2(D)(1)(a) below and all School Payments as required by this Agreement.

(D) Subordination of School Payments.

(1) The School District acknowledges and agrees that the right of the School District to receive School Payments is subordinate to the payment of the TIF Debt and that the PILOTs will be applied in the following order:

(a) First, to pay debt service charges on the TIF Debt, including principal, interest then due or coming due in the next succeeding 12-month period, early redemption premiums and the replenishment of any required reserve funds for the TIF Debt, and administrative expenses of the City and the Cleveland-Cuyahoga County Port Authority (or any other such governmental authority as may be designated by the City) with respect to the TIF Debt and the PILOTs (including but not limited to the fees of any trustee for the TIF Debt).

(b) Second, to pay to the School District the School Payments currently due under Section 2(A) hereof.

(c) Third, for all other uses as authorized by law and as may be agreed upon by the City and the Developer.

In consideration of the foregoing, the City agrees that, in connection with any TIF Debt, the owners of the Improvements on the Parcels within the TIF Area (excluding any Townhome Parcels) (initially, the Developer) will be required to pay so-called minimum service payments in an amount not less than the amount of PILOTS that would be payable had the market value of the Parcels in the TIF Area been equal to the $44 Million Fair Market Threshold even though the market value of those Parcels may be less than the $44 Million Fair Market Threshold (the "Minimum Service Payments"), provided that the payment of Minimum Service Payments by the owners of the Improvements on the Parcels within the TIF Area (excluding any Townhome Parcels) will not entitle the School District to School Payments in amounts greater than the amounts calculated as set forth in Section 2(A) hereof.

(2) In the event that the PILOTs are not sufficient to pay the School Payments due to the School District in full, any School Payments not paid in any Tax Year shall be a deficiency (each, a "Deficiency"). Notwithstanding anything to the contrary in this Agreement, in the event that one or more Deficiencies shall exist, in any Exemption Year in which the market value of the Parcels in the TIF Area have a market value of greater than the $44 Million Fair Market Value Threshold, the PILOTs attributable to the Exempted Value in excess of the $44 Million Fair Market Value Threshold will be used first to pay any Deficiencies due to the School District under this Section 2(D) (beginning with the oldest then-remaining Deficiency) and then, after payment of all such Deficiency amounts, the remainder applied according to Section 2(A) hereof.

(E) Termination of Agreement. After the Director of Finance has determined that (a) all of the payments and reimbursements described in the TIF Ordinance, including those then due and those coming due in the future, have been made or provided for, (b) the TIF Debt has been paid in full or otherwise discharged, and (c) all of the School Payments then due under this Section 2 have been made or provided for, then the exemption from taxation pursuant to the TIF Ordinance and the PILOTs shall end, and this Agreement shall terminate.

Section 3. Review of Records. The School District may from time to time, with reasonable advance notice, review the records of the City relating to its receipt of PILOTs. The City and School District shall work together and communicate as to the calculation of the payment in Section 2, including exchanging information as to the valuation of the Parcels and tax rates.

Section 4. Reconciliation. The City and School District shall annually meet to review, calculate and reconcile payments to the School District and City.

Section 5. School District Consents and Waivers. In consideration of the compensation to be provided to it under this Agreement, the School District hereby:

(A) approves all TIF exemptions that may be granted under the TIF Ordinance in the TIF Area for the number of years and the percentage specified (the "TIF Exemptions");

(B) waives any notice or other requirements set forth in Sections 5709.41, 5709.82, 5709.83 and 5715.27, Revised Code, with respect to the TIF Exemptions;

(C) waives any School District rights pursuant to Section 5715.27, Revised Code; and

(D) waives any defects or irregularities relating to the exemption from taxation of any Improvement, and agrees not to challenge, directly or indirectly, the validity of the exemption from taxation of any Improvement.

Section 6. Application of Ohio Revised Code Section 5709.82. The School District acknowledges and agrees that this Agreement provides for the only compensation to be received by the School District from the City in connection with real property tax exemptions granted pursuant to the TIF Ordinance, there will be no income tax sharing in connection with those exemptions, and the compensation provided for herein is in lieu of any other compensation that may be provided for in Section 5709.82, Revised Code.

