



# CLEVELAND HEIGHTS

## COUNCIL UPDATE

**December 17, 2021**

### **MEETINGS & REMINDERS**

Monday, December 20	6:30 p.m.	Council Committee of the Whole City Hall – Executive Conference Room
	7:30 p.m.	City Council Meeting City Hall – Council Chambers

Tuesday, December 21	7:00 p.m.	Architecture Board of Review Online
----------------------	-----------	--

Wednesday, December 22	6:00 p.m.	Racial Justice Task Force Health and Education Subcommittee Online
	7:00 p.m.	Racial Justice Task Force Online

Friday, December 24	<b>Christmas Day Holiday</b> <b>City Hall, Community Center and Municipal Court are closed.</b>
---------------------	--

Saturday, December 25	<b>Christmas Day</b> <b>Community Center is closed.</b>
-----------------------	--

### **LEGISLATION**

**Aerial Ladder Fire Truck.** An Ordinance authorizing the execution of a Property Schedule to a Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc., as lessor, and the City, as lessee, for the purpose of acquiring an aerial ladder fire truck including related equipment and appurtenances,

**Parking Deck Improvement Refunding Bonds.** An Ordinance providing for the issuance and sale of not to exceed \$3,100,000 of economic development nontax revenue bonds for the purpose of refunding the City's outstanding Parking Deck Improvement Refunding Bonds, Series 2015, dated

April 30, 2015, which were issued for the purpose of constructing and equipping a multi-level parking deck and improving the site thereof,

**Appropriations.** An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021;

**Amato Homes.** A Resolution authorizing the City Manager to enter into a Development Agreement with Amato Homes I, LLC for the redevelopment of vacant residential lots owned or controlled by the City with new single-family homes;

**Community Development Block Grant.** A Resolution authorizing the Mayor to submit the Community Development Block Grant entitlement application for the year beginning January 1, 2022;

**Opioid Settlement Agreement.** An Ordinance accepting the material terms of the Janssen Settlement Agreement pursuant to the OneOhio Memorandum of Understand and consistent with the terms of the July 21, 2021, National Opioid Settlement Agreement;

**Storm Water Program.** A Resolution authorizing the City Manager to execute a Memorandum of Understanding with the Cuyahoga County Board of Health concerning the Regional Sewer District Storm Water Program;

**Tenant's Right to Pay Stay.** An Ordinance enacting and adopting Chapter \_\_\_, "Tenant's Right to Pay to Stay," of the Codified Ordinances of the City of Cleveland Heights

**Democracy Day.** An Ordinance amending Section 183.01, "Public Hearing," of Chapter 183, Political Influence by Corporate Entities, of the Cleveland Heights Codified Ordinances to the date of the public hearing that is to be held annually;

**Liability Insurance.** A Resolution authorizing the City Manager to enter into an agreement with Arthur J. Gallagher & Company for continuation of its protected liability self-insurance program for the City;

**Organizational Council Meeting.** A Resolution declaring the organization meeting of City Council on January 3, 2022 to be held at the City of Cleveland Heights Community Center; providing for the first regular meeting of City Council to be held on January 10, 2022;

## **CITY MANAGER'S REPORT**

### **Regarding Covid:**

Due to the unfortunate upsurge of covid, we are short staffed in Safety Forces and various Departments in the City. Protocols are being followed regarding quarantine and Chiefs/Directors are coordinating the limited staffing so that service is provided. Also, the

Community Center continues with limited hours and capacity protocols. Covid has impacted the hockey Pee Wee and Squirt teams and their coaches have cancelled practices and games at this time.

Please see enclosed a memo from Housing Director Butler regarding the certificate of occupancy procedures in place. Also, the hiring of two employees in the Department. Perhaps this will be an acknowledgment to some community members that staff continues to be attentive to their responsibilities.

Please see enclosed a memo from Director Himmelein regarding the effect of Ransomware on our Kronos payroll system (and systems all across the country). Staff responded quickly to the breach so that every employee was able to be paid. This was quite an effort done in a very short time.

**Regarding the Top of the Hill:**

- As we all know the garage is in the midst of a construction site. Per the report from our inspector/ housing the building that will eventually surround the garage will shut out much of the water that is entering the garage at present. (Until then, a plan is in place to have ice melt applications if needed this winter).
- Complaints regarding the workmen's trucks and vehicles on EHB obstructing the site lines have been reported and I will speak with the Chief regarding ticketing. Also, the Delaware residents have reported workmen vehicles parked on their street filling it up to Cecil and this has also been reported.

Staff (Zamft, O'Neil, Roessner) met with Future Heights (Fisher, plus 3 committee members) regarding the proposed enhancements to the Cedar Lee mini park. It was decided by consensus that the project should be put on hold until it is determined where utility lines to the construction site might be located. In the discussion, certain elements such as the water fountain were removed.

There will be no meeting on Monday, December 27<sup>th</sup>. The swearing in ceremony will be held at the Community Center at 7:00pm on January 3<sup>rd</sup>. The only agenda item for the night will be the swearing in of the Mayor and Council members.

# Memo

**To:** Susanna Niermann-O'Neil, City Manager

**From:** Amy Himmelein, Finance Director

**Date:** 12/16/2021

**Re:** Kronos Ransomware Attack

---

On 12/11/2021 Kronos was attacked with ransomware. This attack affected the entire Country, not just Cleveland Heights. The system is not expected to be up for at least two weeks. Kronos provides time keeping and attendance records, including time clocks, for the City.

As a result, we were not able to obtain our normal time and attendance records, including time clock data, from Kronos for the pay period ending 12/12/2021. We asked directors and supervisors to provide us with their manual time keeping records. Supervisors were also asked to complete a time sheet for each time clock employee.

All full-time employees are receiving their base salary, at a minimum, this Friday 12/17/2021 via the normal direct deposit. Part-time and seasonal employees are receiving pay based on what was submitted by their supervisor.

Once Kronos is back on-line, we will review the data for the pay period ending 12/12/2021 and compare it to what was actually paid. Adjustments will then be made accordingly. Employees have also been asked to review their payroll stub and notify their supervisor of discrepancies.

Since Kronos is not expected to be working during the current pay period that ends on 12/26/2021, supervisors have been asked to maintain manual time sheets for all employees. This will ensure proper payment of employees on 12/31/2021.

# Memo

**To:** Susanna Niermann-O'Neil, City Manager

**From:** Amy Himmelein, Finance Director

**Date:** December 16, 2021

**Re:** November 2021 Financial Statements

---

Attached are the November, October and September 2021 Unencumbered Balances Statement for All Funds and the Review of General Fund Statements. The review below encompasses activity from January through November 2021.

## **Review of General Fund**

- Overall, decreased spending by departments and revenues performing better than expected have caused the General Fund balance to increase in November. It is still anticipated the General Fund balance will decrease from the December 31, 2020 balance, but not as significantly as previously thought.

## **Revenue**

- Municipal Income Tax increased 9.6%. November 2021 revenue is from October 2021 collections by RITA. The increase is mainly in the collections of individual income tax.
- State Levied/Shared Taxes increased 12.7% because more has been received in local government funds from the County and the State.
- Intergovernmental Grants & Contracts decreased 58.1% from 2020 due to a worker's comp refund of approximately \$1.3 million being received in 2020.
- Charges for Services decreased 87.1% because refuse revenue was moved to the new Refuse fund.
- Fees, Licenses, Permits decreased 15.4% because the City had received the building permit for Top of the Hill and the Hebrew Academy last year.
- Interest Earnings decreased 82.1% from this time in 2020 due to the decline in interest rates from the pandemic.
- Fines and Forfeitures increased 18.9% due to the Court collecting 25.7% more in fines and court costs than this time in 2020.
- All Other Revenue decreased 43.5% due to receiving a transfer in of \$1.2 Million from the budget stabilization fund in 2020 for the 27th pay in 2020.

## **Expenditures**

- Personal Services has increased overall due to seasonal programs operating in 2021 and CARES act funds were used to reduce police and fire salaries in 2020.
- Swimming Pools Other increased 6,461.4% because the pool was operating in 2021 and water expenditures make up 84.1% of total expenditures for this line item.
- Finance Department Other decreased 41.4% as a result of not needing an Interim Finance Director in 2021.

- Police Administration Other increased 190.8% due to increased payments for crossing guards and the encumbrance to purchase police vehicles.
- Joint Dispatch increased 30.1% due to encumbering the full year's anticipated payments to HHCC (now CVD).
- Building Department Other decreased 35.6% as a result of less being owed to SafeBuilt. The City pays a percentage of building permit revenue to SafeBuilt and as noted above the City has received less in building permit revenue in 2021 compared to 2020.
- Refuse Collection decreased due to the department being reclassified to its own fund.
- Vehicle Maintenance Other increased 9.5% due to encumbering expected gasoline purchases.
- Street Maintenance Other decreased 18.0% due to less being spent on salt compared to this time in 2020.
- General Operations Other increased 38.3% due to the payment for liability insurance which Council approved at the end of December 2020 and greater insurance claims in 2021.
- Law Department Other increased 39.0% due to higher than average use of legal counsel.
- Transfers and Advances increased due to the advance to the Financed Capital Projects fund to pre-fund refuse capital purchases.

### **Review of All Funds**

Overall, the negative unencumbered fund balances mean the City has not received enough revenue to cover the expenditures plus encumbrances currently incurred. These negative balances will be corrected by year end, unless they are related to grants or another revenue source that has yet to be received.

- Financed Capital Projects fund balance increased because some loan proceeds were received.
- Sewer fund balance increased due to the collection of 3rd quarter billings.

UNENCUMBERED BALANCES FOR ALL FUNDS  
AS OF NOVEMBER 30, 2021

FUND NUMBER	FUND NAME	UNENCUMBERED BALANCE AS OF 11/1/21	YTD REVENUE	YTD EXPENDITURES + ENCUMBRANCES	12/31/2020 ENCUMBRANCES	UNENCUMBERED BALANCE AS OF 11/30/2021
101	GENERAL	\$18,147,004	\$45,253,868.17	\$41,940,083	\$660,671	\$22,121,461
102	BUDGET STABILIZATION ACCOUNT	\$100,000	\$0	\$0	\$0	\$100,000
201	STREET CONSTRUCTION	\$1,301,343	\$1,996,060	\$2,162,967	\$366,338	\$1,500,775
202	FOUNDATION GRANTS	(\$50,138)	\$192,635	\$240,188	\$0	(\$97,691)
203	FIRST SUBURBS CONSORTIUM	\$2,501	\$0	\$0	\$0	\$2,501
204	COMMUNICATION SYSTEMS OPERATION	(\$73,642)	\$0	\$0	\$0	(\$73,642)
205	PUBLIC WORKS FACILITY IMPROVEMENT	\$423	\$0	\$0	\$0	\$423
206	LAW ENFORCEMENT TRUST	\$161,775	\$45,097	\$74,428	\$11,858	\$144,302
207	DRUG LAW ENFORCEMENT TRUST	\$107,575	\$240,314	\$145,908	\$463	\$202,443
208	CDBG RESOURCE	(\$671,920)	\$1,585,057	\$2,165,617	\$111,901	(\$1,140,578)
210	EPA BROWNFIELD GRANT	\$0	\$0	\$0	\$0	\$0
211	HOME PROGRAM	\$246,352	\$149,832	\$261,530	\$350	\$135,004
212	FEMA	\$159,866	\$24,678	\$82,576	\$19,375	\$121,343
213	POLICE FACILITY IMPROVEMENT	\$3,533	\$1,425	\$13,837	\$10,303	\$1,424
214	LOCAL TV PROGRAMMING	\$953,085	\$490,988	\$636,210	\$2,856	\$810,720
215	CAIN PARK	\$5,080	\$420,164	\$508,289	\$0	(\$83,045)
216	RECREATION FACILITY IMPROVEMENT	\$494,921	\$682,957	\$704,791	\$33,371	\$506,459
217	PUBLIC RIGHT OF WAY	\$164,932	\$0	\$0	\$0	\$164,932
221	INDIGENT DUI TREATMENT	\$271,196	\$16,596	\$0	\$0	\$287,792
222	MUNICIPAL COURT COMPUTERIZATION	\$56,017	\$52,896	\$17,410	\$0	\$91,504
223	DUI - ENFORCEMENT/EDUCATION	\$121,432	\$4,012	\$0	\$0	\$125,444
225	MUNI COURT - SPECIAL PROJECTS	\$2,130,836	\$88,242	\$62,689	\$1,241	\$2,157,631
226	LEAD SAFE PROGRAM - CUYAHOGA CNTY	(\$111,820)	\$192,163	\$114,190	\$0	(\$33,848)
227	NEIGHBORHOOD STABILIZATION PRGM	\$123,584	\$0	\$0	\$0	\$123,584
228	CDBG-COVID	(\$165,286)	\$440,945	\$352,794	\$15,000	(\$62,135)
230	STREET LIGHTING	\$1,301,403	\$981,157	\$786,175	\$0	\$1,496,384
231	TREE FUND	\$529,493	\$1,134,567	\$876,968	\$73,622	\$860,714
232	POLICE PENSION	\$143,750	\$252,098	\$1,127,039	\$0	(\$731,190)
233	FIRE PENSION	\$43,893	\$252,098	\$1,509,198	\$0	(\$1,213,207)
234	EARNED BENEFITS	\$476,987	\$2,163	\$419,455	\$0	\$59,695
237	FIRST SUBURBS DEVELOPMENT COUNCIL	\$57,754	\$0	\$0	\$0	\$57,754
238	CORONAVIRUS RELIEF FUND	\$26,659	\$40,309	\$522,482	\$458,264	\$2,750
239	REFUSE GRANT FUND	\$0	\$100,000	\$546,743	\$0	(\$446,743)
240	FEDERAL MISCELLANEOUS GRANTS	\$0	\$382,088	\$314,841	\$0	\$67,248
241	LOCAL FISCAL RECOVERY	\$0	\$19,408,531	\$177,538	\$0	\$19,230,994
301	G.O. BOND RETIREMENT	\$558,728	\$5,585,309	\$5,769,125	\$0	\$374,912
402	FINANCED CAPITAL PROJECTS	\$914,836	\$4,906,166	\$2,627,989	\$0	\$3,193,013
411	ECONOMIC DEVELOPMENT	\$1,095,857	\$57,936	\$218,262	\$125,725	\$1,061,256
412	CITY HALL MAINTENANCE AND REPAIR	\$100,949	\$23,403	\$14,825	\$0	\$109,526
415	SEVERANCE RING ROAD RECONSTRUCTION	\$35,045	\$0	\$0	\$0	\$35,045
416	REFUSE CAPITAL FUND	\$0	\$46,906	\$0	\$0	\$46,906
601	WATER	\$705,213	\$2,279,412	\$1,722,289	\$76,506	\$1,338,842
602	SEWER	\$4,669,776	\$4,592,745	\$5,201,153	\$664,055	\$4,725,423
603	PARKING	\$218,194	\$279,310	\$740,643	\$11,521	(\$231,617)
605	REFUSE FUND	\$0	\$2,572,779	\$2,245,639	\$0	\$327,140
606	AMBULANCE SERVICES	\$1,321,006	\$828,757	\$811,367	\$21,710	\$1,360,106
701	HOSPITALIZATION	\$1,568,362	\$6,476,389	\$6,476,389	\$0	\$1,568,362
703	WORKERS COMPENSATION	\$204,767	\$0	\$0	\$0	\$204,767
804	OFFICE ON AGING	\$14,311	\$8,674	\$2,605	\$0	\$20,381
808	YOUTH RECREATION SCHOLARSHIP	\$59,826	\$140	\$0	\$0	\$59,966
809	POLICE MEMORIAL TRUST FUND	\$11,808	\$0	\$0	\$0	\$11,808
810	YOUTH ADVISORY COMMISSION	\$71	\$0	\$0	\$0	\$71
811	JUVENILE DIVERSION PROGRAM	\$6,903	\$3,858	\$0	\$0	\$10,760
857	SALES TAX	\$535	\$248	\$393	\$0	\$389
858	MISCELLANEOUS AGENCY	\$2,020,412	\$327,036	\$507,441	\$0	\$1,840,007
864	NEORS	\$214	\$0	(\$63)	\$0	\$278
TOTALS		\$39,565,401	\$102,420,009	\$82,102,000	\$2,665,132	\$62,548,542

**CITY OF CLEVELAND HEIGHTS  
REVIEW OF GENERAL FUND  
AS OF NOVEMBER 30, 2021**

<b>REVENUES:</b>	11/30/2020 Actual	2021 Budget	11/30/2021 Actual	Percentage 2021 Budget	Difference 2021 vs 2020
Property Taxes	\$7,477,314	\$7,175,859	\$7,568,399	105%	\$91,085
Municipal Income Tax	\$27,266,296	\$28,000,000	\$29,895,125	107%	\$2,628,829
Other Local Taxes	\$12,177	\$50,000	\$0	0%	(\$12,177)
State Levied/Shared Taxes	\$1,549,173	\$1,554,900	\$1,745,486	112%	\$196,313
Intergovernmental Grants & Contracts	\$2,509,991	\$910,000	\$1,050,724	115%	(\$1,459,268)
Charges For Services	\$2,801,157	\$1,100,000	\$360,605	33%	(\$2,440,552)
Fees, Licenses, Permits	\$2,732,242	\$2,295,000	\$2,310,436	101%	(\$421,805)
Interest Earnings	\$226,407	\$200,000	\$40,508	20%	(\$185,900)
Fines and Forfeitures	\$1,170,889	\$1,720,000	\$1,391,544	81%	\$220,655
All Other Revenue	\$1,558,162	\$786,500	\$880,142	112%	(\$678,020)
Sale of Assets	\$16,889	\$0	\$10,900	0%	(\$5,989)
<b>Total Revenues</b>	<b>\$47,320,698</b>	<b>\$43,792,259</b>	<b>\$45,253,868</b>	<b>103%</b>	<b>(\$2,066,829)</b>

<b>EXPENDITURES:</b>	11/30/2020 Expenditures + Encumbrances	2021 Budget Amended	11/30/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
<b>Community Services</b>					
Commission on Aging	\$0	\$0	\$0	0%	\$0
Community Relations Personal Services	\$20,405	\$14,237	\$0	0%	(\$20,405)
Community Relations Other	\$8,941	\$1,800	\$1,340	74%	(\$7,601)
Public Relations Personal Services	\$189,102	\$177,912	\$157,131	88%	(\$31,970)
Public Relations Other	\$63,315	\$117,000	\$108,383	93%	\$45,069
Community Services Admin Personal Services	\$175,911	\$0	\$0	0%	(\$175,911)
Community Services Administration Other	\$330	\$6,600	\$4,405	67%	\$4,075
Public Health Administration	\$253,144	\$259,689	\$259,689	100%	\$6,545
<b>Total Community Services</b>	<b>\$711,147</b>	<b>\$577,238</b>	<b>\$530,948</b>	<b>92%</b>	<b>(\$180,199)</b>

**Parks and Recreation**

Public Properties & Park Maint Personal Services	\$988,325	\$1,185,913	\$1,031,324	87%	\$42,999
Public Properties & Park Maintenance Other	\$1,018,932	\$1,079,734	\$999,286	93%	(\$19,647)
Parks & Recreation Admin Personal Services	\$221,833	\$322,485	\$281,665	87%	\$59,831
Parks & Recreation Administration Other	\$8,706	\$37,388	\$23,692	63%	\$14,986
Swimming Pools Personal Services	\$12,832	\$266,375	\$266,245	100%	\$253,413
Swimming Pools Other	\$2,642	\$153,496	\$173,350	113%	\$170,708
Cain Park (Transfer)	\$0	\$0	\$0	0%	\$0
Ice Programs Personal Services	\$123,481	\$251,788	\$84,234	33%	(\$39,247)
Ice Programs Other	\$8,824	\$19,928	\$17,745	89%	\$8,921
General Recreation Programs Personal Services	\$56,929	\$145,037	\$50,582	35%	(\$6,348)
General Recreation Programs Other	\$12,808	\$34,300	\$23,266	68%	\$10,457
Sports Programs Personal Services	\$30,540	\$126,995	\$85,986	68%	\$55,446
Sports Programs Other	\$24,436	\$93,100	\$52,882	57%	\$28,446
Community Center Personal Services	\$423,367	\$659,634	\$395,429	60%	(\$27,938)
Community Center Other	\$285,999	\$486,258	\$257,362	53%	(\$28,637)
Office on Aging Personal Services	\$109,982	\$171,423	\$99,654	58%	(\$10,328)
Office on Aging Other	\$30,573	\$34,300	\$13,582	40%	(\$16,992)
<b>Total Parks and Recreation</b>	<b>\$3,360,210</b>	<b>\$5,068,153</b>	<b>\$3,856,282</b>	<b>76%</b>	<b>\$496,071</b>

**Finance Department**

Finance Department Personal Services	\$348,130	\$460,845	\$358,193	78%	\$10,063
Finance Department Other	\$167,832	\$170,773	\$98,435	58%	(\$69,397)
Income Tax	\$984,664	\$1,037,337	\$968,306	93%	(\$16,358)
<b>Total Finance Department</b>	<b>\$1,500,626</b>	<b>\$1,668,955</b>	<b>\$1,424,935</b>	<b>85%</b>	<b>(\$75,691)</b>

**Planning & Development**

Landmark Commission	\$31	\$15,600	\$0	0%	(\$31)
Planning Department Personal Services	\$324,020	\$473,012	\$331,474	70%	\$7,453
Planning Department Other	\$6,281	\$33,000	\$20,537	62%	\$14,256
Planning Commission Personal Services	\$1,938	\$8,138	\$4,554	56%	\$2,616
Planning Commission Other	\$2,592	\$3,900	\$1,383	35%	(\$1,210)
Architectural Board of Review Personal Services	\$5,522	\$11,492	\$5,426	47%	(\$97)
Architectural Board of Review Other	\$145	\$500	\$0	0%	(\$145)
Board of Zoning Appeals Personal Services	\$2,907	\$5,813	\$4,069	70%	\$1,163
Board of Zoning Appeals Other	\$1,338	\$2,975	\$1,085	36%	(\$253)
<b>Total Planning &amp; Development</b>	<b>\$344,774</b>	<b>\$554,431</b>	<b>\$368,526</b>	<b>66%</b>	<b>\$23,752</b>

**PAGE 2**  
**CITY OF CLEVELAND HEIGHTS**  
**REVIEW OF GENERAL FUND**  
**AS OF NOVEMBER 30, 2021**

	11/30/2020 Expenditures + Encumbrances	2021 Budget Amended	11/30/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
<b>Public Safety</b>					
Traffic Signs & Signals Personal Services	\$53,705	\$61,039	\$53,407	87%	(\$298)
Traffic Signs & Signals Other	\$146,463	\$155,650	\$179,990	116%	\$33,527
Police Administration Personal Services	\$6,285,379	\$9,291,731	\$7,187,691	77%	\$902,312
Police Administration Other	\$366,203	\$1,204,011	\$1,064,825	88%	\$698,622
Police Academy Personal Services	\$3,869	\$0	\$0	0%	(\$3,869)
Police Academy Other	\$75,513	\$41,736	\$37,228	89%	(\$38,285)
Police Vehicle Maintenance Personal Services	\$0	\$0	\$0	0%	\$0
Police Vehicle Maintenance Other	\$0	\$0	\$0	0%	\$0
Fire Administration Personal Services	\$4,719,414	\$6,810,509	\$6,042,610	89%	\$1,323,197
Fire Administration Other	\$245,332	\$279,820	\$246,349	88%	\$1,017
Joint Dispatch (Transfer)	\$0	\$0	\$0	0%	\$0
Joint Dispatch	\$1,153,018	\$1,500,000	\$1,500,000	100%	\$346,982
Fire Prevention Personal Services	\$87,669	\$108,708	\$94,631	87%	\$6,962
Fire Prevention Other	\$1,505	\$5,400	\$2,092	39%	\$587
Building Department Personal Services	\$0	\$0	\$0	0%	\$0
Building Department Other	\$1,291,949	\$845,700	\$831,943	98%	(\$460,005)
Housing Inspections Personal Services	\$372,749	\$553,126	\$329,622	60%	(\$43,127)
Housing Inspections Other	\$66,387	\$130,800	\$107,585	82%	\$41,198
Street Lighting (Transfer)	\$0	\$0	\$0	0%	\$0
Animal Control Personal Services	\$68,168	\$78,077	\$69,695	89%	\$1,527
Animal Control Other	\$25,000	\$31,862	\$26,934	85%	\$1,934
<b>Total Public Safety</b>	<b>\$14,962,322</b>	<b>\$21,098,170</b>	<b>\$17,774,601</b>	<b>84%</b>	<b>\$2,812,279</b>

**Public Works**

Service Administration Personal Services	\$196,432	\$231,671	\$200,003	86%	\$3,571
Service Administration Other	\$3,257	\$8,992	\$3,847	43%	\$590
Capital Projects Administration Personal Services	\$0	\$0	\$0	0%	\$0
Capital Projects Administration Other	\$21,000	\$23,000	\$23,000	100%	\$2,000
Refuse Collection Personal Services	\$1,430,096	\$0	\$0	0%	(\$1,430,096)
Refuse Collection Other	\$592,086	\$21	\$21	100%	(\$592,065)
Vehicle Maintenance Personal Services	\$773,678	\$874,671	\$691,477	79%	(\$82,201)
Vehicle Maintenance Other	\$1,284,928	\$1,525,109	\$1,406,946	92%	\$122,018
Street Maintenance Personal Services	\$1,011,029	\$1,265,787	\$887,236	70%	(\$123,793)
Street Maintenance Other	\$371,530	\$390,818	\$304,517	78%	(\$67,013)
Forestry (Transfer)	\$0	\$0	\$0	0%	\$0
<b>Total Public Works</b>	<b>\$5,684,037</b>	<b>\$4,320,069</b>	<b>\$3,517,047</b>	<b>81%</b>	<b>(\$2,166,989)</b>

**General Government**

City Council Personal Services	\$63,475	\$77,884	\$63,546	82%	\$71
City Council Other	\$4,878	\$8,063	\$6,363	79%	\$1,485
City Manager Personal Services	\$478,151	\$478,580	\$360,439	75%	(\$117,712)
City Manager Other	\$13,953	\$19,612	\$15,462	79%	\$1,509
Civil Service Commission Personal Services	\$581	\$2,747	\$2,713	99%	\$2,131
Civil Service Commission Other	\$13,487	\$46,473	\$36,926	79%	\$23,439
General Operations Personal Services	\$269,499	\$412,202	\$311,326	76%	\$41,827
General Operations Other	\$1,034,638	\$1,661,278	\$1,431,313	86%	\$396,675
Management Information Systems Personal Services	\$260,845	\$335,943	\$261,445	78%	\$600
Management Information Systems Other	\$90,707	\$261,261	\$139,725	53%	\$49,018
County Fiscal Officer Deductions	\$197,362	\$215,731	\$175,731	81%	(\$21,632)
Law Department Personal Services	\$479,882	\$616,034	\$521,728	85%	\$41,846
Law Department Other	\$365,803	\$625,518	\$508,494	81%	\$142,691
Special Improvement Districts	\$395,617	\$396,981	\$376,722	95%	(\$18,895)
Municipal Court Personal Services	\$877,635	\$1,022,471	\$834,374	82%	(\$43,261)
Municipal Court Other	\$88,928	\$192,043	\$132,885	69%	\$43,957
<b>Total General Government</b>	<b>\$4,635,442</b>	<b>\$6,372,820</b>	<b>\$5,179,191</b>	<b>81%</b>	<b>\$543,749</b>

PAGE 3  
CITY OF CLEVELAND HEIGHTS  
REVIEW OF GENERAL FUND  
AS OF NOVEMBER 30, 2021

Other	11/30/2020 Expenditures + Encumbrances	2021 Budget Amended	11/30/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
Transfers & Advances	\$386,988	\$9,450,000	\$4,400,000	47%	\$4,013,012
Hospitalization	\$4,638,912	\$6,838,953	\$4,888,553	71%	\$249,642
<b>Total Other</b>	\$5,025,900	\$16,288,953	\$9,288,553	57%	\$4,262,653

<b>TOTAL GENERAL FUND EXPENDITURES</b>	\$36,224,458	\$55,948,788	\$41,940,083	75%	\$5,715,625
--	--------------	--------------	--------------	-----	-------------

Excess Revenue Over/(Under) Expenses	<u>\$11,096,239</u>	<u>\$3,313,785</u>
Unencumbered Balance Beginning of Year	\$10,436,981	\$18,147,004
Add: Prior Year Encumbrances	<u>\$1,266</u>	<u>\$660,671</u>
Estimated Unencumbered Balance	<u>\$21,534,486</u>	<u>\$22,121,460</u>

UNENCUMBERED BALANCES FOR ALL FUNDS  
AS OF OCTOBER 31, 2021

FUND NUMBER	FUND NAME	UNENCUMBERED BALANCE AS OF 1/1/21	YTD REVENUE	YTD EXPENDITURES + ENCUMBRANCES	12/31/2020 ENCUMBRANCES	UNENCUMBERED BALANCE AS OF 10/31/2021
101	GENERAL	\$18,147,004	\$42,387,343.08	\$39,418,738	\$660,671	\$21,776,280
102	BUDGET STABILIZATION ACCOUNT	\$100,000	\$0	\$0	\$0	\$100,000
201	STREET CONSTRUCTION	\$1,301,343	\$1,810,698	\$1,605,643	\$366,338	\$1,872,737
202	FOUNDATION GRANTS	(\$50,138)	\$192,635	\$215,036	\$0	(\$72,540)
203	FIRST SUBURBS CONSORTIUM	\$2,501	\$0	\$0	\$0	\$2,501
204	COMMUNICATION SYSTEMS OPERATION	(\$73,642)	\$0	\$0	\$0	(\$73,642)
205	PUBLIC WORKS FACILITY IMPROVEMENT	\$423	\$0	\$0	\$0	\$423
206	LAW ENFORCEMENT TRUST	\$161,775	\$44,697	\$71,148	\$11,858	\$147,182
207	DRUG LAW ENFORCEMENT TRUST	\$107,575	\$240,314	\$134,038	\$463	\$214,313
208	CDBG RESOURCE	(\$671,920)	\$1,556,385	\$2,066,349	\$111,901	(\$1,069,983)
210	EPA BROWNFIELD GRANT	\$0	\$0	\$0	\$0	\$0
211	HOME PROGRAM	\$246,352	\$146,591	\$207,805	\$350	\$185,488
212	FEMA	\$159,866	\$24,678	\$44,372	\$19,375	\$159,547
213	POLICE FACILITY IMPROVEMENT	\$3,533	\$1,370	\$13,837	\$10,303	\$1,369
214	LOCAL TV PROGRAMMING	\$953,085	\$401,094	\$591,179	\$2,856	\$765,857
215	CAIN PARK	\$5,080	\$418,124	\$500,546	\$0	(\$77,342)
216	RECREATION FACILITY IMPROVEMENT	\$494,921	\$682,957	\$706,081	\$33,371	\$505,169
217	PUBLIC RIGHT OF WAY	\$164,932	\$0	\$0	\$0	\$164,932
221	INDIGENT DUI TREATMENT	\$271,196	\$15,466	\$0	\$0	\$286,662
222	MUNICIPAL COURT COMPUTERIZATION	\$56,017	\$47,005	\$17,110	\$0	\$85,913
223	DUI - ENFORCEMENT/EDUCATION	\$121,432	\$3,937	\$0	\$0	\$125,369
225	MUNI COURT - SPECIAL PROJECTS	\$2,130,836	\$78,434	\$18,371	\$1,241	\$2,192,141
226	LEAD SAFE PROGRAM - CUYAHOGA CNTY	(\$111,820)	\$180,893	\$114,190	\$0	(\$45,118)
227	NEIGHBORHOOD STABILIZATION PRGM	\$123,584	\$0	\$0	\$0	\$123,584
228	CDBG-COVID	(\$165,286)	\$440,945	\$367,794	\$15,000	(\$77,135)
230	STREET LIGHTING	\$1,301,403	\$981,157	\$717,900	\$0	\$1,564,659
231	TREE FUND	\$529,493	\$1,134,567	\$803,974	\$73,622	\$933,708
232	POLICE PENSION	\$143,750	\$252,098	\$1,026,841	\$0	(\$630,993)
233	FIRE PENSION	\$43,893	\$252,098	\$1,377,149	\$0	(\$1,081,158)
234	EARNED BENEFITS	\$476,987	\$2,163	\$409,881	\$0	\$69,269
237	FIRST SUBURBS DEVELOPMENT COUNCIL	\$57,754	\$0	\$0	\$0	\$57,754
238	CORONAVIRUS RELIEF FUND	\$26,659	\$40,309	\$453,477	\$458,264	\$71,755
239	REFUSE GRANT FUND	\$0	\$100,000	\$546,743	\$0	(\$446,743)
240	FEDERAL MISCELLANEOUS GRANTS	\$0	\$382,088	\$211,973	\$0	\$170,115
241	LOCAL FISCAL RECOVERY	\$0	\$19,408,531	\$177,538	\$0	\$19,230,994
301	G.O. BOND RETIREMENT	\$558,728	\$5,585,309	\$5,043,288	\$0	\$1,100,749
402	FINANCED CAPITAL PROJECTS	\$914,836	\$4,419,040	\$2,627,990	\$0	\$2,705,886
411	ECONOMIC DEVELOPMENT	\$1,095,857	\$57,757	\$208,252	\$125,725	\$1,071,087
412	CITY HALL MAINTENANCE AND REPAIR	\$100,949	\$21,275	\$14,922	\$0	\$107,302
415	SEVERANCE RING ROAD RECONSTRUCTION	\$35,045	\$0	\$0	\$0	\$35,045
416	REFUSE CAPITAL FUND	\$0	\$9,470	\$0	\$0	\$9,470
601	WATER	\$705,213	\$2,211,305	\$1,270,765	\$76,506	\$1,722,259
602	SEWER	\$4,669,776	\$3,696,157	\$5,057,644	\$664,055	\$3,972,344
603	PARKING	\$218,194	\$277,825	\$734,611	\$11,521	(\$227,071)
605	REFUSE FUND	\$0	\$2,070,305	\$2,014,478	\$0	\$55,827
606	AMBULANCE SERVICES	\$1,321,006	\$742,450	\$752,508	\$21,710	\$1,332,658
701	HOSPITALIZATION	\$1,568,362	\$5,881,936	\$5,881,936	\$0	\$1,568,362
703	WORKERS COMPENSATION	\$204,767	\$0	\$0	\$0	\$204,767
804	OFFICE ON AGING	\$14,311	\$8,552	\$1,953	\$0	\$20,911
808	YOUTH RECREATION SCHOLARSHIP	\$59,826	\$140	\$0	\$0	\$59,966
809	POLICE MEMORIAL TRUST FUND	\$11,808	\$0	\$0	\$0	\$11,808
810	YOUTH ADVISORY COMMISSION	\$71	\$0	\$0	\$0	\$71
811	JUVENILE DIVERSION PROGRAM	\$6,903	\$3,858	\$0	\$0	\$10,760
857	SALES TAX	\$535	\$228	\$393	\$0	\$369
858	MISCELLANEOUS AGENCY	\$2,020,412	\$279,592	\$504,441	\$0	\$1,795,563
864	NEORS	\$214	\$0	(\$63)	\$0	\$278
TOTALS		\$39,565,401	\$96,491,776	\$75,930,831	\$2,665,132	\$62,791,478

**CITY OF CLEVELAND HEIGHTS  
REVIEW OF GENERAL FUND  
AS OF OCTOBER 31, 2021**

<b>REVENUES:</b>	10/31/2020 Actual	2021 Budget	10/31/2021 Actual	Percentage 2021 Budget	Difference 2021 vs 2020
Property Taxes	\$7,477,314	\$7,175,859	\$7,568,399	105%	\$91,085
Municipal Income Tax	\$25,084,562	\$28,000,000	\$27,557,871	98%	\$2,473,309
Other Local Taxes	\$12,177	\$50,000	\$0	0%	(\$12,177)
State Levied/Shared Taxes	\$1,393,993	\$1,554,900	\$1,595,030	103%	\$201,036
Intergovernmental Grants & Contracts	\$1,438,809	\$910,000	\$1,043,563	115%	(\$395,246)
Charges For Services	\$2,489,082	\$1,100,000	\$319,376	29%	(\$2,169,706)
Fees, Licenses, Permits	\$2,653,155	\$2,295,000	\$2,168,638	94%	(\$484,518)
Interest Earnings	\$222,547	\$200,000	\$36,144	18%	(\$186,403)
Fines and Forfeitures	\$1,054,901	\$1,720,000	\$1,222,737	71%	\$167,836
All Other Revenue	\$341,104	\$786,500	\$864,686	110%	\$523,581
Sale of Assets	\$16,889	\$0	\$10,900	0%	(\$5,989)
<b>Total Revenues</b>	<b>\$42,184,534</b>	<b>\$43,792,259</b>	<b>\$42,387,343</b>	<b>97%</b>	<b>\$202,809</b>

<b>EXPENDITURES:</b>	10/31/2020 Expenditures + Encumbrances	2021 Budget Amended	10/31/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
<b>Community Services</b>					
Commission on Aging	\$0	\$0	\$0	0%	\$0
Community Relations Personal Services	\$20,405	\$14,237	\$0	0%	(\$20,405)
Community Relations Other	\$6,757	\$1,800	\$1,256	70%	(\$5,500)
Public Relations Personal Services	\$175,626	\$177,912	\$143,389	81%	(\$32,236)
Public Relations Other	\$45,889	\$117,000	\$106,909	91%	\$61,020
Community Services Admin Personal Services	\$170,485	\$0	\$0	0%	(\$170,485)
Community Services Administration Other	\$330	\$6,600	\$4,405	67%	\$4,075
Public Health Administration	\$253,144	\$259,689	\$258,499	100%	\$5,355
<b>Total Community Services</b>	<b>\$672,636</b>	<b>\$577,238</b>	<b>\$514,459</b>	<b>89%</b>	<b>(\$158,177)</b>

**Parks and Recreation**

Public Properties & Park Maint Personal Services	\$894,947	\$1,179,913	\$954,800	81%	\$59,854
Public Properties & Park Maintenance Other	\$963,886	\$1,085,734	\$959,024	88%	(\$4,862)
Parks & Recreation Admin Personal Services	\$202,893	\$322,485	\$256,784	80%	\$53,891
Parks & Recreation Administration Other	\$8,623	\$37,388	\$22,954	61%	\$14,332
Swimming Pools Personal Services	\$12,832	\$266,375	\$266,245	100%	\$253,413
Swimming Pools Other	\$2,480	\$153,496	\$152,861	100%	\$150,381
Cain Park (Transfer)	\$0	\$0	\$0	0%	\$0
Ice Programs Personal Services	\$118,285	\$251,788	\$73,423	29%	(\$44,862)
Ice Programs Other	\$8,402	\$19,928	\$11,171	56%	\$2,769
General Recreation Programs Personal Services	\$52,510	\$145,037	\$46,078	32%	(\$6,432)
General Recreation Programs Other	\$12,681	\$34,300	\$22,047	64%	\$9,365
Sports Programs Personal Services	\$30,540	\$126,995	\$79,418	63%	\$48,878
Sports Programs Other	\$24,278	\$93,100	\$52,190	56%	\$27,911
Community Center Personal Services	\$390,609	\$659,634	\$353,454	54%	(\$37,155)
Community Center Other	\$283,563	\$486,258	\$231,473	48%	(\$52,091)
Office on Aging Personal Services	\$102,013	\$171,423	\$90,650	53%	(\$11,363)
Office on Aging Other	\$30,565	\$34,300	\$13,243	39%	(\$17,322)
<b>Total Parks and Recreation</b>	<b>\$3,139,108</b>	<b>\$5,068,153</b>	<b>\$3,585,814</b>	<b>71%</b>	<b>\$446,706</b>

**Finance Department**

Finance Department Personal Services	\$315,444	\$460,845	\$326,154	71%	\$10,710
Finance Department Other	\$165,179	\$193,110	\$96,893	50%	(\$68,286)
Income Tax	\$907,987	\$1,015,000	\$894,469	88%	(\$13,518)
<b>Total Finance Department</b>	<b>\$1,388,609</b>	<b>\$1,668,955</b>	<b>\$1,317,516</b>	<b>79%</b>	<b>(\$71,093)</b>

**Planning & Development**

Landmark Commission	\$31	\$15,600	\$0	0%	(\$31)
Planning Department Personal Services	\$214,591	\$473,012	\$301,902	64%	\$87,311
Planning Department Other	\$5,956	\$33,000	\$19,734	60%	\$13,778
Planning Commission Personal Services	\$1,938	\$8,138	\$3,972	49%	\$2,035
Planning Commission Other	\$2,572	\$3,900	\$1,352	35%	(\$1,220)
Architectural Board of Review Personal Services	\$4,941	\$11,492	\$4,844	42%	(\$97)
Architectural Board of Review Other	\$145	\$500	\$0	0%	(\$145)
Board of Zoning Appeals Personal Services	\$2,907	\$5,813	\$3,585	62%	\$678
Board of Zoning Appeals Other	\$1,338	\$2,975	\$1,084	36%	(\$254)
<b>Total Planning &amp; Development</b>	<b>\$234,418</b>	<b>\$554,431</b>	<b>\$336,472</b>	<b>61%</b>	<b>\$102,054</b>

**PAGE 2**  
**CITY OF CLEVELAND HEIGHTS**  
**REVIEW OF GENERAL FUND**  
**AS OF OCTOBER 31, 2021**

	10/31/2020 Expenditures + Encumbrances	2021 Budget Amended	10/31/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
<b>Public Safety</b>					
Traffic Signs & Signals Personal Services	\$49,081	\$61,039	\$48,757	80%	(\$324)
Traffic Signs & Signals Other	\$140,662	\$155,650	\$134,285	86%	(\$6,377)
Police Administration Personal Services	\$7,058,348	\$9,291,731	\$6,604,284	71%	(\$454,064)
Police Administration Other	\$357,165	\$1,204,011	\$1,002,940	83%	\$645,775
Police Academy Personal Services	\$1,937	\$0	\$0	0%	(\$1,937)
Police Academy Other	\$74,607	\$41,736	\$36,854	88%	(\$37,753)
Police Vehicle Maintenance Personal Services	\$0	\$0	\$0	0%	\$0
Police Vehicle Maintenance Other	\$0	\$0	\$0	0%	\$0
Fire Administration Personal Services	\$5,567,395	\$6,810,509	\$5,521,223	81%	(\$46,172)
Fire Administration Other	\$209,567	\$279,820	\$242,893	87%	\$33,326
Joint Dispatch (Transfer)	\$0	\$0	\$0	0%	\$0
Joint Dispatch	\$1,153,018	\$1,500,000	\$1,500,000	100%	\$346,982
Fire Prevention Personal Services	\$81,007	\$107,908	\$88,275	82%	\$7,268
Fire Prevention Other	\$1,145	\$6,200	\$1,731	28%	\$587
Building Department Personal Services	\$0	\$0	\$0	0%	\$0
Building Department Other	\$1,194,655	\$845,700	\$761,035	90%	(\$433,621)
Housing Inspections Personal Services	\$342,633	\$553,126	\$300,414	54%	(\$42,220)
Housing Inspections Other	\$56,906	\$130,800	\$92,833	71%	\$35,927
Street Lighting (Transfer)	\$0	\$0	\$0	0%	\$0
Animal Control Personal Services	\$62,713	\$78,077	\$63,975	82%	\$1,263
Animal Control Other	\$25,000	\$31,862	\$26,934	85%	\$1,934
<b>Total Public Safety</b>	<b>\$16,375,841</b>	<b>\$21,098,170</b>	<b>\$16,426,434</b>	<b>78%</b>	<b>\$50,593</b>

**Public Works**

Service Administration Personal Services	\$135,860	\$231,671	\$182,440	79%	\$46,580
Service Administration Other	\$2,884	\$8,992	\$3,655	41%	\$771
Capital Projects Administration Personal Services	\$0	\$0	\$0	0%	\$0
Capital Projects Administration Other	\$21,000	\$23,000	\$23,000	100%	\$2,000
Refuse Collection Personal Services	\$1,305,074	\$0	\$0	0%	(\$1,305,074)
Refuse Collection Other	\$555,490	\$21	\$21	100%	(\$555,469)
Vehicle Maintenance Personal Services	\$708,849	\$874,671	\$623,830	71%	(\$85,019)
Vehicle Maintenance Other	\$1,147,679	\$1,525,109	\$1,284,194	84%	\$136,514
Street Maintenance Personal Services	\$922,756	\$1,295,787	\$810,390	63%	(\$112,365)
Street Maintenance Other	\$365,134	\$360,818	\$295,561	82%	(\$69,573)
Forestry (Transfer)	\$0	\$0	\$0	0%	\$0
<b>Total Public Works</b>	<b>\$5,164,725</b>	<b>\$4,320,069</b>	<b>\$3,223,091</b>	<b>75%</b>	<b>(\$1,941,634)</b>

**General Government**

City Council Personal Services	\$58,307	\$77,884	\$58,378	75%	\$71
City Council Other	\$4,878	\$8,063	\$6,363	79%	\$1,485
City Manager Personal Services	\$444,562	\$478,945	\$331,760	69%	(\$112,801)
City Manager Other	\$13,807	\$19,612	\$15,402	79%	\$1,596
Civil Service Commission Personal Services	\$388	\$2,381	\$2,713	114%	\$2,325
Civil Service Commission Other	\$4,687	\$46,300	\$36,926	80%	\$32,239
General Operations Personal Services	\$269,499	\$412,202	\$311,326	76%	\$41,827
General Operations Other	\$1,034,844	\$1,661,451	\$1,627,953	98%	\$593,109
Management Information Systems Personal Services	\$226,260	\$335,943	\$239,496	71%	\$13,236
Management Information Systems Other	\$90,439	\$261,261	\$124,019	47%	\$33,580
County Fiscal Officer Deductions	\$197,362	\$215,731	\$175,731	81%	(\$21,632)
Law Department Personal Services	\$440,992	\$616,034	\$473,166	77%	\$32,174
Law Department Other	\$355,618	\$625,518	\$507,391	81%	\$151,773
Special Improvement Districts	\$395,617	\$396,981	\$376,722	95%	(\$18,895)
Municipal Court Personal Services	\$809,377	\$1,022,471	\$762,599	75%	(\$46,778)
Municipal Court Other	\$81,247	\$192,043	\$126,021	66%	\$44,773
<b>Total General Government</b>	<b>\$4,427,885</b>	<b>\$6,372,820</b>	<b>\$5,175,966</b>	<b>81%</b>	<b>\$748,081</b>

PAGE 3  
CITY OF CLEVELAND HEIGHTS  
REVIEW OF GENERAL FUND  
AS OF OCTOBER 31, 2021

Other	10/31/2020 Expenditures + Encumbrances	2021 Budget Amended	10/31/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
Transfers & Advances	\$0	\$9,450,000	\$4,400,000	47%	\$4,400,000
Hospitalization	\$4,228,313	\$6,838,953	\$4,438,986	65%	\$210,673
<b>Total Other</b>	\$4,228,313	\$16,288,953	\$8,838,986	54%	\$4,610,673
<b>TOTAL GENERAL FUND EXPENDITURES</b>	\$35,631,537	\$55,948,788	\$39,418,738	70%	\$3,787,201
Excess Revenue Over/(Under) Expenses	\$6,552,997		\$2,968,605		
Unencumbered Balance Beginning of Year	\$10,436,981		\$18,147,004		
Add: Prior Year Encumbrances	\$1,266		\$660,671		
Estimated Unencumbered Balance	\$16,991,244		\$21,776,280		

UNENCUMBERED BALANCES FOR ALL FUNDS  
AS OF SEPTEMBER 30, 2021

FUND NUMBER	FUND NAME	UNENCUMBERED BALANCE AS OF 1/1/21	YTD REVENUE	YTD EXPENDITURES + ENCUMBRANCES	12/31/2020 ENCUMBRANCES	UNENCUMBERED BALANCE AS OF 9/30/2021
101	GENERAL	\$18,147,004	\$38,448,683.45	\$36,224,135	\$660,671	\$21,032,224
102	BUDGET STABILIZATION ACCOUNT	\$100,000	\$0	\$0	\$0	\$100,000
201	STREET CONSTRUCTION	\$1,301,343	\$1,635,418	\$1,562,445	\$366,338	\$1,740,654
202	FOUNDATION GRANTS	(\$50,138)	\$192,635	\$215,036	\$0	(\$72,540)
203	FIRST SUBURBS CONSORTIUM	\$2,501	\$0	\$0	\$0	\$2,501
204	COMMUNICATION SYSTEMS OPERATION	(\$73,642)	\$0	\$0	\$0	(\$73,642)
205	PUBLIC WORKS FACILITY IMPROVEMENT	\$423	\$0	\$0	\$0	\$423
206	LAW ENFORCEMENT TRUST	\$161,775	\$44,697	\$60,889	\$11,858	\$157,442
207	DRUG LAW ENFORCEMENT TRUST	\$107,575	\$240,314	\$104,273	\$463	\$244,078
208	CDBG RESOURCE	(\$671,920)	\$1,552,814	\$2,018,355	\$111,901	(\$1,025,560)
210	EPA BROWNFIELD GRANT	\$0	\$0	\$0	\$0	\$0
211	HOME PROGRAM	\$246,352	\$90,075	\$169,005	\$350	\$167,772
212	FEMA	\$159,866	\$24,678	\$44,372	\$19,375	\$159,547
213	POLICE FACILITY IMPROVEMENT	\$3,533	\$315	\$13,837	\$10,303	\$314
214	LOCAL TV PROGRAMMING	\$953,085	\$370,124	\$555,891	\$2,856	\$770,175
215	CAIN PARK	\$5,080	\$400,986	\$484,665	\$0	(\$78,599)
216	RECREATION FACILITY IMPROVEMENT	\$494,921	\$682,957	\$649,067	\$33,371	\$562,183
217	PUBLIC RIGHT OF WAY	\$164,932	\$0	\$0	\$0	\$164,932
221	INDIGENT DUI TREATMENT	\$271,196	\$14,122	\$0	\$0	\$285,318
222	MUNICIPAL COURT COMPUTERIZATION	\$56,017	\$42,781	\$17,110	\$0	\$81,689
223	DUI - ENFORCEMENT/EDUCATION	\$121,432	\$3,412	\$0	\$0	\$124,844
225	MUNI COURT - SPECIAL PROJECTS	\$2,130,836	\$71,439	\$17,583	\$1,241	\$2,185,932
226	LEAD SAFE PROGRAM - CUYAHOGA CNTY	(\$111,820)	\$180,893	\$100,440	\$0	(\$31,368)
227	NEIGHBORHOOD STABILIZATION PRGM	\$123,584	\$0	\$0	\$0	\$123,584
228	CDBG-COVID	(\$165,286)	\$440,945	\$363,894	\$15,000	(\$73,235)
230	STREET LIGHTING	\$1,301,403	\$981,157	\$649,712	\$0	\$1,632,848
231	TREE FUND	\$529,493	\$1,134,567	\$747,224	\$73,622	\$990,457
232	POLICE PENSION	\$143,750	\$252,098	\$927,187	\$0	(\$531,339)
233	FIRE PENSION	\$43,893	\$252,098	\$1,243,797	\$0	(\$947,806)
234	EARNED BENEFITS	\$476,987	\$2,163	\$405,809	\$0	\$73,341
237	FIRST SUBURBS DEVELOPMENT COUNCIL	\$57,754	\$0	\$0	\$0	\$57,754
238	CORONAVIRUS RELIEF FUND	\$26,659	\$40,309	\$448,255	\$458,264	\$76,977
239	REFUSE GRANT FUND	\$0	\$100,000	\$128,778	\$0	(\$28,778)
240	FEDERAL MISCELLANEOUS GRANTS	\$0	\$357,028	\$201,347	\$0	\$155,681
241	LOCAL FISCAL RECOVERY	\$0	\$19,408,531	\$177,538	\$0	\$19,230,994
301	G.O. BOND RETIREMENT	\$558,728	\$5,585,309	\$3,257,504	\$0	\$2,886,533
402	FINANCED CAPITAL PROJECTS	\$914,836	\$4,418,716	\$1,308,789	\$0	\$4,024,763
411	ECONOMIC DEVELOPMENT	\$1,095,857	\$57,577	\$208,252	\$125,725	\$1,070,907
412	CITY HALL MAINTENANCE AND REPAIR	\$100,949	\$19,148	\$14,922	\$0	\$105,174
415	SEVERANCE RING ROAD RECONSTRUCTION	\$35,045	\$0	\$0	\$0	\$35,045
416	REFUSE CAPITAL FUND	\$0	\$9,022	\$0	\$0	\$9,022
601	WATER	\$705,213	\$2,211,305	\$1,270,765	\$76,506	\$1,722,259
602	SEWER	\$4,669,776	\$3,631,249	\$4,796,338	\$664,055	\$4,168,742
603	PARKING	\$218,194	\$274,825	\$712,773	\$11,521	(\$208,233)
605	REFUSE FUND	\$0	\$2,042,222	\$1,871,624	\$0	\$170,598
606	AMBULANCE SERVICES	\$1,321,006	\$644,938	\$645,076	\$21,710	\$1,342,577
701	HOSPITALIZATION	\$1,568,362	\$5,290,882	\$5,290,882	\$0	\$1,568,362
703	WORKERS COMPENSATION	\$204,767	\$0	\$0	\$0	\$204,767
804	OFFICE ON AGING	\$14,311	\$7,927	\$1,936	\$0	\$20,303
808	YOUTH RECREATION SCHOLARSHIP	\$59,826	\$140	\$0	\$0	\$59,966
809	POLICE MEMORIAL TRUST FUND	\$11,808	\$0	\$0	\$0	\$11,808
810	YOUTH ADVISORY COMMISSION	\$71	\$0	\$0	\$0	\$71
811	JUVENILE DIVERSION PROGRAM	\$6,903	\$3,858	\$0	\$0	\$10,760
857	SALES TAX	\$535	\$214	\$393	\$0	\$356
858	MISCELLANEOUS AGENCY	\$2,020,412	\$264,240	\$492,441	\$0	\$1,792,211
864	NEORS	\$214	\$0	(\$63)	\$0	\$278
TOTALS		\$39,565,401	\$91,426,811	\$67,402,275	\$2,665,132	\$66,255,069