Section 7. Amendment. This Agreement may be amended or modified by the parties only in writing, signed by both parties to the Agreement.

Section 8. Entire Agreement. This Agreement is executed pursuant to Sections 5709.41, 5709.82, 5709.83 and 5715.27(D) Revised Code, and sets forth the entire agreement and understanding between the parties as to the subject matter hereof, including without limitation all forms of compensation to be paid by the City to the School District pursuant to those sections, and merges and supersedes all prior discussions, agreements, and undertakings of every kind and nature between the parties with respect to the subject matter of this Agreement. It

is understood by the parties hereto that if all or a portion of the Parcels are ever deemed to be exempt from real property taxes under any other section of the Revised Code, and if as a result, the City does not receive any PILOTs, the City's payment to the School District will terminate.

Section 9. Notices. All payments, certificates and notices which are required to or may be given pursuant to the provisions of this Agreement shall be sent by the United States ordinary mail, postage prepaid, and shall be deemed to have been given or delivered when so mailed to the following addresses:

If to the City:

City of Cleveland Heights
40 Severance Circle
Cleveland Heights, OH 44118
Attention: City Manager

If to the School District:

Cleveland Heights-University Heights City
School District
2155 Miramar Boulevard
University Heights, OH 44118
Attention: Scott Gainer, CFO/Treasurer

With a copy to:

David Seed, Esq.
Brindza, McIntyre & Seed LLP
1111 Superior Avenue, Suite 1025
Cleveland, OH 44114

Any party may change its address for receiving notices and reports by giving written notice of such change to the other parties.

Section 10. Change in Development. The City shall notify the School District if the Development to be constructed changes substantially after the date of this Agreement, and if requested by one of the parties, the two parties agree to meet to discuss the implications of that change.

Section 11. Severability of Provisions. The invalidity of any provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed in all respects as if any invalid portions were omitted.

Section 12. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this Agreement may execute this Agreement by signing any such counterpart.

Section 13. Extent of Covenants; Binding Effect; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. Each provision of the Agreement is binding upon the officer(s) or other person(s) and any body or bodies as may from time to time have the authority under law to take the actions as may be necessary to perform all

or any part of the duty required by a given provision of this Agreement. Each duty of the City and its bodies, officers and employees, undertaken pursuant to the Agreement, is established as a duty with the City and of each such officer, employee or body having authority to perform that duty, specifically and enjoined by law resulting from an office, trust or station within the meaning of Section 2731.01, Revised Code, providing for enforcement by writ of mandamus. No such covenant, stipulation, obligation or agreement shall be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties in their individual capacity.

CITY OF CLEVELAND HEIGHTS, OHIO

By:_____
City Manager

Approved as to Form and Correctness:

By:_____
City Law Director

CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT

By:_____
Treasurer

4817-9955-3374

FISCAL OFFICER'S CERTIFICATE

The undersigned, Director of Finance of the City of Cleveland Heights under the foregoing Agreement, certifies hereby that any moneys required to meet the obligations of the City during the year 2018 under the foregoing Agreement have been appropriated lawfully for that purpose, and is in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: March 20, 2018

Laurie Sabin
Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

The undersigned, Treasurer of the Cleveland Heights-University Heights City School District under the foregoing Agreement, certifies hereby that the moneys required to meet any obligations of the School District during the year 2018 under the foregoing Agreement have been appropriated lawfully for that purpose, and is in the Treasury of the District or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: March 13, 2018

Treasurer
Cleveland Heights City School District, Ohio

EXHIBIT A

TIF AREA PARCELS

(Identified by Parcel Number)