**CITY OF CLEVELAND HEIGHTS  
REVIEW OF GENERAL FUND  
AS OF SEPTEMBER 30, 2021**

<b>REVENUES:</b>	9/30/2020 Actual	2021 Budget	9/30/2021 Actual	Percentage 2021 Budget	Difference 2021 vs 2020
Property Taxes	\$7,477,314	\$7,175,859	\$7,568,399	105%	\$91,085
Municipal Income Tax	\$21,658,343	\$28,000,000	\$24,075,961	86%	\$2,417,618
Other Local Taxes	\$12,177	\$50,000	\$0	0%	(\$12,177)
State Levied/Shared Taxes	\$1,260,370	\$1,554,900	\$1,443,611	93%	\$183,240
Intergovernmental Grants & Contracts	\$1,429,824	\$910,000	\$1,033,921	114%	(\$395,902)
Charges For Services	\$2,467,621	\$1,100,000	\$286,788	26%	(\$2,180,833)
Fees, Licenses, Permits	\$2,514,636	\$2,295,000	\$2,044,002	89%	(\$470,633)
Interest Earnings	\$217,281	\$200,000	\$31,937	16%	(\$185,344)
Fines and Forfeitures	\$932,771	\$1,720,000	\$1,105,401	64%	\$172,630
All Other Revenue	\$336,921	\$786,500	\$847,764	108%	\$510,842
Sale of Assets	\$15,975	\$0	\$10,900	0%	(\$5,075)
<b>Total Revenues</b>	<b>\$38,323,232</b>	<b>\$43,792,259</b>	<b>\$38,448,683</b>	<b>88%</b>	<b>\$125,451</b>

<b>EXPENDITURES:</b>	9/30/2020 Expenditures + Encumbrances	2021 Budget Amended	9/30/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
<b>Community Services</b>					
Commission on Aging	\$0	\$0	\$0	0%	\$0
Community Relations Personal Services	\$20,405	\$14,237	\$0	0%	(\$20,405)
Community Relations Other	\$6,730	\$1,800	\$1,109	62%	(\$5,620)
Public Relations Personal Services	\$162,150	\$177,912	\$129,648	73%	(\$32,502)
Public Relations Other	\$30,372	\$117,000	\$78,236	67%	\$47,864
Community Services Admin Personal Services	\$161,806	\$0	\$0	0%	(\$161,806)
Community Services Administration Other	\$330	\$6,600	\$4,405	67%	\$4,075
Public Health Administration	\$253,144	\$258,499	\$257,309	100%	\$4,165
<b>Total Community Services</b>	<b>\$634,937</b>	<b>\$576,048</b>	<b>\$470,707</b>	<b>82%</b>	<b>(\$164,230)</b>

**Parks and Recreation**

Public Properties & Park Maint Personal Services	\$809,478	\$1,169,913	\$875,982	75%	\$66,504
Public Properties & Park Maintenance Other	\$904,662	\$1,099,309	\$899,571	82%	(\$5,090)
Parks & Recreation Admin Personal Services	\$183,952	\$322,485	\$231,903	72%	\$47,951
Parks & Recreation Administration Other	\$8,509	\$37,388	\$22,840	61%	\$14,331
Swimming Pools Personal Services	\$12,832	\$276,421	\$266,245	96%	\$253,413
Swimming Pools Other	\$2,364	\$131,450	\$124,677	95%	\$122,313
Cain Park (Transfer)	\$0	\$0	\$0	0%	\$0
Ice Programs Personal Services	\$113,782	\$251,788	\$62,118	25%	(\$51,665)
Ice Programs Other	\$8,402	\$19,928	\$11,049	55%	\$2,647
General Recreation Programs Personal Services	\$48,091	\$145,037	\$41,575	29%	(\$6,516)
General Recreation Programs Other	\$12,555	\$34,300	\$19,785	58%	\$7,230
Sports Programs Personal Services	\$30,540	\$126,995	\$71,764	57%	\$41,224
Sports Programs Other	\$24,181	\$105,100	\$38,545	37%	\$14,364
Community Center Personal Services	\$359,695	\$658,319	\$311,708	47%	(\$47,987)
Community Center Other	\$263,430	\$486,258	\$208,583	43%	(\$54,847)
Office on Aging Personal Services	\$94,044	\$171,423	\$81,810	48%	(\$12,234)
Office on Aging Other	\$30,107	\$34,300	\$11,656	34%	(\$18,451)
<b>Total Parks and Recreation</b>	<b>\$2,906,623</b>	<b>\$5,070,413</b>	<b>\$3,279,810</b>	<b>65%</b>	<b>\$373,187</b>

**Finance Department**

Finance Department Personal Services	\$285,025	\$460,845	\$294,116	64%	\$9,091
Finance Department Other	\$164,629	\$194,300	\$91,960	47%	(\$72,669)
Income Tax	\$798,778	\$1,015,000	\$783,361	77%	(\$15,417)
<b>Total Finance Department</b>	<b>\$1,248,432</b>	<b>\$1,670,145</b>	<b>\$1,169,437</b>	<b>70%</b>	<b>(\$78,995)</b>

**Planning & Development**

Landmark Commission	\$31	\$15,600	\$0	0%	(\$31)
Planning Department Personal Services	\$193,078	\$473,012	\$272,900	58%	\$79,822
Planning Department Other	\$5,735	\$33,000	\$18,782	57%	\$13,047
Planning Commission Personal Services	\$1,938	\$8,138	\$3,391	42%	\$1,453
Planning Commission Other	\$2,528	\$3,900	\$1,225	31%	(\$1,303)
Architectural Board of Review Personal Services	\$4,651	\$11,492	\$4,360	38%	(\$291)
Architectural Board of Review Other	\$145	\$500	\$0	0%	(\$145)
Board of Zoning Appeals Personal Services	\$2,907	\$5,813	\$3,585	62%	\$678
Board of Zoning Appeals Other	\$1,338	\$2,975	\$1,076	36%	(\$262)
<b>Total Planning &amp; Development</b>	<b>\$212,350</b>	<b>\$554,431</b>	<b>\$305,319</b>	<b>55%</b>	<b>\$92,969</b>

**PAGE 2**  
**CITY OF CLEVELAND HEIGHTS**  
**REVIEW OF GENERAL FUND**  
**AS OF SEPTEMBER 30, 2021**

	9/30/2020 Expenditures + Encumbrances	2021 Budget Amended	9/30/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
<b>Public Safety</b>					
Traffic Signs & Signals Personal Services	\$44,519	\$61,039	\$44,107	72%	(\$412)
Traffic Signs & Signals Other	\$125,719	\$146,450	\$129,267	88%	\$3,548
Police Administration Personal Services	\$6,464,943	\$9,291,954	\$6,037,392	65%	(\$427,551)
Police Administration Other	\$344,528	\$1,204,011	\$517,304	43%	\$172,776
Police Academy Personal Services	\$1,937	\$0	\$0	0%	(\$1,937)
Police Academy Other	\$67,392	\$41,736	\$36,476	87%	(\$30,915)
Police Vehicle Maintenance Personal Services	\$0	\$0	\$0	0%	\$0
Police Vehicle Maintenance Other	\$0	\$0	\$0	0%	\$0
Fire Administration Personal Services	\$5,056,188	\$6,800,509	\$4,998,106	73%	(\$58,081)
Fire Administration Other	\$194,351	\$289,820	\$236,800	82%	\$42,449
Joint Dispatch (Transfer)	\$0	\$0	\$0	0%	\$0
Joint Dispatch	\$1,153,018	\$1,500,000	\$1,500,000	100%	\$346,982
Fire Prevention Personal Services	\$73,889	\$107,908	\$80,438	75%	\$6,549
Fire Prevention Other	\$460	\$6,200	\$453	7%	(\$7)
Building Department Personal Services	\$0	\$0	\$0	0%	\$0
Building Department Other	\$1,136,786	\$845,700	\$761,004	90%	(\$375,782)
Housing Inspections Personal Services	\$312,518	\$553,126	\$271,205	49%	(\$41,312)
Housing Inspections Other	\$56,002	\$130,800	\$86,200	66%	\$30,198
Street Lighting (Transfer)	\$0	\$0	\$0	0%	\$0
Animal Control Personal Services	\$57,258	\$75,783	\$58,256	77%	\$998
Animal Control Other	\$25,000	\$33,934	\$26,934	79%	\$1,934
<b>Total Public Safety</b>	<b>\$15,114,507</b>	<b>\$21,088,970</b>	<b>\$14,783,945</b>	<b>70%</b>	<b>(\$330,562)</b>

**Public Works**

Service Administration Personal Services	\$123,630	\$231,671	\$165,180	71%	\$41,550
Service Administration Other	\$2,596	\$8,992	\$3,614	40%	\$1,018
Capital Projects Administration Personal Services	\$0	\$0	\$0	0%	\$0
Capital Projects Administration Other	\$21,000	\$23,000	\$23,000	100%	\$2,000
Refuse Collection Personal Services	\$1,196,016	\$0	\$0	0%	(\$1,196,016)
Refuse Collection Other	\$493,822	\$21	\$21	100%	(\$493,802)
Vehicle Maintenance Personal Services	\$646,872	\$874,971	\$562,031	64%	(\$84,841)
Vehicle Maintenance Other	\$1,061,421	\$1,524,809	\$1,141,782	75%	\$80,361
Street Maintenance Personal Services	\$848,206	\$1,319,987	\$738,657	56%	(\$109,549)
Street Maintenance Other	\$353,094	\$345,818	\$259,278	75%	(\$93,816)
Forestry (Transfer)	\$0	\$0	\$0	0%	\$0
<b>Total Public Works</b>	<b>\$4,746,658</b>	<b>\$4,329,269</b>	<b>\$2,893,562</b>	<b>67%</b>	<b>(\$1,853,096)</b>

**General Government**

City Council Personal Services	\$53,140	\$77,884	\$53,210	68%	\$71
City Council Other	\$4,856	\$8,063	\$6,363	79%	\$1,507
City Manager Personal Services	\$416,551	\$578,945	\$303,057	52%	(\$113,493)
City Manager Other	\$13,015	\$19,612	\$15,318	78%	\$2,303
Civil Service Commission Personal Services	\$388	\$2,381	\$2,325	98%	\$1,938
Civil Service Commission Other	\$4,867	\$46,300	\$25,426	55%	\$20,559
General Operations Personal Services	\$268,114	\$412,202	\$311,326	76%	\$43,212
General Operations Other	\$1,033,508	\$1,661,451	\$1,605,258	97%	\$571,750
Management Information Systems Personal Services	\$205,478	\$348,943	\$217,547	62%	\$12,069
Management Information Systems Other	\$62,965	\$248,261	\$118,127	48%	\$55,162
County Fiscal Officer Deductions	\$197,362	\$215,731	\$175,731	81%	(\$21,632)
Law Department Personal Services	\$402,329	\$616,034	\$424,746	69%	\$22,417
Law Department Other	\$310,907	\$525,518	\$480,815	91%	\$169,908
Special Improvement Districts	\$395,617	\$396,981	\$376,722	95%	(\$18,895)
Municipal Court Personal Services	\$738,527	\$1,022,471	\$689,772	67%	(\$48,755)
Municipal Court Other	\$76,620	\$192,043	\$123,169	64%	\$46,549
<b>Total General Government</b>	<b>\$4,184,243</b>	<b>\$6,372,820</b>	<b>\$4,928,913</b>	<b>77%</b>	<b>\$744,670</b>

**PAGE 3**  
**CITY OF CLEVELAND HEIGHTS**  
**REVIEW OF GENERAL FUND**  
**AS OF SEPTEMBER 30, 2021**

Other	9/30/2020	2021	9/30/2021	Percentage	Difference
	Expenditures + Encumbrances	Budget Amended	Expenditures + Encumbrances	2021 Budget	2021 vs 2020
Transfers & Advances	\$0	\$9,450,000	\$4,400,000	47%	\$4,400,000
Hospitalization	\$3,801,668	\$6,838,953	\$3,992,441	58%	\$190,774
<b>Total Other</b>	\$3,801,668	\$16,288,953	\$8,392,441	52%	\$4,590,774
<b>TOTAL GENERAL FUND EXPENDITURES</b>	\$32,849,418	\$55,951,049	\$36,224,135	65%	\$3,374,717
Excess Revenue Over/(Under) Expenses	\$5,473,814		\$2,224,548		
Unencumbered Balance Beginning of Year	\$10,436,981		\$18,147,004		
Add: Prior Year Encumbrances	\$1,266		\$660,671		
Estimated Unencumbered Balance	\$15,912,061		\$21,032,224		



---

## **ECONOMIC DEVELOPMENT REPORT – December 15, 2021:**

### **CEDAR-LEE-MEADOWBROOK:**

- Legislation to authorize executing the proposed Development Agreement for this mixed-use project with the City's Development Partner Flaherty & Collins was approved by Council on December 6. The Design Process Phase is fully underway with the review by Planning Commission on December 8 and public engagement meeting held December 14. Additional public engagement meetings are being scheduled by the Planning Department;

### **NEIGHBORHOOD REDEVELOPMENT PROGRAM (NRP) INFILL HOUSING CONSTRUCTION:**

- The Development Agreement with **Start Right CDC** for the construction of infill single family owner-occupied housing in the **Caledonia Neighborhood** was approved on 10/4/2021. The project is now proceeding to implementation. The first home to be located at 961 Nelaview recently received approval from the Board of Zoning Appeals for various variances, and has been approved by ABR. Once Phase I & II are completed, the City anticipates the project will yield up to 23 new infill houses constructed by Start Right on vacant City-owned properties in the Caledonia Neighborhood by 2026.
- The Development Agreement for **Infill housing along Desota Avenue**, to be constructed by **Amato Homes**, is up for second reading by Council / with recommended approval requested by the Administration at the December 20 meeting. The Administration issued a memo to Council which more fully described the project which was provided in the Council packet for the December 13 meeting. The project is anticipated to result in up to 18 new single-family owner-occupied homes on currently City-owned vacant lots along Desota Avenue;

### **TAYLOR TUDOR PLAZA:**

- The Administration is currently reviewing the responses received December 10 to the RFQ/RFP for the rehabilitation/redevelopment of Buildings #1, #2, & #3 that was issued on 8/27/2021. For additional information on this project please go to:  
<https://www.clevelandheights.com/1443/Taylor-Tudor-Plaza-Redevelopment>

### **TOP OF THE HILL:**

- Construction on the project continues, with the completion date anticipated to be July of 2022. A ribbon cutting during the 3<sup>rd</sup> Quarter of 2022 is projected;



# Memorandum

To: Susanna Niermann O'Neil- City Manager  
From: Allan Butler- Housing Programs Director  
Date: December 16, 2021  
Re: Housing Update

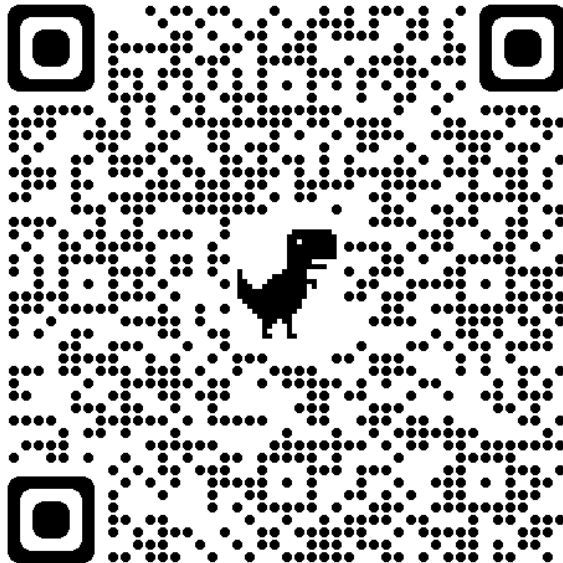
---

2022 Renewal notices for all residential rental Occupancy Permits, Vacant Property Registrations, Out of County Owner Registrations, and Business Occupancy/Operation licenses were mailed and emailed to property owners at the beginning of this December. Any property that had registered with an email last year was emailed their renewal this year along with mailing a paper copy. Over 5000 renewal notices were sent and we have already received over 1500 returns through our online portal. Since November 1 the department has received in total revenue of \$370,000 with \$290,000 being processed through the portal. Owners and residents can access the Citizenserve Software portal through the following links or by scanning the QR Code:

HOME PAGE:

[https://www.citizenserve.com/Portal/PortalController?Action=showHomePage&ctzPagePrefix=Portal\\_&installationID=280&original\\_iid=0&original\\_contactID=0](https://www.citizenserve.com/Portal/PortalController?Action=showHomePage&ctzPagePrefix=Portal_&installationID=280&original_iid=0&original_contactID=0)

LOGIN PAGE: [GO TO THE CLEVELAND HEIGHTS PORTAL >](#)



- 2022 Contractor Registration Renewal requests have been sent to all contractors registered in 2021 with instructions on how to register online. Contractor registration is now available online via Citizenserve Software. Building Permit applications are currently being installed into Citizenserve and are scheduled to be available online in the first quarter of 2022.
- The Rehab Specialist position in the Housing Preservation Office has been filled by Steve Drapp who started earlier this month. Steve has an extensive IT background with significant housing rehab experience. Steve will be working with Senior Rehab Specialist Bill Knop to help HPO continue to help serve our residents with our numerous grant and renovation programs.
- The Housing Department has added inspector Jeff Habel to our staff and he will begin his employment in January. Jeff has 16 years of experience as a Journeyman Carpenter in the Ohio Carpenter's Union along with an Assoc. of Science in Architectural Drafting. Jeff is eager to begin his employment with the Housing Department and serve the community.
- A quarterly meeting for the Lead Safe Cuyahoga program is scheduled for Friday December 17, 2021 with the City's Housing Preservation staff and Cuyahoga County Board of Health representatives to update the progress of our two HUD grants for lead remediation.



## **MEMORANDUM**

**To:** Susanna Niermann O'Neil, City Manager  
**From:** Eric Zamft, Planning Director  
**Date:** December 15, 2021  
**Subject:** Bi-Weekly Planning Department Update

### **NEED FOR VOLUNTEERS TO FILL CITY BOARD/COMMISSION VACANCIES**

There are a number of vacancies on the City's boards and commissions. Residents are encouraged to volunteer for these very important civic bodies. See <https://www.clevelandheights.com/1169/Boards-and-Commissions-Application> for more information.

### **HIGHLIGHTS OF PLANNING INITIATIVES**

#### **CEDAR-LEE-MEADOWBROOK REDEVELOPMENT**

The Cedar-Lee-Meadowbrook redevelopment was discussed at three (3) recent meetings:

- The Development Team presented the preliminary transportation and environmental sustainability elements of the project at the December 1, 2021 Transportation & Environmental Sustainability Committee (TESC) meeting. The video of the meeting is posted on the project webpage.
- The Development Team gave a preliminary presentation on the site plan at the December 8, 2021 Planning Commission meeting. The Planning Commission and public offered initial comments. The video of the meeting is posted on the project webpage.
- The second Parking & Traffic Workshop was held on December 14, 2021 at the Community Center. The project was briefly introduced, then the City's parking and traffic consultants presented their preliminary findings and recommendations for the entire Cedar-Lee District, as well as specific findings/recommendations for the project. The remainder of the meeting was interactive with the public weighing in on the findings/recommendations. Once the recommendations are finalized, they will be posted on the project webpage.

The Development Team is anticipated to present preliminarily on architecture at the December 21, 2021 Architectural Board of Review meeting. The meeting will be held virtually, please follow this link to join: <https://www.clevelandheights.com/1142/2021-Agendas-and-Minutes>.

Staff continues to meet internally to discuss public and staff comments to be integrated into the plan, as well as with development partner's design team to ensure that integration occurs.

Staff will continue to update the webpage and provide more information in upcoming bi-weekly Planning Department reports (<https://www.clevelandheights.com/clm>). ***The public is encouraged to comment on all aspects of the proposal utilizing the project webpage comment form or emailing directly to [planning@clvhts.com](mailto:planning@clvhts.com).***

### **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME ADMINISTRATION**

Staff and the CAC chair presented the joint CAC/staff recommendations for Year 48 CDBG funding to Council at the Committee of the Whole on November 1, 2021. The presentation enabled a 30-day public comment period to open. Information can be found here: <https://www.clevelandheights.com/cdbg>. At the December 20, 2021 meeting, City Staff will be requesting that Council approve the Year 48 Annual Action Plan and give authority to the administration to submit the plan and all other required documents to HUD once FY 2022 funding is announced.

### **TRANSPORTATION**

The City has been hard at work on transportation issues:

- *Cuyahoga County Shared Micro-Mobility Initiative* – Staff continues to work with the County and the scooter vendors on the implementation of the County-wide micro-mobility network, which includes e-scooters, with a focus on 2022.
- *Complete and Green Streets Checklist* – Planning staff is working closely with the Department of Public Works and TESC on finalizing a Complete and Green Streets Checklist.
- *Electric Vehicle Charging Stations* – Working with the TESC, Planning staff provided a comment letter to NOACA regarding their EV Charging Station Program.
- *Bicycle Friendly Community Bronze Designation* – The League of American Bicyclists renewed Cleveland Heights' designation as a Bicycle Friendly Community at the 'Bronze' level. This award is presented only to communities with strong commitments to bicycling.

### **PLACEMAKING & PARK PLANNING; SUSTAINABILITY**

Planning is helping to guide a number of placemaking activities, working collaboratively with the Manager's Office and other departments. As part of all of these efforts, staff is looking for additional opportunities for passive and active spaces, community gardens, and additional tree plantings. Staff is coordinating with Economic Development, Housing, Parks & Recreation,

Public Properties, Law, and the Parks and Recreation Committee of Council on vacant lots. Staff is coordinating with the Manager's Office, other departments, FutureHeights on the future for the Cedar-Lee Mini Park.

### **REDEVELOPMENT OPPORTUNITIES & NEIGHBORHOOD PLANNING**

Staff assists property owners and prospective property owners in evaluating redevelopment opportunities. This includes the Park Synagogue site and Severance Town Center. Staff met with the developers of the Park Synagogue site to discuss the status of the project. As a reminder, a website has been set up by the developer of the Park Synagogue site to solicit input: <https://sustainableca.com/park/>. Similarly, the Library has a website dedicated to the Noble Road Library expansion: <https://heightslibrary.org/noble-branch-renovation-project/>. Staff will work with the new Mayor, administration, and Council to further neighborhood planning in the Noble neighborhood in 2022.

### **ZONING**

Staff continues to work with the Planning Commission, the Law Department, Council and others to identify, discuss, and, ultimately, propose additional changes to the Zoning Code, including rain gardens/rain barrels, additional parking revisions, and accessory dwelling units (ADUs). If the public has any ideas regarding further zoning changes, please email those to [planning@clvhts.com](mailto:planning@clvhts.com).

## **COORDINATION WITH ECONOMIC DEVELOPMENT DEPARTMENT INITIATIVES**

- *Neighborhood Redevelopment Program (NRP), Phase 1* – Planning staff has been working with the Economic Development Department regarding Amato Homes/Liberty agreement for the Desota area. Should Council authorize the Development Agreement, staff would work with the selected development team to walk them through the community engagement and design review processes.
- *Cedar-Lee-Meadowbrook Redevelopment* – See above.
- *Unitarian Church Redevelopment* – Planning staff has been participating in discussions regarding the potential redevelopment of the Unitarian Church site and adjacent properties. Should Council move forward with a development partner, staff would help guide the development partner through the zoning and design review process.
- *Other Economic Development Initiatives* – Planning staff provides input and support on other initiatives, including additional NRP phases, the Taylor-Tudor Plaza properties, the Storefront program, other redevelopment opportunities, developing additional funding mechanisms within the City, etc.
- *Best wishes to Tim Boland* – The entire Planning Department offers best wishes to Tim Boland as he embarks on a new endeavor. It was a pleasure working with/alongside him.

## BOARDS AND COMMISSIONS

The Department of Planning assists the activities of the Architectural Board of Review (ABR), Board of Control, Board of Zoning Appeals (BZA), Landmark Commission, and Planning Commission, and provides staff assistance to the Citizens Advisory Committee (CAC), Racial Justice Task Force, Transportation & Environmental Sustainability Committee (TESC), and City Council (when needed). Below are tables of both active and recently approved applications managed by the Department.

### **ARCHITECTURAL BOARD OF REVIEW (ABR) – 1<sup>st</sup> and 3<sup>rd</sup> Tuesday**

At the December 7, 2021 ABR meeting, the following applications were discussed and approved:

Address	Case #	Project Description
3565 Shannon Road	ABR 2021-284	Request to construct a two-story addition with a deck and attached garage
3055 Essex Road	ABR 2021-285	Request to install solar panels on the roof of the home
3797 Bendemeer Road	ABR 2021-286	Request to construct a two-car, detached garage
3111 North Park Boulevard	ABR 2021-288	Request to install a fence in the front and corner side yard
2603 Fairmont Boulevard	ABR 2021-289	Request to install new windows and construct an addition and breezeway
3942 Delmore Road	ABR 2021-290	Request to construct a new rear entry
2615 Ashton Road	ABR 2021-292	Request to extend the back porch to a new paver path
2736 Berkshire Road	ABR 2021-293	Request to construct a stoop, stairs, and wheelchair ramp in the front yard with a paver walkway
2597 Exeter Road	ABR 2021-294	Request to alter the existing sunroom and install new windows
2407 Woodmere Drive	ABR 2021-295	Request to construct a two-car, detached garage
1016 Oxford Road	ABR 2021-296	Request to construct a two-car, detached garage

The following applications did not receive an action at this time:

Address	Case #	Project Description
2335 Delaware Drive	ABR 2021-287	Request construct a one-car, detached garage
1066 Nela View Road	ABR 2021-291	Request to install new siding and alter the roof

The next ABR meeting will be held on December 21, 2021 and it will be a joint meeting with the Landmark Commission. The agenda from the meeting can be found at: <https://www.clevelandheights.com/DocumentCenter/View/10090>. The results of the meeting will be provided in the next bi-weekly Planning Department report.

**BOARD OF CONTROL (As needed for the S-1 District)**

There was no recent activity involving the Board of Control.

**BOARD OF ZONING APPEALS (BZA) – 3<sup>rd</sup> Wednesday**

The December 15, 2021 BZA meeting will have occurred. The agenda can be found here: <https://www.clevelandheights.com/DocumentCenter/View/10151>

The next BZA meeting will be held on January 19, 2022. The agenda will be posted prior to the meeting. The results of the meeting will be provided in a future Planning Department report.

**LANDMARK COMMISSION – 1<sup>st</sup> Tuesday of Odd Numbered Months**

The Landmark Commission will meet jointly with the ABR on December 21, 2021 regarding two (2) applications. See link above under 'ABR'. The next regularly scheduled Landmark Commission meeting is anticipated to be held on January 4, 2022. A link to the agenda will be provided prior to the meeting date.

**PLANNING COMMISSION – 2<sup>nd</sup> Wednesday**

At the December 8, 2021 Planning Commission meeting, the following application was discussed and approved:

Address	Case #	Project Description
2560 & 2558 Noble Road	Project No. 21-16	Request for conditional use permit for event/party center business

In addition, the Cedar-Lee-Meadowbrook Development Team gave a preliminary presentation on the site plan. The Planning Commission and the public provided initial comments. Planning staff spoke about the process and next steps. All of the meeting materials, including the presentations, are provided on the Cedar-Lee-Meadowbrook project webpage: [www.clevelandheights.com/clm](http://www.clevelandheights.com/clm)

The next Planning Commission meeting is scheduled for January 12, 2022. The date of that meeting may be changed and an update will be provided in the next bi-weekly Planning Department report.

**TRANSPORTATION & ENVIRONMENTAL SUSTAINABILITY COMMITTEE (TESC) – 4<sup>th</sup> Wednesday**

The next TESC meeting is anticipated to be on January 26, 2022. A link to the meeting agenda will be posted prior to the meeting date and the results of the meeting will be reported in a future Planning Department report.

**CITIZENS ADVISORY COMMITTEE (CAC) – 3<sup>rd</sup> Tuesday**

The date and time, along with a link to the meeting agenda, will be posted prior to the meeting date and the results of the meeting will be reported in a future Planning Department report.

**RACIAL JUSTICE TASK FORCE**

The Racial Justice Task Force and its three subcommittees have continued to refine their work plans. The Public Safety Subcommittee met on December 8, 2021; the Housing & Economic Opportunity Subcommittee met on December 15, 2021; the Health & Education Subcommittee will be meeting on December 22, 2021. The full Racial Justice Task Force meeting will take place on December 22, 2021. The full task force and its subcommittees are developing their first 6-month update to Council that will be completed in January. Meeting agendas and links to the meetings can be found on the City Calendar.



To: Susanna Niermann-O'Neil, City Manager

From: Annette M. Mecklenburg, Chief of Police

Date: December 14, 2021

Subject: Police Department Update

### **Crime Update**

On Saturday, December 4, 2021 at 10:58 am officers responded to reports of a male who had been stabbed in the 4100 block of Bluestone. Upon arrival officers located a 17 year old male who was suffering from multiple stab wounds to his head and torso. The CHFD responded and transported him to an area hospital where he is in stable condition and continuing to receive treatment. The victim identified his 21 year old brother as the suspect. He was last seen going up to the second story of the home. Officers attempted to make contact with the suspect, however there was no response. With the use of technology officers were able to look inside the home and discovered the suspect unresponsive in a bedroom on the second floor. Upon making entry officers found the suspect deceased from an apparent self-inflicted injury. It is believed that he committed suicide. The incident remains under investigation.

On Sunday, December 5, 2021 at 11:48 am officers responded to reports of gunshots outside Office Max at Severance Town Center, 3462 Mayfield Road. Upon arrival officers learned that the victim was at Metro Health receiving treatment. The investigation revealed that the victim's sister set up a meeting in the parking lot with the suspect. Once all parties arrived, a dispute occurred between the victim and the suspect inside a vehicle. The suspect believed that the victim was armed and that the victim indicated he was reaching for a gun in his waistband. The suspect, who is a CCW permit holder, then retrieved this gun and shot the victim. The victim sustained a gunshot wound to the abdomen and was transported to the hospital by his sister. The suspect drove directly to the Police Department and surrendered without incident. Information was gathered from all parties involved and witnesses and turned over to the Prosecutor for review. Upon reviewing all information, it was determined that the suspect acted in self-defense and that his actions were justified considering all the facts and evidence collected. Therefore, no criminal charges will be filed in this incident.

On Monday, December 6, 2021, at 12:56 pm the Police Department were made aware of a threat to shoot up Heights High School that was circulating on social media. Detectives were made aware of the threat and immediately began conducting an investigation. The investigation revealed that the threat was posted by a 16 year old virtual student who was arrested and charged with Making Terroristic Threats and Inducing Panic. The juvenile was turned over to the Detention Home. On Monday, December 13, 2021, the Police Department learned of another



threat to shoot up the High School that was discovered on social media. Detectives are currently investigating to determine the source of the threat.

On Friday, December 10, 2021, at 4:04 pm officers responded to the BP Gas Station on a report of a robbery. Preliminary investigation indicates that the suspect, a 21-year old Cleveland Heights woman, became upset when the store employee refused to sell her cigarettes. The suspect then went behind the counter and brandished a pocket knife. The suspect then grabbed a pack of cigarettes and fled from the store. The suspect got into a vehicle and a witness obtained the license plate. Officers located the suspect at her residence on Lynn Park Drive. The suspect initially refused to exit the house, but a detectives were able to eventually convince her to come out of the house. Once she stepped outside, she was apprehended. The suspect was transported to a local hospital for a psychological evaluation and charges will be filed against her for aggravated robbery.

### **Community Events**

#### **Shop with a Cop**

Due to the success of this fundraising effort, we have extended the No Shave through the month of December. To participate, Officers are required to make a donation to our Shop with a Cop fund this year. The minimum donation is \$25.00, however many of the officers have been generous and are donating more. As of this time, we have collected over \$900.00. The money collected will be used to take kids from our community Christmas shopping on Saturday, December 18, 2021. Officers are very excited about being given the opportunity to spread some Holiday cheer to kids right here in our City. We will provide updates on our progress throughout the month.

#### **Police Gym**

The Police Department now has a new location for our employee gym. All equipment from the dairy on Warrensville Center Road has been moved out and is now inside the new gym here in City Hall. The Police Department would like to thank everyone on City Council along with City Officials for their support and assistance in relocating our gym to that all our police officers have a healthy and safe environment to work out in.

# CLEVELAND HEIGHTS

---





Date: December 15, 2021

To: Susanna Niermann-O'Neil, City Manager

From: Collette Clinkscale, Director of Public Works

Subject: Public Works Update

**Sanitary Sewer Evaluation Survey**

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

**Completed Through November 5, 2021**

	<b><u>Completed Thru November 5, 2021 (LF)</u></b>	<b><u>Overall Remaining (LF)</u></b>	<b><u>Overall Remaining (%)</u></b>
<b>CCTV Phase 1</b>	395,097	-	-
<b>CCTV Phase 2</b>	224,792	-	-
<b>MHs Phase 1</b>	1,978	-	-
<b>MHs Phase 2</b>	1,115	-	-
<b>Cleaning Total</b>	733,082	-	-
<b>Cleaning (2018) only</b>	173,355	-	-
<b>Cleaning (2019) only</b>	304,188	-	-
<b>Cleaning (2020) only</b>	140,713	-	-
<b>Cleaning (2021) only</b>	132,000	-	-

### Work Completed by Entity

	<u>City</u>	<u>Contractor</u>	<u>County</u>
CCTV (Phase 1)	19% 75,464 LF	54% 215,287 LF	27% 104,346 LF
CCTV (Phase 2)	19% 41,959 LF	45% 101,854 LF	36% 80,979 LF
Cleaning (2021) only	33% 43,347 LF	45% 58,813 LF	22% 29,286 LF
Cleaning Total	30% 225,151 LF	45% 332,964 LF	25% 192,141 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%

### Sewer Division

The Sewer Maintenance Division has completed cleaning and televising sanitary sewer main for the year and met the CD deadline for 2021. The sewer division has taken over road hole repairs from street maintenance while they concentrate on leaf collection. Three sewer employees were intermittently assigned to Street Maintenance to work the leaf collection detail and assist in this effort.

## **Refuse & Recycling Division**

Bulk collection ran a few days behind due to equipment and staffing related problems.

Upcoming Holiday Schedule: Trash and Recycling Collection will be collected according to the normal collection schedule. **There will be no delays due to the Christmas and New Year Holidays.**

## **Street Maintenance Division**

**A 3<sup>rd</sup> and final Fall loose leaf collection was added to the schedule on December 6<sup>th</sup>.** Crews will be wrapping up the 3<sup>rd</sup> collection by December 21<sup>th</sup>. During the 3<sup>rd</sup> loose leaf collection, crews also collected any yard waste bags that were out during this time. Residents are reminded that no additional yard waste bags or leaf collection will occur after the 3<sup>rd</sup> collection has been completed in their neighborhood until spring 2022. The Streets Division will be converting equipment for snow removal.

## **Forestry Division**

Tree planting season is wrapping up. Some Forestry crew members have been assigned to the leaf collection detail in the Street Maintenance Division to assist with this effort.

## **#21-06 – 2101 Superior Road Rehabilitation**

The contractor has restored the trench above the new water main and in the intersection of Superior and South Taylor. The chlorination testing passed and all new services have been tied in. All work on the project has been completed for the 2021 season. All traffic has been restored and detour signs have been removed. Construction (pavement resurfacing and the new signalization at S. Taylor) will resume in the spring 2022.





### **Coventry Road Rehabilitation**

I am happy to announce the City, along with the County, has secured the necessary funding to rehabilitate Coventry Road. The projected cost of the project is \$2,569,180. The City was able to secure an OPWC grant in the amount of \$770,754. The remaining \$1,798,426 will be an 80/20 split with the County, whereas, the City will be paying 20% of the cost. More to come on this in the near future.



# CLEVELAND HEIGHTS

---

## Committee of the Whole

**December 20, 2021**

**6:30 p.m.**

**Agenda**

1. Legislation overview/Caucus
2. Executive Session
  - a. *To consider the terms of sale or lease of City-owned real property*



## CLEVELAND HEIGHTS

### **AGENDA (tentative) - CLEVELAND HEIGHTS CITY COUNCIL MEETING**

**Monday, December 20, 2021  
Regular Meeting  
7:30 p.m.**

**Cleveland Heights City Hall  
Council Chambers  
40 Severance Circle  
Cleveland Heights, Ohio**

- 1) Meeting called to order by Council President**
- 2) Roll Call of Council Members**
- 3) Excuse absent members**
- 4) Approval of the minutes of the Council meeting held on November 22, 2021**
- 5) Personal communications from citizens**
- 6) Report of the City Manager**
- 7) Report of the Clerk of Council**
- 8) Committee Reports**
  - a.) COMMUNITY RELATIONS AND RECREATION COMMITTEE**
  - b.) FINANCE COMMITTEE**

**ORDINANCE NO. 157-2021 (F), *Second Reading***. An Ordinance authorizing the execution of a Property Schedule to a Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc., as lessor, and the City, as lessee, for the purpose of acquiring an aerial ladder fire truck including related equipment and appurtenances, and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For Against No. Reading

**ORDINANCE NO. 161-2021 (F), First Reading.** An Ordinance providing for the issuance and sale of not to exceed \$3,100,000 of economic development nontax revenue bonds for the purpose of refunding the City’s outstanding Parking Deck Improvement Refunding Bonds, Series 2015, dated April 30, 2015, which were issued for the purpose of constructing and equipping a multi-level parking deck and improving the site thereof, and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
            For                  Against                  No. Reading

**ORDINANCE NO. 162-2021 (F), First Reading.** An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
            For                  Against                  No. Reading

- c.)      **MUNICIPAL SERVICES COMMITTEE**
  
- d.)      **PLANNING AND DEVELOPMENT COMMITTEE**

**RESOLUTION NO. 160-2021 (PD), Second Reading.** A Resolution authorizing the City Manager to enter into a Development Agreement with Amato Homes I, LLC for the redevelopment of vacant residential lots owned or controlled by the City with new single-family homes; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
            For                  Against                  No. Reading

**RESOLUTION NO. 163-2021 (PD), First Reading.** A Resolution authorizing the Mayor to submit the Community Development Block Grant entitlement application for the year beginning January 1, 2022; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
            For              Against                      No. Reading

**e.) PUBLIC SAFETY AND HEALTH COMMITTEE**

**ORDINANCE NO. 164-2021 (PSH), First Reading.** An Ordinance accepting and ratifying the material terms of the Janssen Settlement Agreement pursuant to the OneOhio Memorandum of Understanding consistent with the terms of the July 21, 2021, National Opioid Settlement Agreement; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
            For              Against                      No. Reading

**RESOLUTION NO. 165-2021 (PSH), First Reading.** A Resolution authorizing the City Manager to execute a Memorandum of Understanding with the Cuyahoga County Board of Health concerning the Regional Sewer District Storm Water Program; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
            For              Against                      No. Reading

**f.) ADMINISTRATIVE SERVICES COMMITTEE**

**ORDINANCE NO. 79-2021 (AS), Second Reading.** An Ordinance enacting and adopting Chapter \_\_\_, “Tenant’s Right to Pay to Stay,” of the Codified Ordinances of the City of Cleveland Heights

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For Against No. Reading

**ORDINANCE NO. 155-2021 (AS), Second Reading.** An Ordinance amending Section 183.01, "Public Hearing," of Chapter 183, Political Influence by Corporate Entities, of the Cleveland Heights Codified Ordinances to the date of the public hearing that is to be held annually;

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For Against No. Reading

**RESOLUTION NO. 156-2021 (AS), Second Reading.** A Resolution authorizing the City Manager to enter into an agreement with Arthur J. Gallagher & Company for continuation of its protected liability self-insurance program for the City; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For Against No. Reading

**RESOLUTION NO. 166-2021 (AS), First Reading.** A Resolution declaring the organizational meeting of City Council on January 3, 2022 to be held at the City of Cleveland Heights Community Center; providing for the first regular meeting of City Council to be held on January 10, 2022; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For Against No. Reading

9) Council President's Report

10) Adjournment

**ORGANIZATIONAL MEETING OF COUNCIL: MONDAY, JANUARY 3, 2022**

**NEXT REGULAR MEETING OF COUNCIL: MONDAY, JANUARY 10, 2022**

Proposed: 12/06/2021

ORDINANCE NO. 157-2021 (F), *Second Reading*

By Council Member Hart

An Ordinance authorizing the execution of a Property Schedule to a Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc., as lessor, and the City, as lessee, for the purpose of acquiring an aerial ladder fire truck including related equipment and appurtenances, and declaring an emergency.

WHEREAS, this Council has determined that it is in the best interest of the City to acquire an aerial ladder fire truck including related equipment and appurtenances (the Equipment) pursuant to a Master Tax-Exempt Lease/Purchase Agreement (the Lease-Purchase Agreement) and an Addendum to Tax-Exempt Lease/Purchase Agreement (the Addendum), each dated November 3, 2014, between U.S. Bancorp Government Leasing and Finance, Inc., as lessor (the Lessor), and the City, as lessee, by entering into an additional property schedule, as modified and supplemented by an Addendum (Ohio) to Master Tax-Exempt Lease/Purchase Agreement (the Schedule, and, together with the Lease-Purchase Agreement and the Addendum, the Lease) pursuant to the Lease-Purchase Agreement and the Addendum, a copy of which Lease has been presented to this Council; and

WHEREAS, the obligations of the City under the Lease will be subject to annual appropriations by this Council;

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

SECTION 1. Declaration of Necessity of Lease. It is hereby declared necessary and advantageous to the City for the City to enter into the Lease with the Lessor for the purpose of acquiring an aerial ladder fire truck including related equipment and appurtenances.

SECTION 2. Authorization of Schedule; Authorized Aggregate Principal Component; Interest Rate; Term. The City Manager and the Director of Finance are authorized and directed to sign, acknowledge and deliver, in the name and on behalf of the City, the Schedule in substantially the form on file with the Clerk of Council, provided that the aggregate principal components of the rental payments due under the Lease shall not exceed **\$1,200,000**, the interest component of those rental payments shall accrue at an annual rate not in excess of **2.5%**, and the final renewal term of the Lease shall end not later than **10½ years** from the commencement date of the Lease. The form of the Schedule is approved with changes therein not inconsistent with this Ordinance and not substantially adverse to the City that are permitted by law and shall be approved by the City Manager and the Director of Finance, as signing the same on behalf of the City, provided that the approval of those changes by the City Manager and the Director of Finance, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the signing of the Lease.

SECTION 3. Approval and Execution of Related Documents. The President of Council, the City Manager, the Director of Finance, the Director of Law and the Clerk of Council, as appropriate, are further authorized and directed to sign any certifications, financing statements, documents (including an escrow agreement, if applicable, in substantially the form now on file with the Clerk of Council), addendums and instruments and to take such actions as are desirable, advisable, necessary or appropriate to consummate the transactions contemplated by this Ordinance and the Lease.

SECTION 4. Application of Lease Proceeds. The proceeds of the Lease shall be credited to the proper fund or funds as provided in the Lease, and those proceeds are appropriated and shall be used for the purpose for which the Lease is authorized and are hereby appropriated for that purpose.

SECTION 5. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Lease so that (a) the obligations of the City under the Lease 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 obligations the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest components of the Lease payments (Interest) will not be treated as an item of tax preference under Section 57 of the Code.

The City further covenants that (a) the City will take or cause to be taken such actions which may be required of it for the Interest to be and to remain excluded from gross income for federal income tax purposes, (b) the City will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) the City, or persons acting for it, will, among other acts of compliance, (i) apply or cause the application of the Lease proceeds to the governmental purpose of the Lease, (ii) restrict the yield on investment property acquired with the Lease proceeds, (iii) make timely and adequate payments to the federal government if required, (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 those proceeds, all in such manner and to the extent necessary to assure such exclusion of the Interest under the Code.

The Director of Finance, as the fiscal officer, or the City Manager is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Lease as the City is permitted 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 Lease or Interest 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 Lease, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Lease, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Lease, the facts,

circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the Interest and the tax status of the Lease. Either of those officers is specifically authorized to designate or otherwise determine the obligations of the City under the Lease to be “qualified tax-exempt obligations” for purposes of Section 265 of the Code if such designation or determination is applicable and desirable, and to make any related necessary representations and covenants.

SECTION 6. Appropriation of Funds. The funds necessary to make the Lease Payments due under the Lease during the current fiscal year, if any, have been appropriated and shall be used for that purpose.

SECTION 7. Prior Acts Ratified and Confirmed. Any actions previously taken by City officials or agents of the City in furtherance of the matters set forth in this Ordinance are hereby approved, ratified and confirmed.

SECTION 8. Retention of Counsel. The legal services of Squire Patton Boggs (US) LLP, as counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the execution and delivery of the Lease and the rendering of the necessary legal opinion upon the delivery of the Lease. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 9. 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 its 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 10. 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 11. 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 enable the City to enter into the Lease at the earliest possible date, which is necessary to enable the City to enter into contract(s) for the acquisition of the aerial ladder fire truck and related equipment and appurtenances which is needed to enhance the fire protection services provided by

ORDINANCE NO. 157-2021 (F), *Second Reading*

the City and thereby better protect the health and safety of the citizens of the City; 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  
President of Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

Proposed: 12/20/2021

ORDINANCE NO. 161-2021 (F), *First Reading*

By Council Member

An Ordinance providing for the issuance and sale of not to exceed \$3,100,000 of economic development nontax revenue bonds for the purpose of refunding the City's outstanding Parking Deck Improvement Refunding Bonds, Series 2015, dated April 30, 2015, which were issued for the purpose of constructing and equipping a multi-level parking deck and improving the site thereof, and declaring an emergency.

WHEREAS, the City is authorized 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, to issue bonds or notes to acquire, construct, equip, furnish or improve a "project" as defined in Section 165.01 of the Revised Code and to refund any bonds or notes previously issued for those purposes, all 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 of Ohio; and

WHEREAS, pursuant Ordinance No. 79-2008, passed on June 16, 2008 (the Series 2008 Bond Legislation), there were issued \$6,355,000 Parking Deck Improvement General Obligation Bonds, Series 2008, dated August 5, 2008 (the Series 2008 Bonds), for the purpose stated in Section 3; and

WHEREAS, pursuant Ordinance No. 48-2015, passed on April 20, 2015 (the Series 2015 Bond Legislation), there were issued \$4,640,000 Parking Deck Improvement Refunding Bonds, Series 2015 dated April 30, 2015 (the Series 2015 Bonds), for the purpose of refunding for debt charges savings the Series 2008 Bonds maturing on December 1 of the years 2018 through 2028, which Series 2015 Bonds are currently outstanding in the aggregate principal amount of \$2,965,000 and will mature on December 1 in the years 2022 through 2028 (collectively, the Outstanding Bonds); and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to refund all or a portion of the Outstanding Bonds (the Refunded Bonds); and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue the Bonds described in Section 3 to provide funds sufficient for that purpose, including the payment of expenses properly allocable to that refunding and to the issuance of the Bonds; and

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

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

“Act” means the laws of the State, including, without limitation, Section 13 of Article VIII of the Ohio Constitution and Chapter 165 of the Revised Code.

“Additional Bonds” means any additional bond anticipation notes or bonds of the City which may be subsequently issued and payable solely from the Nontax Revenues on parity with the Bonds.

“Authorized Denominations” means the denomination of \$100,000 or any whole multiple of \$1,000 in excess thereof.

“Bond Fund” means the Bond Fund described in Section 9.

“Bond Proceedings” means, collectively, this Ordinance, the Certificate of Award, the Escrow Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders of the Bonds.

“Bond Register” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 6.

“Bond Registrar” means the Director of Finance, the Original Purchaser or a bank or trust company authorized to do business in the State and designated by the Director of Finance in the Certificate of Award pursuant to Section 5 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Certificate of Award and until a successor Bond Registrar shall have been designated by the City and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar.

“Bonds” means the bonds of the City authorized in Section 3.

“Certificate of Award” means the certificate authorized by Section 7, to be executed by the Director of Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“City” means the City of Cleveland Heights, Ohio.

“City Administrator” means the City Administrator of the City or any person serving in an interim or acting capacity with respect to that office.

“Clerk of Council” means the Clerk of Council of the City or any person serving in an interim or acting capacity with respect to that office.

“Closing Date” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments

of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

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

“Director of Law” means the Director of Law of the City or any person serving in an interim or acting capacity with respect to that office.

“Escrow Agreement” means the Escrow Agreement between the City and the Escrow Trustee, as it may be modified from the form on file with the Clerk of Council and executed by the Mayor and the Director of Finance, all in accordance with Section 11.

“Escrow Fund” means the City of Cleveland Heights Series 2015 Bonds Escrow Fund created pursuant to Section 11 and in accordance with the Escrow Agreement.

“Escrow Trustee” means a bank or trust company authorized to do business in the State and designated by the Director of Finance in the Certificate of Award pursuant to Section 11 as the initial escrow trustee for the Refunded Bonds under the Escrow Agreement and until a successor Escrow Trustee shall have become such pursuant to the provisions of the Escrow Agreement and, thereafter, “Escrow Trustee” shall mean the successor Escrow Trustee.

“Financing Costs” shall have the meaning given in Section 133.01 of the Revised Code.

“Interest Payment Dates” means, unless otherwise specified in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

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

“Nontax Revenues” means all moneys of the City which are not moneys raised by taxation, to the extent available for the purpose of paying debt service charges on the Bonds, 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; (h) proceeds from the sale of assets which are deposited in the City’s General Fund; (i) gifts and donations; and (j) all rental payments which are deposited in the City’s General Fund.

ORDINANCE NO. 161-2021 (F), *First Reading*

“Original Purchaser” means the purchaser of the Bonds specified in the Certificate of Award.

“Outstanding Bonds” means the City’s outstanding Parking Deck Improvement Refunding Bonds, Series 2015, dated April 30, 2015.

“Outstanding Nontax Revenue Notes” means the City’s outstanding Economic Development Nontax Revenue Notes, Series 2021 (Top of the Hill Project), dated April 20, 2021.

“Principal Payment Dates” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years as determined necessary by the Director of Finance in the Certificate of Award; provided that in no case shall the final Principal Payment Date be later than December 31, 2033, which determination shall be made by the Director of Finance in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“Project” means constructing and equipping a multi-level parking deck and improving the site thereof.

“Redemption Date” means the date or dates designated by the Director of Finance in the Certificate of Award as the earliest practicable date or dates on which the Refunded Bonds shall be redeemed in accordance with Section 11, provided that such Redemption Date or Dates shall be no later than 90 days following the Closing Date.

“Refunded Bonds” means, collectively, the principal maturities of the Outstanding Bonds to be determined by the Director of Finance in the Certificate of Award as the maturities the refunding of which will be in the best interest of and financially advantageous to the City.

“Regulations” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“State” means the State of Ohio.

Capitalized terms not otherwise defined in this Ordinance have the meanings assigned to them in the Act..

SECTION 2. Council Determinations. This Council hereby finds and determines that the Project is a “project” as in the Act and is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution; that the utilization of the Project is in furtherance of the purposes of the Act and has 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 that the amount necessary to refund the Refunded Bonds, which were issued to finance the Project, will require the issuance, sale and delivery of the Bonds, which Bonds shall be payable and secured as provided herein.

SECTION 3. Authorized Principal Amount and Purpose; Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this

City in the maximum principal amount of \$3,100,000 (the Bonds) for the purpose of refunding the City's outstanding Parking Deck Improvement Refunding Bonds, Series 2015, dated April 30, 2015, which were issued for the purpose of constructing and equipping a multi-level parking deck and improving the site thereof (the Project). The Bonds shall be issued pursuant to the Act, the City's Charter, this Ordinance and the Certificate of Award.

The principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 3 and shall be an amount determined by the Director of Finance in the Certificate of Award to be the principal amount of Bonds that is required to be issued at this time for the purpose stated in this Section 3, taking into account the costs of refunding the Refunded Bonds, other City moneys available for the purpose, the estimates of the Financing Costs and the interest rates on the Bonds. The Refunded Bonds shall be determined by the Director of Finance in the Certificate of Award as the maturities of the Outstanding Bonds, the refunding of which will be in the best interest of and financially advantageous to the City.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any placement agent, paying agent, escrow trustee and verification consultant, and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Financing Costs identified in the Certificate of Award) shall be used to pay costs of refunding the Refunded Bonds and/or be paid into the Bond Fund, with such determination being made by the Director of Finance in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. Any portion of those proceeds received by the City representing accrued interest shall be paid into the Bond Fund.