685-18-008

685-18-009

685-18-010

685-18-011

685-18-012

685-18-013

685-18- 016

685-18-018

685-18-019

SCHEDULE I

SCHOOL DISTRICT'S CURRENT TAX LEVIES

See attached DTE 515 dated 12/8/17

STATE OF OHIO

COMPOSITE REDUCTION FACTOR REPORT FOR THE TAX YEAR 2017

COUNTY 18 CUYAHOGA

· TAXING DISTRICT NUMBER: 00180
· TAXING DISTRICT: CLEV HT-CY C HT/UNIV HT CSD

· LEVY YEAR / DESCRIPTION	TAX RATE	RES/AG CLASS REDUCTION FACTOR	RES/AG CLASS COMPOSITE FACTOR	RES/AG CLASS EFFECTIVE RATE	NON-RES/AG (OTHER) CLASS REDUCTION FACTOR	NON-RES/AG (OTHER) CLASS COMPOSITE FACTOR	NON-RES/AG (OTHER) CLASS EFFECTIVE RATE	
ROLL								
·								
BACK								
· UNIT # 10180 CUYAHOGA COUNTY								
· GENERAL FUND	0.500	XXXXXXXX		.500000	XXXXXXXX		.500000	Y
· DEBT SERVICE	0.950	XXXXXXXX		.950000	XXXXXXXX		.950000	Y
· 2005 MENTAL HEALTH & RETARDATION	3.900	0.010786		3.857934	0.003488		3.886396	Y
· 2008 HEALTH AND WELFARE	4.800	0.010786		4.748227	0.003488		4.783257	Y
· 2013 HEALTH SERVICES	3.900	0.010786		3.857934	0.003488		3.886396	N
· SUB TOTAL	14.050		0.009673	13.914095		0.003129	14.006049	
· UNIT # 21080 CLEVELAND HTS-UNIVERSITY HTS C								
· GENERAL FUND	4.450	XXXXXXXX		4.450000	XXXXXXXX		4.450000	Y
· 1976 CURRENT EXPENSE	52.050	0.795615		10.638239	0.591731		21.250401	Y
· 1980 CURRENT EXPENSE	6.900	0.625750		2.582325	0.502621		3.431915	Y
· 1983 CURRENT EXPENSE	6.000	0.570508		2.576952	0.439338		3.363972	Y
· 1985 CURRENT EXPENSE	4.500	0.570490		1.932795	0.437408		2.531664	Y
· 1986 CURRENT EXPENSE	6.000	0.548395		2.709630	0.384468		3.693192	Y
· 1988 CURRENT EXPENSE	9.500	0.548363		4.290551	0.384276		5.849378	Y
· 1993 CURRENT EXPENSE	8.900	0.343162		5.845858	0.182853		7.272608	Y
· 1996 CURRENT EXPENSE	8.900	0.246254		6.708339	0.140657		7.648152	Y
· 2000 CURRENT EXPENSE	9.400	0.192589		7.589663	0.081657		8.632424	Y
· 2001 BOND/LIBRARY ($9,500,000)	0.600	XXXXXXXX		.600000	XXXXXXXX		.600000	Y
· 2002 PERMANENT IMPROVEMENT-ONGOING	3.800	0.086028		3.473093	0.000000		3.800000	Y
· 2004 CURRENT EXPENSE	8.500	0.000000		8.500000	0.000000		8.500000	Y
· 2007 CURRENT EXPENSE	7.200	0.000000		7.200000	0.000000		7.200000	Y
· 2011 CURRENT EXPENSE	6.900	0.000000		6.900000	0.000000		6.900000	Y
· 2013 BOND ($134,800,000)	6.990	XXXXXXXX		6.990000	XXXXXXXX		6.990000	N
· 2016 CURRENT EXPENSE	5.500	0.000000		5.500000	0.000000		5.500000	N
· SUB TOTAL	156.090		0.433100	88.487445		0.310567	107.613706	
· UNIT # 51780 CLEVELAND HTS CITY								
· GENERAL FUND	2.220	XXXXXXXX		2.220000	XXXXXXXX		2.220000	Y
· SINKING FUND AND BOND	1.500	XXXXXXXX		1.500000	XXXXXXXX		1.500000	Y
· 1976 CHARTER/CURRENT EXPENSE	6.480	XXXXXXXX		6.480000	XXXXXXXX		6.480000	Y
· 1986 CHARTER/FIREMAN'S FUND	0.300	XXXXXXXX		.300000	XXXXXXXX		.300000	Y
· 1986 CHARTER/POLICE PENSION	0.300	XXXXXXXX		.300000	XXXXXXXX		.300000	Y
· 2004 CHARTER/RECREATION IMPROVEMENT	0.700	XXXXXXXX		.700000	XXXXXXXX		.700000	Y
· 2014 CHARTER/CURRENT EXP(HB59 INCR)	0.920	XXXXXXXX		.920000	XXXXXXXX		.920000	N
· SUB TOTAL	12.420		0.000000	12.420000		0.000000	12.420000	