SECTION 4. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, provided that their dated date shall not be more than 60 days prior to the Closing Date. If requested by the Original Purchaser, the Director of Finance is hereby authorized to prepare a single registered Bond with multiple maturities of principal in Authorized Denominations as set forth in a payment schedule to be set forth in such Bond or attached thereto.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year and computed on the basis as shall be determined by the Director of Finance, subject to subsection (c) of this Section 4, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature on the Principal Payment Dates in principal amounts as shall be determined by the Director of Finance, subject to subsection (c) of this Section 4, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds and the principal amount of Bonds maturing on each Principal Payment Date shall be such that the true interest cost of the Bonds shall not exceed 5%.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the main office of the Bond Registrar; provided, however, to the extent that in the case of the final principal payment due hereunder, surrender of the Bond at the main office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15<sup>th</sup> day preceding that Interest Payment Date. Notwithstanding the foregoing, so long as the entire principal amount of the Bonds is represented by a single registered Bond, (i) the principal installments on the Bonds may be paid on each Principal Payment Date and any redemption date by (A) wire transfer of immediately available funds to the registered owner, without presentation or surrender thereof, to an account in the United States as such owner will direct in writing to the Bond Registrar or (B) check or draft mailed to the registered owner, provided that in connection with the payment or redemption of the final installment of principal of the Bonds, the registered owner thereof shall present and surrender its Bonds at the office of the Bond Registrar, and (ii) interest on the Bonds may be paid on each Interest Payment Date by (A) wire transfer of immediately available funds to the registered owner, without presentation or surrender thereof, to an account in the United States as such owner will direct in writing to the Bond Registrar or (B) check or draft mailed to the registered owner.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in Authorized Denominations, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Finance in the Certificate of Award; provided that the redemption price for any optional redemption date shall not be greater than 103%.

(ii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable)

are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in Authorized Denominations, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than the Authorized Denominations are then outstanding, each Authorized Denomination unit of principal thereof shall be treated as if it were a separate Bond of the Authorized Denomination. If it is determined that one or more, but not all, of the Authorized Denomination units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of an Authorized Denomination unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the Authorized Denomination unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iii) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(iv) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Section 4(d), upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice

shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 5. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities; provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, shall be numbered as determined by the Director of Finance in order to distinguish each Bond from any other Bond and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the Act, the Charter of the City, this Ordinance and the Certificate of Award.

The Director of Finance is hereby authorized to designate in the Certificate of Award the Director of Finance, the Original Purchaser or a bank or trust company authorized to do business in the State to act as the initial Bond Registrar. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Certificate of Award, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 6. Registration; Transfer and Exchange.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its main office. Subject to the provisions of Section 4(d), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 6. All such payments

shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the main office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the main office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15<sup>th</sup> day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Sale of the Bonds to the Original Purchaser. The Director of Finance is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Finance with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance.

The Director of Finance shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

The Mayor, the City Administrator, 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 and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this

Ordinance. The actions of the Mayor, the City Administrator, the Director of Finance, the Director of Law, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

SECTION 8. Federal Tax Considerations. The City does not intend or represent that the interest on the Bonds will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended, and the City is not and shall not be obligated to take any action to attempt to secure or maintain any such exclusion.

SECTION 9. Security for and Covenants Relating to Bonds.

(a) The Bonds, together with the Outstanding Nontax Revenue Notes and any Additional Bonds that may be issued concurrently or hereafter on a parity therewith, are special obligations of the City, and the principal and interest on the Bonds are payable solely from, and such payment is secured by a pledge of and lien on, those Nontax Revenues established by and as provided in this Ordinance which are on deposit in the Bond Fund, as described below.

There is hereby created a separate account or fund designated as the “Parking Deck Retirement Fund” (the “Bond Fund”) into which Nontax Revenues shall be deposited in accordance with the following provisions.

The City hereby covenants and agrees that on or before each Payment Date it shall deposit in the Bond Fund from Nontax Revenues selected by the City, an amount equal to the amount of principal and interest due on the Bonds on that Payment Date, less, in the discretion of the City, any interest earnings or other moneys accumulated in the Bond Fund which have not theretofore been used as a credit against a prior payment obligation. Moneys in the Bond Fund shall be used solely and exclusively to pay principal of and interest on the Bonds, the Outstanding Nontax Revenue Notes, any parity obligations concurrently issued with the Bonds, and any hereafter designated Additional Bonds, all when due.

The City hereby covenants and agrees that so long as Bonds are outstanding, it will appropriate and maintain sufficient Nontax Revenues each year to make each payment due under this Section 9 and to pay principal and interest when due; provided, however, the payments due hereunder and under the Bonds are payable solely from Nontax Revenues, 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 Bonds are not secured by an obligation or pledge of any moneys raised by taxation. The Bonds do not and shall not represent or constitute a debt or pledge of the faith or credit or taxing power of the City, and the owners of the Bonds have no right to have taxes levied by the City for the payment of principal and interest on the Bonds.

Nothing herein shall be construed as requiring the City to use or apply to the payment of principal and interest on the Bonds 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 Bonds.

(b) 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 Bonds and under all proceedings of this Council pertaining thereto. The City represents that (i) it is, and upon delivery of the Bonds covenants that it will be, duly authorized by the Constitution and laws of the State including particularly and without limitation the Act, to issue the Bonds and to provide the security for payment of the debt service charges on the Bonds in the manner and to the extent set forth herein and in the Bonds; (ii) all actions on its part for the issuance of the Bonds have been or will be taken duly and effectively; and (iii) the Bonds will be valid and enforceable special obligations of the City according to their terms. Each obligation of the City required to be undertaken pursuant to this Ordinance 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 employee 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) All books and documents in the City's possession relating to 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 owners of the Bonds as the owners may from time to time designate.

(d) 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 Bonds along with such information from the records as is necessary to determine the regularity and validity of the issuance of the Bonds.

SECTION 10. Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, 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 Bonds to the extent available, and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 11. Call for Redemption; Escrow Trustee; Escrow Agreement; Escrow Fund. To provide for the payment of the principal of and interest on the Refunded Bonds, the Director of Finance is hereby authorized to designate in the Certificate of Award a bank or trust company authorized to do business in the State to act as the Escrow Trustee. The Mayor and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Escrow Agreement between the City and the Escrow Trustee, in substantially the form as is now on file with the Clerk of Council. The Escrow Fund provided for in the Escrow Agreement is hereby created. The Escrow Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor and the Director of Finance, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Escrow Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Escrow Agreement, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the

extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Acting pursuant to the Series 2015 Bond Ordinance which authorized the Series 2015 Bonds, the Refunded Bonds, as determined by the Director of Finance in the Certificate of Award to be refunded and called for redemption, are hereby called for redemption on the earliest practicable date or dates as set forth in the Certificate of Award (each a Redemption Date) at the required redemption price of the principal amount thereof, and the Director of Finance is hereby authorized and directed to cause those Refunded Bonds to be called for redemption on each applicable Redemption Date and arrange for the notices of redemption to be given in accordance with the applicable provisions of the Series 2015 Bond Ordinance.

For informational purposes, a certified copy of this Ordinance shall be sent by the Director of Finance to the current bond registrar for the Refunded Bonds.

In order to provide for the payment of (a) the interest on the Refunded Bonds on each interest payment date following the Closing Date and through each applicable Redemption Date, (b) the principal and mandatory sinking fund payments (if any in each case) of the Refunded Bonds maturing on or prior to each applicable Redemption Date, and (c) the principal of the Refunded Bonds to be called for redemption on each applicable Redemption Date, the City covenants and agrees with the Escrow Trustee and with the owners of the Refunded Bonds that the City will take, and will cause the Escrow Trustee to take, all steps required by the terms of the Escrow Agreement to carry out such payments. The City will provide from the proceeds of the Bonds and other available funds in accordance with this Ordinance, moneys and investments sufficient to pay in full (a) the interest on the Refunded Bonds on each interest payment date following the Closing Date and through each applicable Redemption Date, (b) the principal and mandatory sinking fund payments (if any in each case) of the Refunded Bonds maturing on or prior to each applicable Redemption Date, and (c) the principal of the Refunded Bonds to be called for redemption on each applicable Redemption Date. The City covenants and agrees with the Escrow Trustee and with the owners of the Refunded Bonds that the City will take, and will cause the Escrow Trustee to take, all steps required by the terms of this Ordinance, the Series 2015 Bond Ordinance and the Escrow Agreement to carry out such payments so that the Refunded Bonds are not deemed to be outstanding.

There shall be delivered to the Escrow Trustee for the Escrow Fund proceeds to be received from the sale of the Bonds and other available funds which shall be held in cash, or, if and to the extent determined by the Director of Finance to be financially advantageous to the City, invested in United States Treasury Obligations (Treasury Securities), State and Local Government Series (SLG Securities) or other direct obligations of, or obligations guaranteed as to both principal and interest by, the United States (direct obligations and guaranteed obligations together with the Treasury Securities and the SLG Securities, collectively, the Securities). For purposes of this paragraph, "direct obligations of, or obligations guaranteed as to both principal and interest by, the United States" includes rights to receive payment or portions of payments of the principal of or interest or other investment income on (i) those obligations and (ii) other obligations fully secured as to payment by those obligations and the interest or other investment income on those obligations.

The moneys in the Escrow Fund which shall be held in cash and Securities (if any) may, if and to the extent determined by the Director of Finance to be financially advantageous to the City, be certified by an independent public accounting firm of national reputation in a written report (the Verification Report) to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any moneys in the Escrow Fund to be held in cash as contemplated by the Verification Report, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, to cause the Refunded Bonds to be deemed to be not outstanding as provided for in the Series 2015 Bond Ordinance. The balance of the proceeds to be received from the sale of the Bonds, less any amount thereof contemplated by the Verification Report to be held in cash in the Escrow Fund and less any amount otherwise provided for herein, shall be used for the payment of costs related to the refunding and the issuance of the Bonds. The Director of Finance is hereby authorized to retain and designate in the Certificate of Award an independent public accounting firm of national reputation to prepare and deliver the Verification Report.

At the direction of the Director of Finance, the Escrow Trustee or the Original Purchaser is authorized to apply and subscribe for SLG Securities on behalf of the City. Further, if the Director of Finance determines that it would be in the best interest of and financially advantageous to the City to purchase Treasury Securities for deposit into the Escrow Fund, the Director of Finance or any other officer of the City, on behalf of the City and in their official capacity, may purchase and deliver such obligations, engage the services of a municipal advisor, bidding agent or similar entity for the purpose of facilitating the bidding, purchase and delivery of such obligations for, and any related structuring of, the Escrow Fund, execute such instruments as are deemed necessary to engage such services for such purpose, and provide further for the payment of the cost of obtaining such services, except to the extent paid by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Any such moneys, and Securities (if any), in addition thereto contemplated by the Verification Report to be held in cash, shall be held by the Escrow Trustee in trust and committed irrevocably to the payment of the principal of and interest on the Refunded Bonds.

SECTION 12. Additional Bonds. The City shall have the right from time to time to issue Additional Bonds on a parity with the Bonds, which Additional Bonds shall be payable solely from the Nontax Revenues, and such payment shall be secured by a pledge of and a lien on the Nontax Revenues as provided by the Act and by an ordinance passed by this Council authorizing the issuance of those Additional Bonds. Before any Additional Bonds are issued, the City shall be required to furnish a certificate of the Director of Finance showing that the maximum annual aggregate of estimated debt service charges on the Bonds, the Outstanding Nontax Revenue Notes, any parity obligations delivered concurrently with or after the Bonds, and those Additional Bonds, or in the event that the Additional Bonds are to be issued as bond anticipation notes, the largest amount required to be paid in any succeeding calendar year to meet the estimated interest and principal maturities of the bonds anticipated by those bond anticipation notes, shall not be less than 50% of estimated Nontax Revenues for the fiscal year immediately following the issuance of the proposed Additional Bonds (the Coverage Test).

Junior lien or other subordinate bonds payable from the Nontax Revenues may be issued without limitation.

The Additional Bonds shall bear such designation as may be necessary to distinguish them from the Bonds or other Additional Bonds having different provisions and shall have maturities, interest rates, interest payment dates, redemption provisions, denominations and other provisions as provided in the ordinances hereafter adopted providing for the issuance of the Additional Bonds; provided, however, that those terms and provisions shall not be inconsistent with this Ordinance to the extent it governs the issuance and terms of Additional Bonds

SECTION 13. Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

SECTION 14. Notification of Bond Issuance. The Director of Finance is authorized and directed to provide 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 for Bond Issuance. 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; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to the Act, the City's Charter, this Ordinance, the Certificate of Award and other authorizing provisions of law.

SECTION 16. Prior Acts Ratified and Confirmed. Any actions previously taken by City officials or agents of the City in furtherance of the matters set forth in this Ordinance are hereby approved, ratified and confirmed.

SECTION 17. 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

ORDINANCE NO. 161-2021 (F), *First Reading*

to the passage of this Ordinance were taken in an open meeting of this Council or its 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 18. 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 19. 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 provide for the sale and issuance of the Bonds, which is necessary to enable the City to refund the Refunded Bonds upon terms in the best interest of and advantageous to the City; 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.

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Passed: \_\_\_\_\_

\_\_\_\_\_  
Amy Himmelein  
Clerk of Council

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
Kahlil Seren  
Mayor

Proposed: 12/20/2021

ORDINANCE NO. 162-2021 (F), *First Reading*

By Council Member

An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021; and declaring an emergency.

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

SECTION 1. Certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances all relating to appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021 be, and the same hereby are increased, decreased and/or transferred in the amounts set forth in Exhibit 1.

SECTION 2. In order to provide funds for debt payments, Cain Park operations, capital projects and the Fire pension fund, the City Manager is hereby authorized to transfer monies from various funds in amounts not to exceed those stated below:

<b>FROM</b>	<b>AMOUNT</b>	<b>TO</b>
101-GENERAL FUND	\$130,000.00	301-DEBT SERVICE FUND
101-GENERAL FUND	100,000.00	215-CAIN PARK OPERATING
101-GENERAL FUND	500,000.00	402-FINANCED CAPITAL PROJECTS FUND
216-REC FAC IMP FUND	16,715.05	301-DEBT SERVICE FUND
231-TREE FUND	22,585.43	301-DEBT SERVICE FUND
606- ALS AMBULANCE SERVICES	20,537.00	301-DEBT SERVICE FUND
606- ALS AMBULANCE SERVICES	100,000.00	233-FIRE PENSION FUND
<b>TOTAL TRANSFERS FROM FUNDS</b>	\$889,837.48	

SECTION 3. All expenditures of the City of Cleveland Heights within the fiscal year ending December 31, 2021, shall be made within the appropriations herein provided. "Appropriation" as used herein means the total amount appropriated for the individual fund. Notwithstanding the financial detail herein presented within an individual fund, the City Manager is authorized to transfer budgeted amounts within each fund, so long as the total amount appropriated for each individual fund is not exceeded.

SECTION 4. Notice of the passage of this ordinance shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one paper of general circulation

ORDINANCE 162-2021, *First Reading*

in the city of Cleveland Heights.

SECTION 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the ongoing and continuous need to preserve the faith and credit of the City. 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  
President of the Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

ORDINANCE 162-2021, *First Reading*

Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget
101 - General	2101 - City Manager	Personal Services	Transfer for salaries, longevity, pension and Medicare.	478,579.82	(49,668.56)	428,911.26
	2106 - Civil Service Commission	Personal Services	Transfer for salaries and Medicare expense.	2,746.64	182.60	2,929.24
		O.T.P.S.	Transfer for salaries and Medicare expense.	37,672.59	(182.60)	37,489.99
	2108 - General Operations	Personal Services	Decrease to move hospitalization expense to new Refuse fund.	7,119,468.00	(433,000.00)	6,686,468.00
	310Z - Oper Trsf/Temp Advance	Other Financing Uses	Increase to support Cain Park operations.	2,550,000.00	100,000.00	2,650,000.00
			Increase to support the Capital Fund.	2,550,000.00	500,000.00	3,050,000.00
			Increase to support the debt service fund.	2,550,000.00	130,000.00	2,680,000.00
	3201 - Income Tax	O.T.P.S.	Transfer for sewer expenses.	1,051,948.62	(14,000.00)	1,037,948.62
	6201 - Service Admin	Personal Services	Transfer for salaries and longevity.	231,671.36	6,350.00	238,021.36
	6207 - Vehicle Maintenance	Personal Services	Transfer for vehicle maintenance and miscellaneous supplies.	839,670.68	(8,000.00)	831,670.68
		O.T.P.S.	Transfer for vehicle maintenance and miscellaneous supplies.	1,423,025.00	8,000.00	1,431,025.00
	7201 - Police Admin	Personal Services	Transfer for salary, pension and longevity.	9,291,730.71	(1,919.23)	9,289,811.48
	7301 - Fire Admin	Personal Services	Transfer for salaries, pension and Medicare.	6,810,509.00	29,318.56	6,839,827.56
	7303 - Fire Prevention	Personal Services	Transfer for salaries, pension and Medicare.	108,707.79	14,000.00	122,707.79
	8201 - Public Prop/Park Maint	O.T.P.S.	Transfer for sewer expenses.	1,080,105.00	14,000.00	1,094,105.00
	8701 - Animal Protection	Personal Services	Transfer for salary, pension and longevity.	78,077.47	1,919.23	79,996.70
207 - Drug Law Enforcement	7206 - Drug Law Enforcement	Personal Services	Increase for overtime expense which is grant funded.	55,922.13	5,515.61	61,437.74
208 - CDBG Resource	5309 - GIS	Personal Services	Transfer for salaries and Medicare expense.	32,838.20	2,307.06	35,145.26

ORDINANCE 162-2021, *First Reading*

Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget
		Capital	Transfer for salaries and Medicare expense.	10,000.00	(2,307.06)	7,692.94
211 - Home Program	5503 - HOME Admin	O.T.P.S.	Transfer to allow use of program income funds.	157,521.00	(157,830.00)	(309.00)
	5505 - HOME Program Income	O.T.P.S.	Transfer to allow use of program income funds.	104,482.00	157,830.00	262,312.00
213 - Police Facility Impr Fund	7201 - Police Admin	O.T.P.S.	Decrease because there is not enough cash to cover current year appropriations.	17,500.00	(2,751.00)	14,749.00
		Capital	Decrease because there is not enough cash to cover current year appropriations.	25,000.00	(25,000.00)	0.00
214 - Local Programming	2108 - General Operations	O.T.P.S.	Increase to timely pay annual maintenance fees for Finance and HR ERP.	102,737.93	57,008.72	159,746.65
215 - Cain Park Operating	8901 - Cain Park Admin/Start-Up	O.T.P.S.	Decrease because there is not enough cash to cover current year appropriations.	518,500.00	(164,754.20)	353,745.80
216 - Rec Fac Imp Fund	3101 - Finance	Other Financing Uses	Increase for debt payment.	27,340.00	16,715.05	44,055.05
231 - Tree	3102 - Oper Trsf/Temp Advance	Other Financing Uses	Increase for debt payment.	11,109.00	22,585.43	33,694.43
232 - Police Pension	7201 - Police Admin	Personal Services	Increase for Police pension expenses.	1,278,905.14	30,000.00	1,308,905.14
233 - Fire Pension	7301 - Fire Admin	Personal Services	Transfer for Fire pension expenses.	1,664,203.87	41,918.46	1,706,122.33
	7303 - Fire Prevention	Personal Services	Transfer for Fire pension expenses.	23,540.00	(15,096.50)	8,443.50
	7304 - ALS Ambulance Services	Personal Services	Transfer for Fire pension expenses.	36,148.00	(26,821.96)	9,326.04
234 - Earned Benefits	2108 - General Operations	Personal Services	Transfer for payment of separation payouts.	89,924.29	(19,327.65)	70,596.64
	5212 - CDBG Real Estate	Personal Services	Transfer for payment of separation payouts.	0.00	956.86	956.86

ORDINANCE 162-2021, *First Reading*

Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget
	6205 - Sewer Maintenance	Personal Services	Transfer for payment of separation payouts.	0.00	7,243.91	7,243.91
	8411 - Community Center Admin	Personal Services	Transfer for payment of separation payouts.	589.33	1,392.28	1,981.61
	9101 - Municipal Court	Personal Services	Transfer for payment of separation payouts.	12,079.41	9,734.60	21,814.01
238 - Coronavirus Relief Fund	7201 - Police Admin	Personal Services	Increase for payment of Police salaries using CARES Act funds.	0.00	20,000.00	20,000.00
	7301 - Fire Admin	Personal Services	Increase for payment of Fire salaries using CARES Act funds.	0.00	20,000.00	20,000.00
602 - Sewerage Disposal	6205 - Sewer Maintenance	Personal Services	Transfer for emergency sewer repair.	1,464,398.50	(19,200.00)	1,445,198.50
		O.T.P.S.	Transfer for emergency sewer repair.	855,550.00	19,200.00	874,750.00
603 - Parking Fund	6210 - Parking Department	Personal Services	Decrease because there is not enough cash to cover current year appropriations.	124,759.14	(40,000.00)	84,759.14
		O.T.P.S.	Decrease because there is not enough cash to cover current year appropriations.	1,098,794.86	(336,500.00)	762,294.86
605 - Refuse Fund	6203 - Refuse Coll/Transfer Sta	Personal Services	Transfer for printing, postage and employee testing expenses.	1,768,618.79	(5,462.00)	1,763,156.79
			Increase to move hospitalization expense to new fund.	1,768,618.79	433,000.00	2,201,618.79
			Decrease because there is not enough cash to cover current year appropriations.	1,768,618.79	(38,000.00)	1,730,618.79
		O.T.P.S.	Transfer for printing, postage and employee testing expenses.	996,088.90	5,462.00	1,001,550.90
606 - ALS Ambulance Services	310Z - Oper Trsf/Temp Advance	Other Financing Uses	Increase for debt payment.	0.00	20,537.00	20,537.00
			Transfer for debt payment.	0.00	25,000.00	25,000.00
	7304 - ALS Ambulance Services	O.T.P.S.	Transfer for debt payment.	0.00	(25,000.00)	(25,000.00)
		Other Financing Uses	Increase to supplement pension expenses in place of general fund monies.	302,984.00	100,000.00	402,984.00

ORDINANCE 162-2021, *First Reading*

Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget
811 - Juvenile Diversion Prog	7209 - Juvenile Diversion Prog	O.T.P.S.	Decrease because there is not enough cash to cover current year appropriations.	12,000.00	(4,000.00)	8,000.00
857 - Sales Tax	3101 - Finance	O.T.P.S.	Increase for payment of sales tax associated with sales tax collected.	393.47	50.00	443.47
858 - Miscellaneous Agency	3105 - Unclaimed Money	O.T.P.S.	Increase for payment of unclaimed funds.	29,099.40	19,492.40	48,591.80
			Transfer to move unclaimed funds greater than five years to the General Fund.	29,229.44	29,099.40	58,328.84
		Other Financing Uses	Transfer to move unclaimed funds greater than five years to the General Fund.	29,229.44	(29,099.40)	130.04
<b>Total</b>				<b>41,954,169.48</b>	<b>430,899.01</b>	<b>42,385,068.49</b>

Proposed: 12/13/2021

RESOLUTION NO. 160-2021 (PD), *Second Reading*

By Council Member Ungar

A Resolution authorizing the City Manager to enter into a Development Agreement with Amato Homes I, LLC for the redevelopment of vacant residential lots owned or controlled by the City with new single-family homes; and declaring an emergency.

WHEREAS, the City issued an RFQ/RFP in October, 2020 for proposals for the collaborative development of new construction, single-family, owner-occupied infill housing on lots that are currently vacant and owned or controlled by the City, known as the Phase I Neighborhood Redevelopment Program; and

WHEREAS, in December 2020, Amato Homes I, LLC (“Amato Homes”) timely submitted its proposal for the development of approximately ten (10) single family homes pursuant to the RFQ/RFP ; and

WHEREAS, on March 15, 2021, this Council authorized the City Manager to negotiate with Amato Homes on the terms of a non-binding Memorandum of Understanding pursuant to the RFQ/RFP and Amato Homes’s response; and

WHEREAS, pursuant to Resolution No. 109-2021, this Council authorized the City Manager to enter into a Memorandum of Understanding with Amato Homes, for the redevelopment of vacant residential lots owned or controlled by the City with new single-family homes; and

WHEREAS, after extensive negotiations, the parties have reached a tentative agreement on the specific terms and conditions of a Development Agreement; and

WHEREAS, this Council has determined that it is in the best interest of the City and its residents to move forward with the Development Agreement.

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

SECTION 1. This Council hereby authorizes the City Manager to enter into a Development Agreement with Amato Homes I, LLC, and sign any other related documents, for the redevelopment of vacant residential lots owned or controlled by the City through the transfer of such lots to Amato Homes and the construction and sale of new single-family homes on such lots. The Development Agreement shall be substantially in accordance with the Development Agreement attached hereto as Exhibit A. The Development Agreement and any related documents shall be approved as to form by, and subject to the final approval of, the Director of Law.

RESOLUTION NO. 160-2021 (PD), *Second Reading*

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 need to enter into the above-referenced Development Agreement and facilitate the construction of new, single-family infill housing within the City at the earliest time possible. 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  
President of the Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:



12.8.2021

**Economic Development Department - Memo to City Council:**

**Subject:** Neighborhood Redevelopment Program (NRP) Phase I  
Infill Housing on Desota Avenue  
Development Agreement with Amato Homes

The Administration has successfully concluded negotiations of a proposed Development Agreement with Amato Homes (Amato Homes I, LLC) to construct new infill housing along Desota Avenue. This proposed agreement follows the approval by Council and subsequent execution of a Memorandum of Understanding (MOU) on or about August 26, 2021 between the City and Amato in anticipation of this project.

The Agreement establishes that the Developer will construct new infill housing on up to 18 lots in the City, resulting in up to 18 new homes in the City. The building sites are currently City-owned vacant lots. The resulting new homes are to be single-family owner-occupied dwellings.

The construction of new homes on lots that have been vacant for a significant period of time is anticipated to have a positive impact along this street and surrounding area by providing neighborhood stabilization, vibrancy, and attracting new residents to our community.

The Developer currently anticipates that the total project cost (new investment in the City) is expected to be in excess of \$2,500,000. The project is expected to be developed in one overall phase of construction, with the anticipated sales price of each home likely to exceed \$220,000 (subject to increase due to escalating prices of materials). The Developer intends to substantially complete the project within 24 months after closing. The agreement envisions the lots being acquired by the Developer four (4) lots at a time (phases), with the last acquisition phase consisting of those lots that remain. The lots will be sold by the City to the Developer at \$100.00 per lot.

The Administration recommends approval of the proposed legislation authorizing the City Manager to enter into a Development Agreement with Amato Homes I, LLC to construct new infill housing along Desota Avenue.