· UNIT # 60110	CLEVELAND METRO PARKS							
· CLEVELAND METRO PARK		0.050	XXXXXXXX		.050000	XXXXXXXX		.050000 Y
· 2004 CURRENT EXPENSE		1.800	0.011740		1.778868	0.003579		1.793557 Y
· 2013 CURRENT EXPENSE		0.900	0.011740		.889434	0.003579		.896778 N
· SUB TOTAL		2.750		0.011527	2.718302		0.003515	2.740335

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STATE OF OHIO

COMPOSITE REDUCTION FACTOR REPORT FOR THE TAX YEAR 2017

COUNTY 18 CUYAHOGA

· TAXING DISTRICT NUMBER: 00180 (CONTINUED)
· TAXING DISTRICT: CLEV HT-CY C HT/UNIV HT CSD

· LEVY YEAR / DESCRIPTION	TAX RATE	RES/AG CLASS REDUCTION FACTOR	RES/AG CLASS COMPOSITE FACTOR	RES/AG CLASS EFFECTIVE RATE	NON-RES/AG (OTHER) CLASS REDUCTION FACTOR	NON-RES/AG (OTHER) CLASS COMPOSITE FACTOR	NON-RES/AG (OTHER) CLASS EFFECTIVE RATE	ROLL BACK
· UNIT # 60192 CLEVELAND HTS LIBRARY								
· 1992 CURRENT EXPENSE	4.000	0.343162		2.627352	0.182943		3.268228	Y
· 2000 CURRENT EXPENSE	1.900	0.192589		1.534080	0.081657		1.744851	Y
· 2008 CURRENT EXPENSE	1.900	0.000000		1.900000	0.000000		1.900000	Y
· 2014 CURRENT EXPENSE	2.200	0.000000		2.200000	0.000000		2.200000	N
· SUB TOTAL	10.000		0.173857	8.261432		0.088693	9.113079	
· UNIT # 61156 CUYAHOGA COMMUNITY COLLEGE								
· 2006 CUYAHOGA COMMUNITY COLLEGE	1.200	0.010786		1.187056	0.003488		1.195814	Y
· 2010 CUYAHOGA COMMUNITY COLLEGE	1.900	0.010786		1.879506	0.003488		1.893372	Y
· 2014 CUYAHOGA COMMUNITY COLLEGE	0.900	0.010786		.890292	0.003488		.896860	N
· 2017 BOND ($227,500,000)	0.500	XXXXXXXX		.500000	XXXXXXXX		.500000	N
· SUB TOTAL	4.500		0.009588	4.456854		0.003101	4.486046	
· UNIT # 61157 CLEVELAND-CUYAHOGA PORT AUTHOR								
· 1998 CCPA PORT AUTHORITY	0.130	0.130167		.113078	0.098914		.117141	Y
· SUB TOTAL	0.130		0.130170	.113078		0.098916	.117141	
· COMPOSITE	199.940		0.347949	130.371206		0.247293	150.496356	

#SARPAGE 42

ADDENDUM TO COMPENSATION AGREEMENT

This Addendum to Compensation Agreement supplements that Compensation Agreement dated March 20, 2018 ("Base Agreement" and, with this Addendum, the "Compensation Agreement") and is made this 25 day of November, 2019 by and between the CITY OF CLEVELAND HEIGHTS, OHIO, a municipal corporation organized and existing under its Charter, the Ohio Constitution and other applicable Ohio law ("City") and the CLEVELAND HEIGHTS–UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT, a city school district organized and existing under Ohio law ("School District"), under the following circumstances (with all capitalized terms used as defined terms herein and not defined herein being used as defined in the Base Agreement):