=====

**DEVELOPMENT AGREEMENT**

*by and between*

**CITY OF CLEVELAND HEIGHTS, OHIO**

*and*

**AMATO HOMES I, LLC**

**Project Name: Infill Housing Construction on Desota Avenue  
in Cleveland Heights, Ohio**

Date: \_\_\_\_\_, 2021

=====

## **TABLE OF CONTENTS**

	Page
<b>1. INCORPORATION OF RECITALS.....</b>	<b>3</b>
<b>2. DESCRIPTION OF THE IMPROVEMENTS. ....</b>	<b>3</b>
<b>3. SALE OF LOTS IN PROJECT SITE.....</b>	<b>4</b>
(A) Execution of Purchase Agreements .....	4
(B) City’s Recording of Purchase Agreements .....	4
<b>4. CLOSING ON LEASE OF PROJECT SITE.....</b>	<b>4</b>
(A) Closing; Conditions to Closing .....	4
(B) Conditions .....	4
(C) Failure to Meet Conditions .....	5
<b>5. TIMELINE; PREPARATION OF PLANS AND SPECIFICATIONS; TRAFFIC STUDY.....</b>	<b>6</b>
(A) Timeline/Schedule .....	6
(B) Preliminary and Final Plan.....	6
(C) Right to Terminate Agreement for Failure to Approve Final Plan .....	6
(D) Preliminary Pro Forma.....	6
<b>6. OBTAINING &amp; APPROVING CONSTRUCTION BIDS.....</b>	<b>7</b>
(A) Final Bids .....	7
(B) Budget .....	7
<b>7. CONSTRUCTION.....</b>	<b>7</b>
(A) Construction.....	7
(B) Construction Sequencing .....	8
(C) Surety Bonds .....	8
(D) Applicable Laws .....	8
(E) Inspection of Work .....	9
(F) Mechanics Liens .....	9
(G) Hazardous Materials .....	9
(H) Green Infrastructure .....	9
<b>8. FINANCING; FEES AND EXPENSES OF CITY. ....</b>	<b>10</b>
(A) Financing.....	10

	(B) Fees and Expenses .....	10
<b>9.</b>	<b>DUE DILIGENCE; ECONOMIC FEASIBILITY; COMMUNITY ENGAGEMENT; CITY COOPERATION.....</b>	<b>10</b>
	(A) Due Diligence .....	10
	(B) Community Engagement .....	11
	(C) City Cooperation .....	11
<b>10.</b>	<b>TAXES AND IMPOSITIONS; REAL PROPERTY TAX EXEMPTION.....</b>	<b>12</b>
	(A) Taxes and Impositions .....	12
<b>11.</b>	<b>INSURANCE; INDEMNITY.....</b>	<b>12</b>
	(A) Insurance during Construction .....	12
	(B) Waiver of Subrogation in Favor of City .....	13
	(C) General Indemnity .....	13
	(D) Survival of Claims .....	13
	(E) Indemnification for Environmental Matters .....	13
	(F) Claims .....	14
	(G) Successors and Assigns.....	14
<b>12.</b>	<b>DEFAULT; REMEDIES.....</b>	<b>14</b>
	(A) Default.....	14
	(B) Remedies .....	16
<b>13.</b>	<b>NOTICES.....</b>	<b>16</b>
<b>14.</b>	<b>REPRESENTATIONS, WARRANTIES AND COVENANTS.....</b>	<b>17</b>
<b>15.</b>	<b>REPORTING REQUIREMENTS; COMMUNICATIONS; PRESS RELEASES. ..</b>	<b>18</b>
	(A) Submission of Records and Reports; Records Retention .....	18
	(B) City’s Right to Inspect and Audit .....	18
	(C) Communications and Coordination .....	18
	(D) Press Releases .....	18
	(E) Litigation Notice .....	19
<b>16.</b>	<b>DISPUTE RESOLUTION.....</b>	<b>19</b>
<b>17.</b>	<b>GENERAL PROVISIONS.....</b>	<b>20</b>
	(A) Assignment .....	20
	(B) Entire Agreement; Conflicting Provisions.....	20

(C)	Amendments and Supplements .....	20
(D)	Governing Law .....	20
(E)	Binding Effect .....	20
(F)	Captions .....	21
(G)	Severability .....	21
(H)	No Recording .....	21
(I)	Time .....	21
(J)	No Third Party Beneficiaries .....	21
(K)	No Brokers .....	21
(L)	Official Capacity .....	21
(M)	Contingency for Legislative Authorization from City Council .....	21
(N)	Waiver .....	22
(O)	Termination Upon Completion .....	22
(P)	Agency .....	22
(Q)	Confidentiality .....	22
(R)	Exhibits .....	22

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (“Agreement”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CLEVELAND HEIGHTS, OHIO**, an Ohio municipal corporation, having an address of 40 Severance Circle, Cleveland Heights, Ohio 44118 (the “City”), and **AMATO HOMES I LLC**, a Colorado limited liability company, having an address of 7140 Walton Road, Walton Hills, Ohio 44146 (the “Developer”).

### **RECITALS:**

- A.** The City owns or controls eighteen (18) residential lots (“Lots”) that are currently vacant located along Desota Avenue in the City, the legal descriptions for which Lots are attached as **Exhibit A** hereto (the “Project Site”).
- B.** Developer proposes to develop the Project Site generally as follows:
  - (i) The Project Site will be developed as a result of the construction of infill single-family, owner-occupied housing as further outlined below and as depicted and described in the proposal from Liberty Development/Amato Homes dated December 11, 2020 in response to the RFQ/RFP (the “Proposal”), both of which are attached in **Exhibit B** hereto (all of the foregoing being referred to herein collectively as the “Project”);
  - (ii) The City will transfer ownership of the Lots in the Project Site to the Developer at a cost of \$100.00 per Lot, subject to the terms and conditions of a Reverter Clause;
- C.** Developer and the City propose to collaboratively create quality infill housing on the Lots located in the Project Site to attract new residents to and stabilize the surrounding neighborhood. The City and Developer agree that the development of the Project Site shall be completed in a manner which, at a minimum:
  - (i) Results in housing designs and types that complement and are harmonious with the other houses on these streets and the adjacent residential neighborhoods;
  - (ii) Creates positive economic and fiscal benefits for the neighborhood and the City;
  - (iii) Incorporates greenspace, and basic landscaping, into the design and construction of infill housing on each lot;
  - (iv) Effectively incorporates community feedback into the design;
  - (v) Developer is strongly encouraged to achieve the goal of local worker participation by having a majority of workers participating in the construction of this project being residents of Northeast Ohio;
  - (vi) Developer shall incorporate green building standards, alternative energy sources, and green infrastructure into the design and construction of the housing; and
  - (vii) The City strongly desires to pursue, and will likely require, the redevelopment of the lots along Desota Avenue with new owner-occupied single-family detached

dwelling unit infill housing, subject to the conditions negotiated in a final project development agreement.

- D. Developer currently anticipates that the total project cost is currently expected to be in excess of \$2,500,000.
- E. The Project is expected to be developed in one phase of construction. The anticipated sales price of each home will likely exceed approximately \$220,000 (subject to increase due to escalating prices of materials).
- F. An overview of the general plan of finance with respect to the Project, including Developer sources and uses of funds necessary to complete the Project, including the terms and conditions of any construction loan financing from conventional lenders through a line of credit and/or Letter of Credit that will be used to finance the Project, is set forth on **Exhibit C**. Confidentiality of Developer financing shall be granted for information determined to be proprietary in, or of a trade secret, nature. The Developer shall provide the City with a general construction budget including sources and uses of all funds through a line of credit and/or Letter of Credit relating to the Project. The City acknowledges that the Developer expects to create a multi-tiered plan of finance for the Project and that the Developer shall have the right, upon approval by the City of the Developer's financing plans, to grant a security interest, mortgage or other encumbrance (in any event, an "Encumbrance") to secure debt related thereto. The City shall have the right to review all financing of the Project through a line of credit and/or Letter of Credit that will be used to finance the Project. The actual costs incurred by Developer in designing and constructing all of the Improvements, including Developer's debt service as shown in the general plan of finance, are referred to herein collectively as the "Improvement Costs."
- G. The City will cooperate with the Developer and the buyers / owners of the new houses constructed by the Developer in the review and processing of applications for CRA tax abatement, and take such actions and execute and deliver such documents as may be reasonably required to enable said tax abatement;
- H. Developer presently intends to substantially complete the Project within 24 months after the Closing (as defined in Section 4 hereof), including transfer of Lots to Developer in order for construction activities to commence. The Developer shall acquire the Lots from the City in phases consisting of four (4) Lots per phase, with the exception of the last phase which will consist of any remaining Lots;
- I. The City has determined that the Project is in the vital and best interests of the City and the health, safety and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state and local laws and requirements. The City has further determined that the Project is consistent with the City's Master Plan and Zoning Code;
- J. The City has determined that it is in the best interest of the City to sell the Lots to Developer for \$100.00 per lot, subject to the conditions of a Reverter Clause, construction financing and any down payment assistance provided by the City, because (i) the City will receive

equivalent economic and non-economic benefits from the Project that equal or exceed the value of the Project Site and Improvements, (ii) Developer will procure one hundred percent (100%) of the Improvement Costs and all of the operational costs of the Improvements, and (iii) the Project will create jobs, stimulate economic growth in the area, attract new residents to the City, and enable the Project Site to be put to its highest and best use, for the benefit of the people of the City;

- K.** The City has determined that eliminating competitive bidding with respect to the City's sale of the Lots to Developer is in the best interest of the public because the sale of the Lots to the Developer is necessary for the Project and for the City to gain the unique benefits described in the Recitals of this Agreement;
- L.** The City has determined that selling the Lots to the Developer is justified because the Improvements will yield an estimated 18 new single-family, owner occupied houses and new residents living on Desota Avenue in the City;
- M.** The City and Developer shall enter into one or more mutually agreeable purchase agreements in substantially the form attached as **Exhibit D** hereto (the "Purchase Agreement"), under which Developer will purchase the Lots and develop single-family, owner-occupied housing on each Lot in each Phase of the Project;
- N.** Execution of this Agreement was authorized by Ordinance No. \_\_\_\_\_, passed by City Council on \_\_\_\_\_, 2021;
- O.** The parties desire to memorialize in this Agreement their understandings as to the various responsibilities and obligations with respect to the Project and certain related matters.

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

**1. INCORPORATION OF RECITALS.**

The Recital clauses set forth above are fully incorporated in this Agreement and specifically made a part hereof, as if fully restated herein, and such Recitals are deemed to be fully effective and a reflection of the agreements and understandings of the parties.

**2. DESCRIPTION OF THE IMPROVEMENTS.**

Subject to adjustments that may be made as part of the development and approval of the Final Planning, & Zoning Plans, and Building Plans for the new houses on each Lot (as defined in 5(B) hereof) and any adjustments to these Planning & Zoning Plans and Building Plans that are made in accordance with Section 7(A) hereof, and further subject to any prior termination of this Agreement pursuant to Section 4(C) or 9(A) below, the parties agree that the Project will include the construction of the following Improvements:

***Single-Family, Owner-Occupied Houses.*** The Project shall include 18 new homes, with high-quality amenity packages. The standard features to be available in each house are more fully described in the attached **Exhibit H**.

**3. SALE OF LOTS IN THE PROJECT SITE.**

(A) ***Execution of Purchase Agreements.*** The City shall sell and the Developer shall purchase all eighteen (18) of the Lots, at a price of \$100.00 per lot, pursuant to the terms of the Purchase Agreement in substantially the form attached hereto as **Exhibit D**. Under the Purchase Agreement, Developer shall be solely responsible after Closing for all operating costs, insurance premiums, real estate taxes and assessments, and all other costs associated with the Lots and the Improvements. The Developer shall acquire the Lots from the City in phases consisting of four (4) Lots per phase, with the exception of the last phase which will consist of any remaining Lots.

(B) ***Recording of the Purchase Agreements.*** At the request of either party, the parties shall execute and record the Purchase Agreements in the Cuyahoga County Recorder's Office.

**4. CLOSING ON SALE OF LOTS IN PROJECT SITE.**

(A) ***Closing; Conditions to Closing.***

(i) ***Closing.*** Provided the Conditions (as defined in Section 4(B) below) and in the Purchase Agreement have been satisfied, the City and Developer shall take such actions and execute such documents as are reasonably appropriate to consummate the transactions contemplated hereunder and in the Purchase Agreement, all as are sufficient to vest fee simple title to the Lots in Developer ("Closing"), subject, however, to any and all easements, covenants, restrictions and other matters of record existing on the Effective Date affecting the Lots and/or Project Site. The Closing shall occur not later than six (6) months after the Effective Date ("Closing Date"), subject to extension as described below. The Developer shall select the Title Company for the Closing.

(ii) If all of the Conditions have not been satisfied (or waived in writing) by the Closing Date, the Closing Date may be extended by the City for up to three (3) months at the request of Developer, as set forth in Section 4(C) below, and any such request shall not be unreasonably denied as long as Developer is working diligently to satisfy the Conditions. Subject to the provisions in the last paragraph of Section 9(A), Developer will use good faith efforts to complete its due diligence such that, at the Closing, Developer will be in a position to purchase the Project Site as stated in the Purchase Agreement without any environmental, title, financing or other contingencies of any kind.

(B) ***Conditions.*** The Closing for the Lots in each Phase shall not occur until all of the following conditions ("Conditions") have been met:

(i) Developer shall have certified to the City that Developer has secured all funding required by Developer in order to complete the Improvements in substantial accordance with the Budget (as defined in Section 6(C)), the Final Planning & Zoning, Architectural Board of Review ("ABR") and Building Plan approvals and the Final Schedule (each as defined in Section 5);

(ii) Developer shall have received all governmental or other permits, licenses and approvals necessary or appropriate for the commencement of the Project, including those enumerated in Sections 4(B)(i), (viii), and 5 of this Agreement (“Approvals”) and is prepared to commence construction within sixty (60) days of the Closing;

(iii) (reserved)

(iv) Developer shall have entered into a construction agreement with the general and/or subcontractors for the Project;

(v) Developer shall have provided evidence to the City that it has obtained the amounts and types of insurance required to be obtained by Developer as provided in Section 11;

(vi) Developer shall have delivered to the City a detailed construction Budget for the Project as provided in Section 6(C);

(vii) Developer shall have delivered to the City one or more bonds in a form reasonably satisfactory to the City, as required by Section 7(C) hereof;

(viii) Developer shall have delivered to the City (contemporaneously with the Closing) evidence that it has completed its due diligence in accordance with Section 9(A) and shall have delivered to the City a written confirmation that Developer no longer has the right to terminate this Agreement under Section 9(A);

(ix) Developer has updated its due diligence and feasibility studies, tests, reports and analyses and there have been no material changes. If Developer discovers the existence of existing environmental conditions at the Project Site that require remediation pursuant to Legal Requirements, Developer shall have the right to terminate this Agreement in accordance with Section 9 hereof.

(C) ***Failure to Meet Conditions.*** In the event the Conditions have not been met (or waived in writing) by the Closing Date, and the City has not agreed to an extension of such date in accordance with the last sentence of this Section 4(C), each party shall have the right to terminate this Agreement by written notice to the other at any time after such date (but prior to the date on which both parties agree that all Conditions have been met), and upon such notice this Agreement shall terminate, neither party shall thereafter have any rights or obligations under this Agreement. Notwithstanding the foregoing, the City may extend the Closing Date by up to three (3) months at the request of Developer, and such request shall not be unreasonably denied as long as Developer is working diligently to satisfy the Conditions.

## **5. TIMELINE; PREPARATION OF PLANS AND SPECIFICATIONS.**

(A) ***Timeline/Schedule.*** A Project Schedule/Timeline is attached as **Exhibit E**. Prior to execution of the Purchase Agreement, Developer shall deliver to the City a Final Project Schedule/Timeline (the “Final Schedule”), which shall be in the form of a project critical path schedule, and coordinating and integrating the anticipated construction schedules, Developer’s responsibilities, City responsibilities, governmental agency reviews, and other activities as are necessary for timely completion of the Project. The Final Schedule shall indicate proposed sequences and durations, milestone dates, and an estimated completion date. Developer agrees that the Project shall be developed substantially in accordance with the Final Schedule, subject to delays caused by Force Majeure.

(B) ***Preliminary and Final Plan.*** Developer shall be solely responsible for the planning, design, construction, administration, oversight and completion of the Project. At such time as Developer deems appropriate, it shall begin preparing preliminary plans for the Project Site. Developer shall submit such preliminary plans to the City’s Director of Planning (“Planning Director”), for review and comment, with copies to the City’s Director of Economic Development. Any objections by the Planning Director shall be submitted in writing to Developer within fifteen (15) business days of receipt of said drawings. The presentation of the development plans and the development and approval of the Final Planning & Zoning, ABR and any other City board or commission as appropriate as determined by the City, as well as Building Plans, and the Final Schedule, shall all proceed in accordance with the steps outlined in the City of Cleveland Heights Zoning Code and Building Regulations. None of those approvals is guaranteed by this Agreement. Developer acknowledges that the City is a public office subject to Ohio’s public records laws.

(C) ***Right to Terminate Agreement for Failure to Approve Final Plan.*** The parties agree to work diligently and cooperatively with each other for City approval of the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule. If for any reason the parties, after exercising reasonable efforts, are unable to obtain approval of the City and other governmental authorities as needed by the Closing Date, and that date has not been extended by the City in accordance with Section 4(C), each party shall have the right to terminate this Agreement by giving written notice thereof to the other party no later than sixty (60) days thereafter (but prior to the date on which the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule are approved, whereupon neither party shall thereafter have any further rights or obligations hereunder except as described in Section 8. For purposes of this Section 5(C) and Section 4(B)(i), (viii), the term “approval” means final legislation or administrative action without further appeal or referendum adopted in accordance with the Charter and Ordinances of the City and with standards of other applicable governmental authorities that approves all aspects of the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule.

(D) ***Preliminary Pro Forma.*** Prior to the Closing, Developer shall submit to the City a preliminary pro forma statement of revenues and expenses for the Project following construction, consisting of Developer’s good faith projection of revenues and expenses of the Project following completion, based on sound accounting principles

consistently applied, and including assumptions utilized by Developer in deriving the information contained therein. The content of the pro forma statement shall be treated as confidential and will not be disclosed to third parties unless (1) the City determines in good faith that it is obligated to release the pro forma statement to one or more requesting parties pursuant to applicable law, in which event the City will provide written notice to Developer at the earliest practicable time; or (2) Developer consents in writing to its release. Developer acknowledges that the City is a public office subject to Ohio's public records laws.

## **6. OBTAINING & APPROVING CONSTRUCTION BIDS.**

(A) ***Final Bids.*** Developer shall not solicit bids from contractors or subcontractors that are listed on the Federal Debarred List or the State Debarred List or that are identified as being debarred on the City's Vendor's Performance list. The final bids for the Project, as approved by Developer, are referred to herein as the "Final Bids."

(B) ***Budget.*** Promptly after the approval of the Final Planning & Zoning Plans, ABR and Building Plans, and the Final Schedule contemplated under Section 5(A), Developer shall provide the City with an updated construction budget for the Project specifying all projected costs and expenses of every kind and nature to be incurred in connection with the Project, including all costs of labor, materials, equipment and fixtures needed for completion of the Project and all other costs, fees and expenses relating to construction of the Improvements (as the same may thereafter be updated from time to time during construction, the "Budget"). The content of the Budget shall be treated as confidential and will not be disclosed to third parties unless (1) the City determines in good faith that it is obligated to release the Budget to one or more requesting parties pursuant to applicable law, in which event the City will provide written notice to Developer at the earliest practicable time; or (2) Developer consents in writing to its release. Developer acknowledges that the City is a public office subject to Ohio's public records laws.

## **7. CONSTRUCTION.**

(A) ***Construction.*** Once the parties have approved the Final Planning & Zoning Plans, ABR and Building Plans, and the Final Schedule and the Closing has occurred, and the Developer has received all necessary required permits and approvals, including approval of the Building Plans by the Building Department, Developer shall proceed with construction of the Project within 60 days thereafter unless winter conditions exist, in which case construction shall commence when weather conditions permit. Developer shall thereafter complete construction of the Project in substantial accordance with the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule, provided that Developer may make changes to the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule in accordance with the process set forth in the City's Zoning Code and Building Regulations. Except for assistance to be provided by the City to Developer under this Agreement, and subject to Developer's ability to finalize agreements with its sources of funding, Developer shall be solely responsible for constructing and paying for the Project. Developer reasonably believes as of the date hereof that the sources of funding set forth on **Exhibit C** attached hereto will be adequate

to enable Developer to complete the Project in accordance with the current scope of the Project; subject to cost increases resulting from matters approved in the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule or other circumstances that may change after the date of this Agreement.

The Project shall be performed and completed by Developer, its contractors and subcontractors, or any successors thereof, in a good and workmanlike manner using new, first-class materials in accordance with all federal, state or local laws, statutes, ordinances, building codes, orders, rules and regulations applicable to the Project, whether in force on the Effective Date or enacted thereafter (the “Legal Requirements”). Responsibility for acceptable quantity and quality of work performed rests with Developer. The City makes no warranty relative thereto. Further, Developer agrees not to hold the City liable in any manner for any deficiency in the quantity or quality of work performed or to be performed. All work in any existing and future right of way shall only be done under permit from the City. Developer shall be responsible for obtaining and paying for all necessary permits and licenses and for obtaining all necessary third-party approvals for the Project, including but not limited to, driveway and other access or ingress/egress permits or easements. Developer shall be responsible for all tap-in fees, impact fees or other fees related to procuring or bringing utilities to the Project Site.

Upon the commencement of construction of the Improvements, Developer shall diligently pursue such construction to completion in accordance with the Final Schedule, subject to delays caused by Force Majeure (as defined in Section 12(A)), and shall use its commercially reasonable efforts to avoid delays and resolve disputes. Developer shall give the City notice of the initial occurrence of each and every individual event of Force Majeure within thirty (30) days after the commencement of such event.

Developer will not deviate from the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule, in any material fashion without obtaining approval in accordance with the process set forth in the City of Cleveland Heights’ Zoning Code and Building Regulations.

(B) **Construction Sequencing.** The sequencing of construction of the Improvements shall be in accordance with the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule.

(C) **Surety Bonds.** Prior to commencing construction of the Project, Developer shall provide the City with a payment bond in form and with a surety satisfactory to the City.

(D) **Applicable Laws.** Developer shall obtain and maintain all necessary City and other governmental permits, licenses and other approvals and shall comply with all applicable federal, state and local laws, codes, ordinances and other governmental requirements relating to development of the Project. By executing this Agreement, the City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits and other approvals from the City’s Department of Planning, the City’s Department of Public Works, the City’s ABR, or any other City board or commission that may be required in connection with the Project.

(E) ***Inspection of Work.*** During construction, the City, its employees and agents, at its own expense, shall have the right at all reasonable times, after written notice to Developer, subject to Developer's reasonable guidelines and in a manner not to unreasonably interfere with or delay construction activities (and subject to such reasonable site safety requirements Developer may impose), to enter upon the construction site to examine and inspect the progress of construction to determine whether Developer is complying with the requirements of this Agreement and for any other reasonable purpose. The foregoing shall not be deemed as limiting in any way the rights of the City's building inspectors to conduct inspections from time to time and without prior notice, in accordance with normal City inspection procedures. The City shall, at the City's option, be entitled to either (i) receive copies of any and all reports prepared during construction of the Improvements by any construction monitor or lender's representative engaged by or for the benefit of Developer's construction lender, or (ii) engage a separate construction monitor or owner's representative at City's expense to monitor and report to the City on the progress of construction and the compliance of Developer with the terms of this Agreement.

(F) ***Mechanics Liens.*** If a mechanics' lien shall at any time be filed against the Project, Developer shall, within forty-five (45) days after notice of the filing thereof, cause the same to be discharged as a lien against the Project, by bonding or otherwise.

(G) ***Hazardous Materials.*** Developer, its officers, agents, employees, contractors, subcontractors, guests and invitees shall not bring in, on or incorporate into the real property or any of the Project, any asbestos or other hazardous or toxic substance in contravention of any federal, state, county or city health, safety, or sanitation law, ordinance, regulation or rule. If it is determined that Developer has caused or permitted hazardous materials to be brought in, on or incorporated into the Project Site or the Improvements in violation of law, Developer shall fully remediate such condition within thirty (30) calendar days following any determination by any government authority. In the event such remediation reasonably requires a longer period of time to complete, such thirty-day period shall be reasonably extended provided Developer has commenced such remediation within the initial thirty-day period and pursues such remediation with due diligence.

(H) ***Green Infrastructure and Utilization of Alternative Sources of Energy.*** Developer shall design and construct, at its expense, the Project to incorporate a variety of green building components. This shall be demonstrated through indication of meeting the criteria for standards such as the United States Green Building Council Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND), Enterprise Community Partners Enterprise Green Communities, Institute of Sustainable Infrastructure (ISI) Envision, Green Building Initiatives Green Globes, National Association of Home Builders National Green Building Standard, International Living Building Institute Living Building Challenge or equivalent green building/infrastructure program criteria acceptable to the Zoning Administrator. The Project shall make best efforts to integrate various components, but will not be required to

meet specific thresholds and/or achieve a predetermined level of green building (or similar designation).

**8. FINANCING; FEES AND EXPENSES OF CITY.**

**(A) *Financing.***

The City acknowledges that Developer expects to create a multi-tiered plan of finance for the Project and that Developer shall have the right to grant a security interest, mortgage or other encumbrance (in any event, an “Encumbrance”) to secure debt related thereto (“Developer Financing”) in Developer’s interest in the Project Site and all of Developer’s right, title and interest in the Improvements and any fixtures, equipment and personal property located therein or thereon. Except as described in Section 3 of this Agreement and this Section 8, no such Encumbrance shall extend to, affect or be a lien upon the estate and interest of the City in the Project Site or any part thereof and any such Encumbrance shall be a lien on the Lots only

Developer has represented to the City that it intends to use various sources of funds to finance the costs associated with the Improvements, as set forth in a general plan of finance and statement of Sources and Uses as set forth on Exhibit C. The actual costs incurred by Developer in designing and constructing all of the Improvements, including Developer’s debt service on the various financings related to the Project, are referred to herein collectively as the “Improvement Costs.”

**(B) *Fees and Expenses.***

Developer will pay all costs and expenses incurred by Developer in connection with the development of the Project (subject to its rights to contest), including, but not limited to, all costs and expenses incurred by Developer in connection with title searches and title insurance, environmental studies and reports, feasibility studies, traffic impact studies and parking studies, appraisals, surveys and plats, architectural and construction costs, financing costs, and all legal fees incurred by Developer.

**9. DUE DILIGENCE; ECONOMIC FEASIBILITY; COMMUNITY ENGAGEMENT; CITY COOPERATION.**

**(A) *Due Diligence.*** Developer or its designee shall have a period of time commencing on the Effective Date and continuing for 30 days (the “Inspection Period”) to conduct inspections, studies and investigations of the Project. Developer and its agents, representatives and contractors have been granted full access to the land comprising the Project Site pursuant to an Access Agreement dated as of \_\_\_\_\_, 2021 (the “Access Agreement”) as described in Exhibit E, for purposes of conducting such physical and environmental inspections, tests and surveys, including without limitation a Phase I environmental survey, soil borings, geotechnical testing, surveys and title searches (collectively, the “Inspections”) of the Project Site as Developer deems necessary or appropriate, in Developer’s sole discretion, to determine the feasibility, costs and physical and other impediments to development of the Project. Developer and City hereby agree the Access Agreement shall remain in full force and effect through the first to occur of the Closing or the termination of this Agreement.

Developer shall allow the City to review any and all test results and reports relating to Inspection Work performed at the Project Site. Developer shall be responsible for any damage to the Project Site caused by Developer or Developer's inspectors or contractors during such Inspections, shall repair and restore the Project Site to its condition immediately prior to said Inspections, and shall indemnify and hold the City harmless from and against any and all costs, claims and liabilities arising therefrom except arising out of pre-existing conditions.

The City shall furnish or make available to Developer upon the Effective Date, all available information with respect to the history and physical and environmental condition of the Project Site which is in the City's possession or control, including without limitation any studies or tests, surveys, plats and title reports. Additionally, the City agrees that between the Effective Date and the Closing Date it will not take any actions or steps that might have a material impact on the environmental condition, soil condition, survey status or title of the Project Site without Developer's prior consent.

Developer agrees that during the Inspection Period it will complete or cause to be completed, at its cost, such market studies and analysis (collectively, "Market Studies") as it deems necessary or appropriate to determine the economic feasibility of the Project as described in this Agreement. Developer shall allow the City to review any and all such Market Studies and analysis.

In the event that Developer is dissatisfied with the results of the Inspections for any reason whatsoever, or determines, based upon the Market Studies, that the Project, or any portion thereof, as described in this Agreement is not economically feasible for the Project Site, Developer may give written notice to the City to such effect and thereafter shall have no obligation or liability with respect to the Project. Alternatively, Developer may propose changes to the nature and scope of the proposed Project or propose an alternate method for addressing the issue discovered as a result of the Inspections. If such changes or alternate method are rejected by the City, Developer may likewise give written notice to the City and thereafter shall have no obligation or liability with respect to the Project.

(B) ***Community Engagement.*** Developer acknowledges that the City considers community engagement to be a critical component of the development process for the Project, and Developer agrees to cooperate with the City to gather input concerning the Project from residents on, and businesses nearby, Desota Avenue and the greater Cleveland Heights community.

(C) ***City Cooperation.*** The City intends to work collaboratively with Developer to refine the Project and to assist Developer as much as possible with streamlining City zoning, permitting and design review and approval processes.

The City will cooperate with Developer in connection with the vacation of existing streets, dedication of new streets, re-platting/reconfiguration of the Project Site, changes in zoning (if applicable) and execution of easement and/or easement modification agreements, or similar recorded or unrecorded instruments with respect to the Project, or that impact the Project, and which are reasonably necessary to facilitate ingress, egress, access to or relocation of utilities, and access and to other public improvements; provided that such cooperation shall not require the City

to expend its own funds in connection with such vacating, dedicating, re-platting/reconfiguration, changes in zoning or execution of easement and/or easement modification agreements.

#### **10. TAXES AND IMPOSITIONS; REAL PROPERTY TAX EXEMPTION.**

(A) ***Taxes and Impositions.*** Commencing on the Closing and thereafter, Developer shall pay all real property taxes and assessments (prorated on a lien basis) with respect to the Lots it has acquired directly to the taxing authority before the same become overdue until such time as the new house is sold to the homebuyer. The City will cooperate with Developer to cause all bills and statements for taxes and assessments to be delivered directly to Developer and shall promptly deliver to Developer any such bills and statements which the City receives. Except as otherwise provided in this Agreement or the terms of any financing described in Section 8(A) of this Agreement, Developer shall be permitted to contest any real property taxes or assessments with respect to the Project in accordance with applicable law and procedures. Developer may apply for and receive any and all other incentives available and applicable to the Project from any and all federal, state and local governmental authorities and the City will cooperate with Developer to apply for such incentives.

Developer shall ensure that all income tax payments associated with such work, including that performed by its subcontractors, during construction of the Project, are paid to the City.

#### **11. INSURANCE; INDEMNITY.**

(A) ***Insurance during Construction.*** Until such time as all construction has been completed, Developer shall maintain the following insurance: (i) Commercial General Liability insurance of at least Two Million Dollars (\$2,000,000) per occurrence, combined single limit/\$2,000,000 aggregate (through a combination of primary and excess/umbrella coverage), naming the City as an additional insured and providing that the Developer's policy is primary and any City policy is secondary and non-contributing, (ii) customary builder's risk insurance in the amount of one-hundred percent (100%) of the value of the Improvements (exclusive of land and foundation), (iii) worker's compensation insurance in such amount as required by law, and (iv) all insurance as may be required by Developer's lenders. Developer shall also require any contractors and subcontractors working on the Project Site to maintain (x) Commercial General Liability insurance of at least One Million Dollars (\$1,000,000) per occurrence, combined single limit/\$1,000,000 aggregate, naming the City as additional insured and providing that the contractor's or subcontractor's policy is primary and any City policy is secondary and non-contributing, (y) worker's compensation insurance in such amount as required by law, and (z) all insurance as may be required by Developer's lenders. All insurance policies (excluding worker's compensation insurance) shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide

that they may not be canceled or modified without at least thirty (30) days prior written notice to the City. Notwithstanding the foregoing, the coverages and limits of insurance to be carried by Developer may be consistent with those required by Developer's lenders and/or as the Project may require, but subject to City approval, which approval shall not be unreasonably withheld or delayed.

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

(C) ***General Indemnity.*** Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, and except to the extent caused by the negligence or willful misconduct of the Indemnified Parties (as defined below) or any one or combination thereof, Developer agrees to defend, indemnify and hold the City, its employees, agents, contractors and subcontractors (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including without limitation reasonable attorneys' fees), demands, judgments, liability and damages for personal injury or property damage (excluding diminution in value or claims of eminent domain) asserted against the Indemnified Parties as a result of or arising directly from the acts of Developer or its agents, employees, contractors, subcontractors, licensees, invitees or anyone else acting at its request in connection with the Project (collectively referred to as "Claims"). Developer shall undertake, at its sole expense and through counsel reasonably satisfactory to the City's Law Director, the defense of the City in any Claims covered by the foregoing indemnification.

(D) ***Survival of Claims.*** Developer's indemnification and defense obligations shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable Legal Requirements.

(E) ***Indemnification for Environmental Matters.*** Developer agrees to indemnify and hold the Indemnified Parties harmless from and against all Claims asserted against any Indemnified Party as a result of the existence on, or release from, the Property, of Hazardous Materials, or arising out of any claim for violation or failure to comply with Legal Requirements concerning environmental protection, as well as wetlands protection laws, applicable to the construction site or its environs in connection with the Project, but only to the extent any of the foregoing are caused by any act of omission or commission of Developer, or any party under Developer's direction, or any of their agents, employees,

independent contractors, invitees, licensees, successors or assignees. Nothing in this Agreement is meant to release, extinguish or otherwise alter or interfere with any rights which the Indemnified Parties may now or hereafter have against any other Person for any environmental liabilities as a result of such Person's former, present or future ownership, occupancy or use of or interest in, any real property included in or in the vicinity of the Project Site.

(F) **Claims.** In case any Claim or demand is at any time made, or action or proceeding is brought against or otherwise involving an Indemnified Party in respect of which indemnity may be sought hereunder, the Indemnified Party seeking indemnity promptly shall give notice of that action or proceeding to Developer, who upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of the Indemnified Party to give that notice shall not relieve Developer from any obligation under this section unless, and only to the extent, that a failure to give notice materially prejudices the defense of the action or proceeding by Developer. An Indemnified Party may employ separate counsel and participate in the defense of an indemnified Claim, but the fees and expenses of such counsel shall be paid by the Indemnified Party unless (a) the employment of such counsel has been specifically authorized by Developer in writing, (b) Developer has failed to assume the defense and to employ counsel, or (c) the named parties to any such action (including any impleaded parties) include both an Indemnified Party and Developer and such Indemnified Party has been advised by its counsel that there may one or more legal defenses available to it which are different from or additional to those available to Developer, in which case, if the Indemnified Party notifies Developer in writing that it elects to employ separate counsel at Developer's expense, Developer shall not have the right to assume the defense of such action on behalf of such Indemnified Party and Developer shall be responsible for payment of the fees and expenses of such separate counsel. An Indemnified Party seeking indemnity agrees to fully cooperate with Developer, to the extent such cooperation does not prejudice the position of such Indemnified Party, and lend Developer such assistance as Developer shall reasonably request in defense of any claim, demand, action or proceeding. Developer shall not, nor shall any Indemnified Party, be liable for any settlement made without its consent.

(G) **Successors and Assigns.** The indemnification set forth in this Section is intended to and shall include the indemnification of all affected officers, officials, directors, employees and agents of each Indemnified Party, respectively, and their successors and permitted assigns. That indemnification is intended to and shall be enforceable thereby to the full extent permitted by law and shall survive the termination of this Agreement.

## **12. DEFAULT; REMEDIES.**

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

- (i) The dissolution of Developer or the filing of any bankruptcy or insolvency proceedings by or against it which is not dismissed or removed in 90

days, the appointment of a receiver (temporary or permanent) for Developer which is not dismissed or removed in 90 days, the attachment of, levy upon, or seizure by legal process of any property of Developer which is not dismissed or removed in 90 days; or

(ii) The failure of Developer to perform or observe any of its obligations, duties, or responsibilities under this Agreement (including without limitation the failure to timely complete the Improvements), and failure by Developer to correct such failure within thirty (30) days after receipt of written notice thereof from the City; provided, however, that if the nature of the default is such that it cannot reasonably be cured within thirty (30) days, an event of default shall not be deemed to have occurred if Developer commences to cure the default within such thirty day period and thereafter diligently completes such cure; or

(iii) The failure of the City to perform or observe any of its obligations, duties or responsibilities under this Agreement, which continues for sixty (60) days after receipt of written notice thereof from Developer; or

(iv) Any representation or warranty made by Developer herein or any statement made by Developer (as opposed to a third party) in any report, certificate, financial statement, in any agreements or other instruments furnished in connection with this Agreement or the development of the Project shall at any time prove to have been materially false or misleading in any material respect when made or given.

Notwithstanding the foregoing, if, by reason of Force Majeure, Developer is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (ii) or (iii) hereof, Developer shall not be deemed in default during the continuance of such inability. However, Developer shall promptly give notice to the City of the existence of an event of Force Majeure within thirty (30) days after the commencement thereof and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within Developer's discretion. The term "Force Majeure" shall mean, without limitation, the following:

acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; delays caused by City or any governmental authority with respect to permitting, zoning or similar issues; or any cause, circumstance or event, whether similar or dissimilar to the foregoing, not reasonably within the control of Developer; provided that inability to

obtain necessary financing shall not, by itself, constitute an event of Force Majeure.

The declaration of an Event of Default under subsection (i) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

(B) ***Remedies.*** Upon the occurrence of an event of default by Developer under this Agreement, the City shall be entitled to (i) take such actions in the way of “self-help” as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of the defaulting party, and (ii) exercise any and all other rights and remedies under this Agreement or available at law or in equity, including without limitation pursuing an action for specific performance against the defaulting party. Upon the occurrence of an event of default by the City under this Agreement, Developer will be entitled to enforce the obligation of the City through exercising its rights under law or in equity. Developer shall be liable for all direct costs and damages, including without limitation reasonable attorneys’ fees, suffered or incurred by the City as a result of Developer’s default under this Agreement or the City’s termination of this Agreement. The failure of the City or Developer to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy.

### **13. NOTICES.**

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

To the City:                      City of Cleveland Heights  
    40 Severance Circle  
    Cleveland Heights, Ohio 44118  
    Attention: Economic Development Director

With a copy to:                City of Cleveland Heights  
    40 Severance Circle  
    Cleveland Heights, Ohio 44118  
    Attention: City Manager

And a copy to:                City of Cleveland Heights  
    40 Severance Circle  
    Cleveland Heights, Ohio 44118  
    Attention: Director of Law

To Developer:

And a copy to:

And a copy to:

**14. REPRESENTATIONS, WARRANTIES AND COVENANTS.**

Developer makes the following representations, warranties and covenants to induce the City to enter into this Agreement:

(A) Developer is a limited liability company duly organized and validly existing under the laws of the State of Colorado, is qualified to do business in the state of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement.

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

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

(D) There are no actions, suits, proceedings or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer, at law or in equity or before or by any governmental authority that, if determined adversely to Developer, would have a material impact on Developer's ability to perform its obligations hereunder.

(E) Developer shall use commercially reasonable efforts to take all actions as are necessary to satisfy or fulfill the Conditions listed in Section 4(B) that are to be satisfied by Developer.

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

The City represents that the City has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein. This Agreement has by proper action been duly authorized, executed and delivered by the City and all actions necessary have been taken to constitute this Agreement, when executed and delivered, a valid and binding obligation of the City. The City shall use its reasonable best efforts to take all actions as are necessary to satisfy or fulfill the conditions listed in Section 4(B) that are to be satisfied by the City.

**15. REPORTING REQUIREMENTS; COMMUNICATIONS; PRESS RELEASES.**

(A) ***Submission of Records and Reports; Records Retention.*** Until such time as the Improvements have been completed, Developer shall collect, maintain, and furnish to the City upon the City's request such accounting, financial, business, administrative, operational and other reports, records, statements and information as may be reasonably requested by the City pertaining to Developer, the Project, or this Agreement, including without limitation financial statements certified by an officer of Developer, construction contracts and subcontracts, all design documents and drawings, and such other reports and information as may be required for compliance with programs and projects funded by Developer's lender (including periodic reports prepared by any construction inspector reporting to such lender) (collectively, "Records and Reports"). All Records and Reports compiled by Developer and furnished to the City shall be in such reasonable form as the City may from time to time require. The content of the Records and Reports shall be treated as confidential and will not be disclosed to third parties unless (1) the City determines in good faith that it is obligated to release the Records and Reports to one or more requesting parties pursuant to applicable law, in which event the City will provide written notice to Developer at the earliest practicable time; or (2) Developer consents in writing to its release. Developer acknowledges that the City is a public office subject to Ohio's public records laws.

(B) ***City's Right to Inspect and Audit.*** From and after the Effective Date, Developer shall permit the City and its designees and auditors, at the City's cost and expense, to have reasonable access to and to inspect and audit Developer's Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its reasonable out-of-pocket costs associated with such inspection or audit.

(C) ***Communications and Coordination.*** Attached as **Exhibit G** is the plan for communication and coordination between Developer and the City during the pre-construction planning period and the construction period for the Project, and such plan is incorporated as part of this Agreement.

(D) ***Press Releases.*** Developer agrees not to issue any press releases or make other public announcements with respect to the Project without prior written approval of the City. Except as otherwise required by applicable law, City agrees not to issue any press releases with respect to the Project without prior written approval of the Developer.

(E) ***Litigation Notice.***

(i) Developer shall give the City prompt notice of any action, suit or proceeding by or against Developer at law or in equity, or before any governmental instrumentality or agency, or of any of the same which is threatened in writing, of which Developer has notice, and which, if adversely determined, would materially impair the right or ability of Developer to carry on the business activities of Developer or the right or ability to operate the Project or would materially and adversely affect its ability to perform its obligations hereunder.

(ii) The City shall give Developer prompt notice of any action, suit or proceeding by or against the City at law or in equity, or before any governmental instrumentality or agency, or of any of the same which is threatened in writing, of which the City has notice, and which, if adversely determined, would materially impair the right or ability of the City to carry on the business activities of the City or would materially and adversely affect its ability to perform its obligations hereunder.

**16. DISPUTE RESOLUTION.**

If the parties cannot reach resolution on a matter relating to or arising out of the Agreement, the parties shall endeavor to reach resolution through good faith direct discussions between the parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the parties' representatives are not able to resolve such matter within five (5) business days of the date of first discussion, the parties' representatives shall immediately inform senior executives of the parties in writing that resolution was not affected. Upon receipt of such notice, the senior executives of the parties shall meet within five (5) business days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) days from the date of first discussion, the parties shall submit such matter to dispute resolution procedures provided herein.

Should the parties be unable to resolve said dispute through good faith negotiations, the dispute shall be decided by arbitration in accordance the Construction Industry Rules of the American Arbitration Association before an arbitrator with substantial experience in construction law. Any arbitration shall provide for the conduct of discovery by both parties pursuant to the Ohio Rules of Civil Procedure. Failure of either party to provide discovery in a pending arbitration shall terminate the agreement to arbitrate upon written notice of termination by the party requesting discovery to the opposing party. Such termination shall divest the arbitrator(s) of jurisdiction and neither party shall be bound by any determination of the arbitrator(s). The arbitrator(s) are not empowered to award punitive damages and each party expressly waives any right to punitive damages. The conduct of any hearing shall be in accordance with the Ohio Rules of Evidence and Civil Procedure and the arbitrator shall apply Ohio law. Nothing contained in this paragraph shall prevent either party from obtaining injunctive relief from a court of competent jurisdiction to obtain provisional relief pending a decision on the merits by the arbitrator(s). The award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

## 17. **GENERAL PROVISIONS.**

(A) ***Assignment.*** Developer shall not assign its rights or interests under this Agreement without the prior written consent of the City, which shall not be unreasonably withheld, delayed and conditioned; except that Developer's assignment to an affiliate of Developer (with prior written notice to the City), and Developer's collateral assignment of its rights under this Agreement to its lenders for the Project, shall be permitted; provided however that no such assignments by Developer to an affiliate or lender shall relieve Developer of its obligations or liability to the City under this Agreement.

(B) ***Entire Agreement; Conflicting Provisions.*** This Agreement (including the exhibits hereto) and the other agreements referred to herein contain the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other agreements are in conflict with the specific provisions of such other agreements, the provisions of such other agreements shall control.

(C) ***Amendments and Supplements.*** Recognizing the likelihood of changing conditions (such as demand and supply factors), the need for development of the Final Planning & Zoning, ABR and Building Plans, and the Final Schedule and the need to finalize terms and conditions of financings relating to the Project, the parties agree to review and consider in good faith amendments to this Agreement as necessary or appropriate. This Agreement may be amended only by a written amendment signed by all parties. The City agrees to reasonably consider any requests for amendments to this Agreement in a manner requested by Developer's lender.

(D) ***Governing Law.*** This Agreement shall be governed by and construed in accordance with the laws of the City of Cleveland Heights and the State of Ohio, including but not limited to public records and open meetings laws. Subject to the provisions of Section 16 above, all actions regarding this Agreement shall be brought in the Cuyahoga County Court of Common Pleas, and Developer agrees that venue in such court is proper. The parties hereby waive trial by jury with respect to any and all disputes arising under this Agreement. The Developer agrees that it will comply with all applicable federal, state and local laws with regard to housing opportunities and fair employment practices and will not discriminate on the basis of the protected classes identified in Section 749.01 of the Cleveland Heights Codified Ordinances (age, race, color, religion, sex, familial status, national origin, disability, sexual orientation, or gender identity or expression) in connection with the construction or sale of housing or otherwise pursuant to or in connection with the Project or this Agreement.

(E) ***Binding Effect.*** This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and permitted assigns. Each party to this Agreement hereby represents and warrants that it is executing this Agreement with the full and proper authority and that the

parties whose names appear hereon are duly authorized and empowered to make and execute this Agreement.

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

(G) **Severability.** If any part of this Agreement is held by a court of law to be void, illegal or unenforceable, such part shall be deemed severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.

(H) **No Recording.** This Agreement shall not be recorded in the Cuyahoga County Recorder's office unless the parties otherwise mutually agree to do so.

(I) **Time.** Time is of the essence with respect to the performance by the parties of their respective obligations under this Agreement, provided that the time periods for the performance of Developer's obligations shall be extended for delays caused by Force Majeure as described in Section 12 hereof.

(J) **No Third-Party Beneficiaries.** The parties hereby agree that, except for such rights of Developer's lender as may be set forth in documents acknowledged by the City, no third-party beneficiary rights are intended to be created by this Agreement.

(K) **No Brokers.** The parties represent that they have not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee or other compensation as a result of the parties' execution of this Agreement.

(L) **Official Capacity.** All representations, warranties, covenants, agreements and obligations of the City under this Agreement shall be effective to the extent permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future officer, agent, employee or attorney of the City in other than his or her official capacity. No official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No official or employee of the City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the City or for any amount or amounts which may become due to Developer or any successor to Developer or on any obligations under the terms and conditions of this Agreement.

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

(N) **Waiver.** No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition, or duty of the other party shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty to be observed by the other party.

(O) **Termination Upon Completion.** Upon completion of construction of the Project in substantial accordance with the terms of this Agreement, this Agreement shall terminate and be void and of no further force and effect except as otherwise set forth in this Agreement including, but not limited to, the provisions of Section 11 hereof. The City shall execute any reasonable certificates requested by Developer to memorialize such termination, provided that the execution of such document or documents shall not be a condition to such termination.

(P) **Agency.** Notwithstanding anything herein to the contrary, Developer is not the agent of the City, and shall never be deemed to be acting in such capacity.

(Q) **Confidentiality.** Developer acknowledges that the City is a public office subject to Ohio's public records laws, but Developer may designate in writing certain documents or information submitted by it in relation to this Agreement as confidential. If Developer makes such designation, the documents or information shall be treated as confidential and will not be disclosed to third parties unless (1) the City determines in good faith that it is obligated to release them to one or more requesting parties pursuant to applicable law, in which event the City will attempt to notify Developer and will provide written notice to Developer at the earliest practicable time; or (2) Developer consents in writing to the release.

(R) **Exhibits.** The following Exhibits are attached to this Agreement and made a part hereof:

- Exhibit A - Legal Description of Lots
- Exhibit B - Project Site, RFQ/RFP, and Proposal
- Exhibit C - Plan of Finance / Sources & Uses
- Exhibit D - Purchase Agreement / Reverter Clause
- Exhibit E - Project Schedule / Timeline
- Exhibit F - Access Agreement
- Exhibit G - Plan for Communication and Coordination between Developer and City
- Exhibit H - Description of Standard Features in Each House Constructed

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

**CITY OF CLEVELAND HEIGHTS, OHIO**

**AMATO HOMES I, LLC, A COLORADO  
LIMITED LIABILITY COMPANY**

By: \_\_\_\_\_  
\_\_\_\_\_, City  
Manager

Date: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
City Law Director

**CITY'S FISCAL OFFICER CERTIFICATE**

It is hereby certified that the amount required to meet the contract, agreement, obligation, payment or expenditure for the attached agreement between Amato Homes I LLC and the City of Cleveland Heights has been lawfully appropriated for such purpose and is in the Treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances.

\_\_\_\_\_

\_\_\_\_\_, Director of Finance

Date: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTIONS FOR LOTS**

**DESOTA NEIGHBORHOOD INFILL HOUSING LOTS**

**ADDRESSES AND PARCEL NUMBERS**

3266 Desota	684-31-039
3286 Desota	684-31-034
3294 Desota	684-31-032
3308 Desota	684-28-099
3317 Desota	684-28-094
3320 Desota	684-28-102
3321 Desota	684-28-092
3324 Desota	684-28-103
3328 Desota	684-28-104
3332 Desota	684-28-105
3354 Desota	684-28-109
3369 Desota	684-28-082
3380 Desota	684-29-048
3396 Desota	684-29-051
3413 Desota	684-29-069
3417 Desota	684-29-068
3420 Desota	684-29-056
3421 Desota	684-29-067
3427 Desota	684-29-066

**EXHIBIT B**

**PROJECT SITE PLAN / RFQ/RFP / PROPOSAL**

On file with the Economic Development Department:

Site Plan

<https://www.clevelandheights.com/DocumentCenter/View/8615/Map2-DesotaVacantLots>

RFQ/RFP

<https://www.clevelandheights.com/DocumentCenter/View/8635/Neighborhood-Redevelopment-Program---Phase-I---RFQ-RFP---FINAL---10-6-2020?bidId=>

Proposal

<https://www.clevelandheights.com/DocumentCenter/View/8860/Liberty-Development-Amato-Homes-NRP-Phase-1-RFQ-RFP-Response?bidId=>

**EXHIBIT C**

**PLAN OF FINANCE / SOURCES & USES**

[SEE ATTACHED]

# The Challenger Group Inc.

To whom it may concern:

Amato Homes I, LLC is a subsidiary of GTG Holdings LLC. The Challenger Group Inc. (TCG) wholly owns GTG Holdings LLC and is based in Colorado Springs Colorado.

TCG has three main operations as follows:

1. Residential homebuilding through its homebuilding subsidiaries. ([www.mychallengerhomes.com](http://www.mychallengerhomes.com))
2. Commercial development (apartments). ([www.goodwinknight.com](http://www.goodwinknight.com))
3. Modular Home Manufacturing for use in our homebuilding or commercial development businesses.

We provide financing to our homebuilding subsidiaries and other corporate support from our headquarters in Colorado Springs. We have sufficient capital via our corporate lines of credit to purchase lots under the Amato Homes I entity. We are extremely confident in Frank's ability to build quality homes and make life better in the Greater Cleveland Ohio market.

If you have any questions or would like more information, please visit our websites above for Challenger Homes (our largest homebuilder) and Goodwin Knight (our commercial developer) or feel free to reach out to me directly.

Sincerely,



Jordan Savage CPA, CMA, CFE

Chief Financial Officer

[jsavage@goodwinknight.com](mailto:jsavage@goodwinknight.com)

Cell Phone: 719-649-5266

## **EXHIBIT D**

### **PURCHASE AGREEMENT / REVERTER CLAUSE**

#### **PURCHASE AND SALE AGREEMENT (Desota Avenue – Vacant Lots)**

This Purchase and Sale Agreement (the “**Agreement**”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”), between **CITY OF CLEVELAND HEIGHTS, OHIO**, an Ohio municipal corporation, having an address at 40 Severance Circle, Cleveland Heights Ohio 44118 (the “**City**” or “**Seller**”) and **AMATO HOMES I LLC**, a Colorado limited liability company, having an address of 4212 Devonshire, Akron, Ohio 44321 (“**Buyer**”).