A. Pursuant to legislative authorization by the Council of the City and the Board of Education of the School District ("School Board"), the City and School District executed and delivered the Base Agreement to, among other things: (1) enable the City to enact a TIF Ordinance pursuant to the TIF Statute and thereby exempt from real property taxation 100% of the incremental value resulting from Improvements to the Parcels within the TIF Area for up to 30 years ("Exemption Period"), (2) provide for the compensation to be paid to the School District from PILOTS to be paid, collected and distributed annually to the School District during the Exemption Period, (3) establish the terms on which TIF Debt may be issued and secured by a senior lien on the PILOTS, and (4) evidence certain related waivers and consents by the School District; and

B. The City and Developer have notified the School District that they have agreed to make certain limited changes to the required Improvements to the TIF Area, that such Improvements have been delayed by nearly two years since execution of the Base Agreement and that, as a result of that delay and in order to facilitate the issuance of the TIF Debt necessary to support the construction and development of the Improvements, the City now expects to enact the TIF Ordinance in December 2019, to become effective in January 2020, with the Exemption Period to commence in tax year 2021; and

C. The City and Developer have requested that the School District join with the City in the execution and delivery of this Addendum to update their understandings regarding the Improvements, specify the years of the Exemption Period and confirm that the terms and conditions of the Base Agreement, as supplemented by this Addendum, will apply to the TIF Debt (and to the related real property tax exemption to be authorized by the City pursuant to the TIF Ordinance to be so enacted), and the School District and City have determined to execute and deliver this Addendum to supplement the Base Agreement for those purposes;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained in the Compensation Agreement, and to induce the Developer to proceed, upon enactment of the TIF Ordinance, with the financing and construction of the Improvements, the City and School District agree as follows:

1. The Improvements will consist of a single-phase mixed-use development that shall include (a) approximately 261 market-rate apartments, (b) approximately 11,400 square feet of first floor restaurant, retail and commercial space, (c) a public parking

garage containing approximately 550 parking spaces, (d) public gathering and green spaces, and (e) all sidewalks, driveways, access ways and utility connections necessary for the improvements described in (a) through (d) above.

2. The 30 Year Exemption Period is expected to commence with tax year 2020 or 2021 and shall end not later than tax year 2050.

3. This Addendum shall be attached to the Base Agreement and be and become a part of the Compensation Agreement.

4. As supplemented hereby, each and all of the terms and conditions of the Base Agreement are hereby expressly ratified and confirmed. The Base Agreement and this Addendum represent the entire agreement of the parties with respect to the subject matter hereof and thereof.

BOARD OF EDUCATION OF THE CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT

By: _____
Elizabeth Kirby
Superintendent

_____
Jodi Sourini
Board President

_____
A. Scott Gainer
Treasurer/CFO

Approved as to Form and Correctness: **CITY OF CLEVELAND HEIGHTS, OHIO**

By: _____
City Law Director

By: _____
City Manager

Proposed:

RESOLUTION NO. 15-2020 (CRR)

By Council Member

A Resolution opposing the state's unconstitutional school funding system and the current method of funding Educational Choice Scholarship Program vouchers by the Ohio General Assembly; and declaring an emergency.

WHEREAS, the City of Cleveland Heights has a long and important tradition of being home to many of Ohio's best public and private schools, all of which serve their students with great distinction; recognizing that the current Educational Choice Scholarship Program ("EdChoice") funding model is financially unsustainable for all of them; and

WHEREAS, with no testimony, and no prior notice, the Ohio General Assembly added last-minute amendments in January 2020 regarding the expansion of EdChoice vouchers before approving the State's biennial budget; and

WHEREAS, just 18 months ago, only 30 Ohio districts had schools designated for EdChoice (just five percent of the total number of districts across the state), but today, thanks to this action by the General Assembly, 70 percent of districts in Ohio have schools designated for EdChoice; and

WHEREAS, much of the data used to make the new EdChoice determination is five or six years old and came from assessments the state no longer uses or is considering changing; and

WHEREAS, because the current measures to determine and designate EdChoice-eligible schools are disconnected from real performance of those schools, Cleveland Heights High School was found to be an EdChoice-eligible school despite having recently been distinguished by The College Board as one of nine school districts in Ohio and the only district in Cuyahoga County to join its prestigious Advance Placement ("AP") Honor Roll and having a graduation rate above the state average for the past two years**;** and

WHEREAS, Ohio General Assembly froze public school budgets and, at the same time, took more money away from public schools by increasing the numbers of students eligible to receive EdChoice vouchers; and

WHEREAS, the state's overall approach to funding public schools is problematic and the expansion of EdChoice vouchers is just one element of the flawed system; and

WHEREAS, the state's school funding system creates an overreliance on local property taxes and places a crushing economic burden on cities like Cleveland Heights, which in turn hampers our ability to retain and attract residents and businesses; and

RESOLUTION NO. 15-2020 (CRR)

WHEREAS, beginning as early as 1997, the Ohio Supreme Court has on three occasions declared the state's school funding system unconstitutional and ordered the state to remedy the violation by creating an entirely new system; and

WHEREAS, state lawmakers have failed entirely to enact a constitutionally-permissible school funding system, in spite of the Ohio Supreme Court's orders.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council demands immediate financial relief be provided to all Ohio school districts impacted by EdChoice vouchers and that the state not deduct EdChoice payments from local school district funds and that it should instead directly pay for all vouchers or scholarships.

SECTION 2. This Council urges all lawmakers in the State of Ohio to refrain from further action that will lead to an increase in the tax burdens of local communities and further urges the state to remedy its school funding system as ordered by the Ohio Supreme Court.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the timely need to oppose the expansion of EdChoice vouchers by the Ohio General Assembly. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

_____
JASON S. STEIN, Mayor
President of the Council

_____
SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

PASSED:

CLEVELAND HEIGHTS

Monday, February 3, 2020 Minutes

COMMITTEE OF THE WHOLE
7:10 – 7:30 p.m.

Mayor Stein presiding

Roll Call: Present: Dunbar, Hart, Seren, Stein, Yasinow
Excused: None

Staff present: Boland, Briley, Britton, Clinkscale, Hanna, Lambdin, Niermann O'Neil, Smith, Trupo, Wong

Topics discussed: Legislation, Committee Meetings Planning

CITY COUNCIL
7:40 – 9:11 p.m.

Mayor Stein presiding

Roll Call: Present: Dunbar, Hart, Seren, Stein, Yasinow
Excused: Russell, Ungar

Staff present: Boland, Briley, Britton, Clinkscale, Hanna, Lambdin, Niermann O'Neil, Smith, Trupo, Wong

The minutes from the City Council meeting held on January 21, 2020, were approved with submitted corrections.

Personal communications from citizens

James Williams made a statement about President Trump, CDC funding cuts, global warming, crimes, abuse of power, and human trafficking. He sang an excerpt from "Wind Beneath My Wings."

Josefita Fehn and a neighbor asked for information about renovations to a neighboring house. Mayor Stein stated that Planning Director Richard Wong would be providing Council with an update. Richard Wong made a statement about the approvals for renovations and demolition. Susanna Niermann O'Neil made a statement about the involvement of a team of staff.

DRAFT

Roger Breedlove made a statement questioning the investment in Top of the Hill.

Linda Butler made a statement about the traffic study and traffic changes that would create congestion if Top of the Hill is built.

Mary Kelce made a statement regarding the congestion that will be created at Top of the Hill.

Len Friedsen made a statement about the transition to the strong Mayor form of government and requested more planning for that transition. Mayor Stein responded that staff is working on that and talking about a task force to discuss those items.

Richard Bozik made a statement of concern for the Top of the Hill financial package.

Fran Mench made a statement regarding Top of the Hill, the petition for a market study and residents' concerns.

Joan Mallick read responses to her Top of the Hill questions.

Laura Marks made a statement of concern regarding the reduction of trees.

Joyce Rajki made a statement about the residents' letters about the Top of the Hill plans that were on display at the library.

Report of the City Manager

Tanisha Briley gave an overview of her report to Council. The report may be viewed in full at https://www.clevelandheights.com/DocumentCenter/View/6247/cc_packet_02032020?bidId=.

Report of the Clerk of Council

No report.

COMMUNITY RELATIONS AND RECREATIONS COMMITTEE

RESOLUTION NO. 9-2020 (CRR). A Resolution recognizing February 2020 as *National African American History Month*

Introduced by Vice Mayor Seren, Seconded by Council Member Dunbar

Roll Call: Ayes: Dunbar, Hart Seren, Stein, Yasinow
Nays: None

Legislation Passed

RESOLUTION NO. 10-2020 (CRR). A Resolution proclaiming February 2020 to be *American Heart Month*

Introduced by Vice Mayor Seren, Seconded by Council Member Dunbar

Roll Call: Ayes: Hart, Seren, Stein, Yasinow, Dunbar
Nays: None

Legislation Passed

FINANCE COMMITTEE

ORDINANCE NO. 5-2020 (F), *Second Reading.* An Ordinance providing for the issuance and sale of economic development tax increment financing revenue bonds, in a principal amount not to exceed $26,000,000, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code; authorizing execution and delivery of a trust agreement, a loan and service payment agreement, a bond placement agreement and related agreements, instruments and documents to provide for the revenues to pay and secure bond service charges and other required payments, the custody and application of funds and revenues, the permitted uses of bond proceeds in the financing of project costs, other requirements for the issuance, sale and delivery of the bonds and related matters

Introduced by Council Member Hart

Legislation on Second Reading

ORDINANCE NO. 6-2020, *Second Reading.* An Ordinance providing for the issuance and sale of not to exceed $1,850,000 of economic development nontax revenue bond anticipation notes, in anticipation of the issuance of bonds, for the purpose of paying a portion of the costs of the acquisition, construction, equipping, installation, furnishing and other improvement of a project, as defined in Section 165.01 of the Revised Code

Introduced by Council Member Hart

Legislation on Second Reading

Council Member Hart stated she held a listening session and created a summary which will be posted on www.clevelandheights.com.

MUNICIPAL SERVICES COMMITTEE

RESOLUTION NO. 11-2020 (MS). A Resolution authorizing the City Manager to enter into an agreement with Wade Trim, Inc. of Ohio, for professional design, bid, and

construction administration services relating to the Delamere Drive Basement Flooding Relief Project

Introduced by Council Member Dunbar, Seconded by Council Member Hart

Roll Call: Ayes: Seren, Stein, Yasinow, Dunbar, Hart
Nays: None

Legislation Passed

Council Member Dunbar stated her son was on Raymond Robinson's team when he passed, and it is amazing what is happening at the Cleveland Heights rinks now.

The Transportation Advisory Committee met last week. Sam Bell was interviewed just before that meeting and again the next day and he credited Cleveland Heights.

PLANNING AND DEVELOPMENT COMMITTEE

ORDINANCE NO. 12-2020 (PD), *First Reading.* An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; confirming a compensation agreement with the Cleveland Heights-University Heights City School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43; rescinding Ordinance No. 116-2019 adopted on December 2, 2019; rescinding Ordinance No. 16-2018 adopted on March 19, 2018 except as stated herein

Introduced by Council Member Hart

Legislation Introduced

PUBLIC SAFETY AND HEALTH COMMITTEE

No report.

ADMINISTRATIVE SERVICES COMMITTEE

RESOLUTION NO. 13-2020 (AS). A Resolution authorizing the use of a Consent Agenda within the agenda of meetings of the City Council; establishing the parameters thereof

Introduced by Vice Mayor Seren, Seconded by Council Member Dunbar

Roll Call: Ayes: Stein, Yasinow, Dunbar, Hart, Seren
Nays: None

Legislation Passed

Mayor's Report

No report.

NEXT MEETING OF COUNCIL: TUESDAY, FEBRUARY 18, 2020

Respectfully submitted,

_____
Jason S. Stein, Mayor

_____
Susanna Niermann O'Neil, Acting Clerk of Council
/jkc

DRAFT