WITNESSETH:

WHEREAS, Seller is the owner of certain lots currently situated along Desota Avenue in the City of Cleveland Heights, Cuyahoga County, Ohio, comprising eighteen (18) vacant lots (collectively, the “**Lots**” and individually, a “**Lot**”), as more fully described in the Development Agreement (as hereinafter defined); and

WHEREAS, Seller and Buyer have entered into a certain development agreement (the “**Development Agreement**”) under the terms of which Buyer is to construct single family homes on one or more Lots, subject to the terms and conditions of the Development Agreement which also requires that Seller sell and Buyer purchase one or more Lots on which the single-family homes are to be constructed.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, and in consideration of the foregoing and of the mutual covenants contained herein, as well as other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, covenant and agree as follows:

1. Preambles. The foregoing definitions and preambles are incorporated into the terms of this Agreement.

2. Conveyance of Lot(s). Seller shall, on the Closing Date (defined below), subject to the terms of this Agreement, convey to Buyer by quit claim deed (the “**Deed**”), free and clear of all liens and encumbrances of any and every nature except the Permitted Exceptions (as defined below), good and marketable fee simple title to the Lot(s), the legal description for which is attached hereto as **Exhibit A** and incorporated herein by reference. The title company shall be selected by the Buyer subject to the approval of the Seller (“**Title Company**”). Buyer and Seller hereby designate the Title Company to serve as escrow agent (the “**Escrow Agent**”) in connection with this Agreement.

A fully executed version of this Agreement shall serve as escrow instructions and shall be subject to the usual conditions of acceptance of the Escrow Agent, so long as the same are not inconsistent with any of the terms hereof.

3. Closing Date; Closing Documents.

(a) The closing (“**Closing**” or “**Closing Date**”) shall take place at a location mutually acceptable to Buyer and Seller on the date that is forty-five (45) days after the Effective Date.

(b) Seller shall deliver exclusive possession of the Lot(s), free and clear of all occupants and tenancies to Buyer on the Closing Date. To the extent necessary, Seller, at Seller’s expense, shall cause the eviction of any tenants occupying all or any portion of the Lot(s).

(c) At Closing, the parties agree to execute and/or deliver, or cause to be executed and delivered, all documentation as may reasonably be required by the Title Company to issue an ALTA Owner’s Policy of Title Insurance in an amount not less than the Purchase Price, which policy shall insure Buyer’s marketable title in fee simple to the Lot(s), and shall not contain any exception other than the Permitted Exceptions and those which may hereafter be approved by Buyer in writing (the “**Title Policy**”).

(d) On the Closing Date, the Escrow Agent shall complete this transaction by:

- i. paying the Purchase Price to Seller in accordance with the terms set forth in Section 4(a) below, adjusted as set forth on the Settlement Statement;
- ii. filing the Deed with the Cuyahoga County Fiscal Officer (which shall be deemed delivery to Buyer);
- iii. issuing the Title Policy and forwarding same to Buyer;
- iv. charging the parties respectively for those costs and expenses to be paid by them pursuant to this Agreement; and
- v. preparing and forwarding to both parties one signed copy of the Escrow Agent’s Settlement Statement showing all receipts and disbursements of the escrow.

In the event the Escrow Agent is unable to simultaneously perform all of the instructions set forth above, it shall so notify Buyer and Seller and retain all funds and documents in its possession pending receipt of further instructions jointly issued by Buyer and Seller.

4. Purchase Price. Subject to adjustments as hereinafter described, Buyer shall purchase the Lot(s) and pay therefor the sum of One Hundred Dollars and 00/100 Dollars (\$100.00) per Lot (the “**Purchase Price**”).

5. Closing Adjustments, Costs and Expenses.

(a) Seller covenants and agrees that it shall pay for the following costs: (i) cost of the Deed preparation; (ii) any and all transfer taxes; (iii) one-half of the premium cost for the Title Policy; (iv) one-half of the fees, costs and expenses of the Escrow Agent, for its escrow services; and (v) all matters of title clearance necessary to deliver title to the Lot(s) in accordance with this Agreement.

(b) Buyer covenants and agrees that it shall pay for the following costs: (i) the costs of the Survey, if any; (ii) the costs of the initial title search and the Title Commitment (defined below); (iii) one-half of the premium cost for the Title Policy, plus the costs of any endorsements requested by Buyer; (iv) one-half of the fees, costs and expenses of the Escrow Agent, for its escrow services; (v) the recording charges incident to the filing of the Deed and Mortgage for the Lot(s); and meet all conditions described in the Development Agreement.

(c) All real estate taxes assessed against the Lot(s) shall be prorated as of the Closing Date. Seller shall be responsible for all taxes applicable up to the Closing Date, and Buyer shall be responsible for taxes applicable to the period from and after the Closing Date. This Section 5(c) shall survive the Closing Date and the recording of the Deed.

(d) Seller shall pay for all municipal charges for sewage, water and other utility services up to the Closing Date, and cause final meter readings to be made of same.

6. Title.

(a) Within ten (10) days after the Effective Date, Buyer shall obtain, at Buyer’s sole cost and expense, a commitment from the Title Company for the issuance of the Title Policy (the “**Title Commitment**”) in the amount of the Purchase Price and at its option, and at no cost and expense to Seller, a current ALTA survey to be certified to Buyer and the Title Company (the “**Survey**”). Included with the Title Commitment shall be a copy of all exceptions listed on Schedule B-2 thereof. As soon as practicable after receipt of the Title Commitment and Survey, but in no event later than the end of the Due Diligence Period, Buyer shall furnish Seller with a copy of the Title Commitment and Survey and notify Seller of the liens or encumbrances on or against the Lot(s) to which it objects (“**Defects Notice**”). Buyer’s failure to notify Seller of any defects to which it objects within the time period provided in the preceding sentence shall constitute an agreement by Buyer that the encumbrances and matters listed or identified on the Title Commitment and/or Survey shall constitute Permitted Exceptions. “**Permitted Exceptions**”

shall also include (i) real estate taxes and assessments that are a lien but not yet due and payable, (ii) zoning ordinances, (iii) any matters shown on the Survey not objected to by Buyer, (iv) a reverter provision as set forth in the form of the Deed attached as **Exhibit B** and incorporated herein by reference; and (iv) any matters to which Buyer objects that Seller fails or refuses to cure, if Buyer does not elect to terminate this Agreement.

(b) Not later than ten (10) days after receipt of the Defects Notice from Buyer (“**Seller’s Response Period**”), Seller shall notify Buyer whether or not Seller will cure such defects and the actions, if any, Seller intends to take to cure the defects to which Buyer objects. If Seller elects not to cure the identified defects (other than Permitted Exceptions, which Seller shall not be required to cure), then Buyer may terminate this Agreement by written notice to the Seller given within ten (10) days after the earlier of (i) the expiration of Seller’s Response Period or (ii) Seller’s notice to Buyer that it will not cure all of the identified defects. If Buyer fails to deliver written notice of termination to Seller within such ten (10) day period, then Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 6(b). If Buyer does not terminate this Agreement, then Buyer shall accept title with those defects that Seller has elected, in its notice to Buyer, not to cure, and such items shall also constitute Permitted Exceptions. In the event Seller fails to timely respond to the Defects Notice, Seller shall be deemed to have agreed not to remedy or cure all defects specified in the Defects Notice on or before the Closing Date. If Buyer timely issues the Defects Notice, then the Due Diligence Period and the Closing Date shall be extended for the amount of time reasonably necessary until such time as the defects are resolved pursuant to the provisions of this Section 6, provided that Seller shall diligently pursue resolution of any such defects.

(c) Notwithstanding anything contained in this Agreement to the contrary, Seller shall be obligated to cure, remedy or satisfy at or prior to Closing, any mortgages or monetary judgments of a liquidated amount (collectively, “**Monetary Liens**”) on or against the Lot(s) regardless of whether Buyer identifies them in Buyer’s Defects Notice.

## 7. Conditions of Buyer’s Obligation to Purchase.

(a) Buyer is purchasing the Lot(s) in its or their “AS IS, WHERE IS” CONDITION, WITH ALL DEFECTS AND FREE FROM ALL REPRESENTATIONS OR WARRANTIES WHATSOEVER EXCEPT AS MAY BE SET FORTH IN THIS AGREEMENT; provided, however, that Buyer’s obligation to purchase the Lot(s) is conditioned upon all of the following (the “**Conditions**”) (i) Buyer’s satisfaction, in its sole discretion, that the Lot(s) is properly zoned under any applicable laws and ordinances to permit Buyer’s intended use, (ii) Buyer’s satisfaction, in its sole discretion, that the Lot(s) is properly served with sufficient sanitary sewer, storm sewer, water, gas, electricity, telephone and other utilities to permit Buyer’s intended use, (iii) at Buyer’s option, Buyer’s receipt of an environmental assessment report satisfactory, in Buyer’s sole discretion, with respect to any recognized environmental conditions affecting the Lot(s), (iv) Buyer’s satisfaction, in its sole discretion, that Buyer will be able to obtain all necessary or desirable governmental approvals and/or permits in connection with Buyer’s intended use of the

Lot(s), and (v) Buyer's satisfaction, in its sole discretion, with all of all investigations it makes of the Lot(s) and matters affecting Buyer's intended use of the Lot(s) during the Due Diligence Period (the "**Due Diligence Matters**"). Buyer shall have the right, in Buyer's sole and absolute discretion, to obtain a Phase I environmental report and a Phase II environmental report, if necessary, with respect to the Lot(s).

(b) Buyer shall have from the Effective Date until the date that is thirty (30) days after the Effective Date (the "**Due Diligence Period**") to review the Due Diligence Matters and Seller's Due Diligence Materials (as hereinafter defined). If Buyer is not satisfied with the status of the Due Diligence Matters or Seller's Due Diligence Materials, in Buyer's sole and absolute discretion, Buyer shall have the right to terminate this Agreement for any reason or no reason at all, by delivery of written notice to Seller prior to 5 pm EST on the last day of the Due Diligence Period, in which case the parties hereto shall have no further obligations hereunder.

(c) Seller agrees to assist Buyer in reviewing the Due Diligence Matters. Furthermore, within ten (10) days after the Effective Date, Seller shall deliver to Buyer any and all information in Seller's possession with respect to the Lot(s), including, but not limited to, any existing title commitments and policies, insurance policies, certificates of occupancy, surveys, engineering reports, Lot(s) condition reports, technical reports, environmental reports, service contracts and notices received from any governmental authority within the twelve (12) months preceding the Effective Date, along with any additional information that may be readily available to Seller at Buyer's request from time to time during the term of this Agreement (collectively, "**Seller's Due Diligence Materials**").

8. Insurance and Risk of Loss. Prior to the Closing Date, all risk of loss or damage to the Lot(s), including, without limitation, loss by fire, windstorm or other casualty, shall rest with Seller. If prior to the Closing Date the Lot(s) or any part thereof is damaged as a result of fire, windstorm or other casualty, Buyer shall have the option to:

(a) cancel this Agreement and, notwithstanding any provision to the contrary set forth in this Agreement, receive a refund of any sums paid on account of the Purchase Price, in which event neither party shall have any further liability or obligation to the other hereunder; or

(b) enforce this Agreement and obtain an assignment from Seller of all insurance proceeds payable as a result of such loss or damage to the Lot(s) (not to exceed the Purchase Price), and all insurance proceeds previously paid in connection with such casualty shall be paid over to Buyer, together with the amount of any deductible which shall be paid by Seller to Buyer.

Buyer shall have twenty (20) Business Days (hereinafter defined) after Buyer's receipt of written notice from Seller's insurer of the amount of insurance proceeds that will be payable as a result of such casualty and damage within which to make its election under this Section, and to accomplish the foregoing, Buyer shall have the right to adjourn and extend the Closing Date until

not later than fifteen (15) days after the expiration of such twenty (20) day period. The provisions of this Section 8 shall survive the Closing and delivery of the Deed.

9. (Intentionally Deleted)

10. Seller's Covenants; Maintenance and Repair of Lot(s).

Seller shall, through the Closing Date:

(a) pay, in the normal course of business, all sums due for work, materials or service furnished or otherwise incurred in the ownership of the Lot(s) prior to Closing;

(b) not make or permit to be made any alterations, improvements or additions on the Lot(s) without the prior written consent of Buyer;

(c) not enter into any lease or license or letter of intent to lease or license any portion of the Lot(s);

(d) not enter into any agreements which would bind Buyer or the Lot(s) after Closing.

11. Seller's Representations and Warranties. Seller represents and warrants that the following are true and correct on the date hereof and shall be true and correct on the Closing Date:

(a) Seller has the full right, power and authority to sell, convey and assign the Lot(s) and to carry out Seller's obligations hereunder. The joinder of no person or entity will be necessary to convey the Lot(s) fully and completely to Buyer on the Closing Date.

(c) This Agreement and each document to be delivered hereunder, when duly executed and delivered, will be valid, legal and binding obligations of Seller or any other signatory enforceable in accordance with their respective terms.

(b) The Seller is not a foreign person as defined in Section 1445(f) (3) of the Internal Revenue Code of 1986, as amended, and Seller shall deliver to Buyer on the Closing Date a Certificate of Non-Foreign Status, in a form to be reasonably designated by Buyer.

12. Buyer's Representations and Warranties. Buyer represents and warrants that the following are true and correct on the date hereof and shall be true and correct on the Closing Date:

(a) Buyer has been duly organized and exists in good standing under the laws of the State of Ohio and has the full right, power and authority to buy the Lot(s) and to carry out Buyer's obligations hereunder;

(b) All requisite corporate or other actions necessary to authorize Buyer to enter into this Agreement and to perform its obligation hereunder have been taken, and the joinder of no person or entity other than Buyer is necessary to the execution and delivery of such agreements;

(c) The consummation of the contemplated transaction will not conflict with, or with or without notice or the passage of time, or both, result in a breach of any of the terms or provisions of, or constitute a default under any agreement or instrument to which Buyer is a party; and

(d) This Agreement and each document to be delivered hereunder, when duly executed and delivered will be valid, legal and binding obligations of Buyer or such signatory, enforceable in accordance with their respective terms.

13. Broker. Seller and Buyer each represent and warrant to the other that they have not been represented by any broker in connection with the sale of the Lot(s), and no real estate commissions, selling commissions or finder's fees are due to any other broker or finder by virtue of any act of Seller or Buyer or any agent acting on their behalf.

14. Access to the Lot(s). Throughout the entire term of this Agreement, Buyer and its employees and contractors, upon prior notice to Seller, shall have access to and the right to enter the Lot(s) and any part thereof for the purposes of making surveys, plans, soil tests and borings, water tests and other environmental and/or engineering tests on the same, subject to the execution and delivery by the parties of the form of Access Agreement attached to the Development Agreement. Seller shall have the right to have a representative present during all on-site investigations of the Lot(s) by Buyer. Buyer shall, at its sole cost and expense, repair any direct damage caused by any tests or inspections.

15. (Intentionally Deleted)

16. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be in writing, and shall be deemed given when received only if sent to the following addresses by (a) certified or registered United States Mail, return receipt requested, postage prepaid, or (b) Federal Express or a comparable overnight or next business day courier service, or (c) hand delivered, at the following addresses (or to such other or additional addresses as a party may designate by notice):

BUYER: Amato Homes I LLC  
7140 Walton Road  
Walton Hills, Ohio 44146

Attention: Francis Amato

SELLER: City of Cleveland Heights  
40 Severance Circle

Cleveland Heights, Ohio 44118  
Attention: Economic Development Director

With a copy to: City of Cleveland Heights  
40 Severance Circle  
Cleveland Heights, Ohio 44118  
Attention City Manager

And a copy to: City of Cleveland Heights  
40 Severance Circle  
Cleveland Heights, Ohio 44118  
Attention: Director of Law

Notice shall be deemed given on the date of receipt (or refusal by the recipient) as evidenced by return receipt or other couriers standard delivery documentation.

17. Modifications and Termination. This Agreement cannot be changed or terminated orally or in any manner other than by a written agreement executed by both parties.

18. Construction. This Agreement shall be governed by and construed in accordance with the laws of Ohio. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted. All terms and words used in this Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.

19. Merger of Prior Agreements and Representations. Except for the Development Agreement, which shall remain in full force and effect: (a) this Agreement constitutes the entire agreement between the parties hereto with respect to the sale and purchase of the Lot(s), and (b) it is understood and agreed that all undertakings and agreements heretofore made between Buyer and Seller are merged herein.

20. Survival. Notwithstanding any presumption to the contrary, all covenants, representations and warranties contained in this Agreement shall not survive Closing unless otherwise specifically provided herein.

21. Seller's Default. If Seller defaults hereunder, which default shall consist of the failure of Seller to fulfill any of obligations of Seller herein contained, and Seller does not cure such default within ten (10) days after written notice from Buyer, Buyer may pursue all remedies available to Buyer at law or in equity, including without limitation an action for specific performance.

22. Buyer's Default. In the event of default by Buyer hereunder, and Buyer does not cure such default within ten (10) days after written notice from Seller. Seller may pursue all remedies available to Buyer at law or in equity, including without limitation an action for specific performance.

23. Time of the Essence. Time is of the essence as to all matters set forth herein.

24. Counterparts. This Agreement may be signed in one or more counterparts each of which for all purposes shall be deemed to be an original.

25. Assignment. This Agreement may not be assigned by Buyer without Seller's prior consent. Seller may not assign its obligations under this Agreement other than by operation of law, except with the prior written consent of Buyer. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

27. Waiver of Jury Trial. IT IS MUTUALLY AGREED BY AND BETWEEN SELLER AND BUYER THAT THE RESPECTIVE PARTIES HERETO SHALL AND DO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. EACH PARTY ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THIS WAIVER AND HAS BEEN ADVISED BY COUNSEL AS NECESSARY OR APPROPRIATE. THIS WAIVER IS MADE KNOWINGLY AND VOLUNTARILY BY THE PARTIES HERETO.

28. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and permitted assigns (to the extent permitted pursuant to Section 25 above).

29. Miscellaneous. The term "**Business Day**" shall mean any day other than a Saturday, a Sunday or a legal holiday on which banks are not open for business in Cleveland, Ohio.

[Signature Page follows]

**IN WITNESS WHEREOF**, the Buyer and Seller have caused this Agreement to be executed the day and year above written.

**SELLER:**

**CITY OF CLEVELAND HEIGHTS**, an Ohio  
municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**BUYER:**

**AMATO HOMES I LLC**, a Colorado limited  
liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBITS**

- A – Legal Description
- B – Deed with Reverter Provision

## **EXHIBIT A**

### **Legal Description**

**EXHIBIT B**

**Deed with Reverter Provision**

*[see next page]*

## **EXHIBIT B**

### **QUIT-CLAIM DEED**

**(with Right of Reverter)**

**THE CITY OF CLEVELAND HEIGHTS**, an Ohio municipal corporation (“**Grantor**”), for valuable consideration paid, grants to **AMATO HOMES I LLC**, a Colorado limited liability company (“**Grantee**”), whose tax mailing address is 4212 Devonshire, Akron, Ohio 44321, the following REAL PROPERTY:

The description of the property is as follows:

See Exhibit A attached hereto.

Property Address: \_\_\_\_\_

Permanent Parcel No.: \_\_\_\_\_

Prior Instrument Reference: \_\_\_\_\_

By acceptance of this Deed, as evidenced by its recording with the Cuyahoga County Fiscal Officer, Grantee, for itself and its successors and assigns, covenants and agrees with Grantor as follows, all of which shall be deemed covenants running with the land binding on all future owners or holders of all or any interest in the Real Property conveyed hereby: (a) that construction of a single family home shall commence on the Real Property (meaning that a building permit has been duly issued and that commencement of the excavation of footers or a basement has occurred) not later than ninety (90) days after the date of recordation of this Deed; (b) that completion of the construction of a single family home on the Real Property (meaning that a certificate of occupancy has been duly issued) shall occur not later than one hundred eighty (180) days after the commencement of construction of the single family home; and (c) that in the event either or both of the foregoing covenants is or are not fully satisfied, met and complied with by Grantee or any subsequent transferee, the title, right of possession and all other rights transferred hereunder to Grantee shall, at the option of Grantor, revert to Grantor sixty (60) days after written demand to this effect is made to Grantee at its tax mailing address above. Filing of a true copy of the foregoing written demand of reverter with the Cuyahoga County Fiscal Officer shall be and be deemed to be conclusive evidence that reverter of title, right of possession and all other rights transferred to

Grantee hereunder have reverted to Grantor without further action on the part of Grantor, Grantee, or any other party. In the event the foregoing covenants or the enforcement thereof is found or deemed to be invalid, then each of the foregoing clauses (a) and (b) shall be construed to be conditions, upon breach of which Grantor may exercise its option to cause title, right of possession and all other rights transferred hereunder to Grantee to revert to Grantor.

(no further text this page; the next page is the signature page)

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

GRANTOR:

**THE CITY OF CLEVELAND HEIGHTS,  
an Ohio municipal corporation**

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

Print

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

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

---

STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
(date) by \_\_\_\_\_, \_\_\_\_\_ of The City of Cleveland Heights, on behalf  
of the municipal corporation.

NOTARY PUBLIC

My Commission Expires\_\_\_\_\_

Approved as to form:  
City of Cleveland Heights

By: \_\_\_\_\_  
William R. Hanna, Director of Law

**EXHIBIT A**  
**Legal Description**

**EXHIBIT E**

**PROJECT SCHEDULE / TIMELINE**

**[SEE ATTACHED]**



7140 Walton Road, Walton Hills, OH 44146 • 7196495266

## Schedule - List - 1575

1-118 of 118 items

250 / page

ID #	Title	Phase	Duration	Start	End	Assignees		Predecessors	Actions
1	● Plot Plan With Topo	--	1 day	Mar 8, 2022	Mar 8, 2022	Atwell LLC		<a href="#">16</a>	
2	● Submit Permit	--	1 day	Mar 22, 2022	Mar 22, 2022	Francis Amato		<a href="#">16</a>	
3	● Deliver Porta John	--	1 day	Mar 29, 2022	Mar 29, 2022	P and J Sanitation, Inc.		<a href="#">16</a>	
4	● Electric Application	--	1 day	Mar 29, 2022	Mar 29, 2022	Francis Amato		<a href="#">16</a>	
5	● Install Basin Bags (SWP3)	--	1 day	Mar 29, 2022	Mar 29, 2022	Ross Maintenance LLC		<a href="#">16</a>	
6	● Install Silt Fence	--	1 day	Mar 29, 2022	Mar 29, 2022	Ross Maintenance LLC		<a href="#">16</a>	
7	● Install Temp Pole	--	1 day	Mar 29, 2022	Mar 29, 2022	RO-Check Electric, Inc		<a href="#">16</a>	
8	● NOI	--	1 day	Mar 29, 2022	Mar 29, 2022	Francis Amato		<a href="#">16</a>	
9	● Stake Lot	--	1 day	Mar 29, 2022	Mar 29, 2022	Atwell LLC		<a href="#">16</a>	
10	● Lot Takedown	--	1 day	Apr 1, 2022	Apr 1, 2022	Francis Amato		<a href="#">16</a>	
11	● Install Sewer	--	1 day	Apr 4, 2022	Apr 4, 2022	Precision Snow and Ice Mana		<a href="#">16</a>	
12	● Install Temp Drive	--	1 day	Apr 4, 2022	Apr 4, 2022	Precision Snow and Ice Mana		<a href="#">16</a>	

13	● Install Water	--	1 day	Apr 4, 2022	Apr 4, 2022	Precision Snow and Ice Mana	<a href="#">16</a>
14	● PCIR Inspection	--	1 day	Apr 4, 2022	Apr 4, 2022	<b>Francis Amato</b>	<a href="#">16</a>
15	● Temp Drive Stone	--	1 day	Apr 4, 2022	Apr 4, 2022	Redland Quarries NY Inc DBA	<a href="#">12</a>
16	● Dig Foundation	--	1 day	Apr 4, 2022, 2:31 PM	Apr 4, 2022	Precision Snow and Ice Mana	
17	● Footer Gravel	--	1 day	Apr 5, 2022	Apr 5, 2022	Eco-Seal Home Solutions	<a href="#">19</a>
18	● Form Inspect Footers	--	1 day	Apr 5, 2022	Apr 5, 2022	Progressive Poured Walls, LL	<a href="#">16</a>
19	● Pour Footers	--	1 day	Apr 5, 2022	Apr 5, 2022	Progressive Poured Walls, LL	<a href="#">18</a>
20	● Form/Inspect Walls	--	1 day	Apr 6, 2022	Apr 6, 2022	Progressive Poured Walls, LL	<a href="#">19</a>
21	● Pour Walls	--	1 day	Apr 8, 2022	Apr 8, 2022	Progressive Poured Walls, LL	<a href="#">20</a>
22	● Strip Walls	--	2 days	Apr 11, 2022	Apr 12, 2022	Progressive Poured Walls, LL	<a href="#">21</a>
23	● Waterproofing	--	1 day	Apr 13, 2022	Apr 13, 2022	Eco-Seal Home Solutions	<a href="#">22</a>
24	● Deliver Backfill Stone	--	1 day	Apr 14, 2022	Apr 14, 2022	Redland Quarries NY Inc DBA	<a href="#">23</a>
25	● Backfill/Rough Grade	--	1 day	Apr 15, 2022	Apr 15, 2022	Precision Snow and Ice Mana	<a href="#">24</a>
26	● Install Downspouts	--	1 day	Apr 15, 2022	Apr 15, 2022	Precision Snow and Ice Mana	<a href="#">24</a>
27	● Install Electric Underground	--	1 day	Apr 15, 2022	Apr 15, 2022	Precision Snow and Ice Mana	<a href="#">24</a>
28	● Install Yard Drain	--	1 day	Apr 15, 2022	Apr 15, 2022	Precision Snow and Ice Mana	<a href="#">24</a>
29	● Deliver Dumpster	--	1 day	Apr 18, 2022	Apr 18, 2022	North American Waste Solutic	<a href="#">25</a>
30	● Deliver Lumber	--	1 day	Apr 18, 2022	Apr 18, 2022	The Carter-Jones Lumber Cor	<a href="#">25</a>

31	● Deliver Steel	--	1 day	Apr 18, 2022	Apr 18, 2022	Mason Structural Steel, Inc	<a href="#">25</a>
32	● Deliver Trusses	--	1 day	Apr 18, 2022	Apr 18, 2022	The Carter-Jones Lumber Co	<a href="#">25</a>
33	● Frame House	--	4 days	Apr 19, 2022	Apr 22, 2022	Country View Woodworking	<a href="#">30</a> <a href="#">31</a>
34	● Deliver Windows/Doors	--	1 day	Apr 22, 2022	Apr 22, 2022	The Carter-Jones Lumber Co	<a href="#">33</a>
35	● Deliver Propane	--	1 day	Apr 25, 2022	Apr 25, 2022	--	<a href="#">33</a>
36	● Deliver Shingles	--	1 day	Apr 25, 2022	Apr 25, 2022	Homestead Exterior Solutions	<a href="#">33</a>
37	● Gas Application	--	1 day	Apr 25, 2022	Apr 25, 2022	<b>Francis Amato</b>	<a href="#">33</a>
38	● Install Shingles	--	1 day	Apr 26, 2022	Apr 26, 2022	Homestead Exterior Solutions	<a href="#">36</a>
39	● Plumbing Rough/Gas	--	3 days	Apr 26, 2022	Apr 28, 2022	Edgell Plumbing	<a href="#">38</a>
40	● Tub Prep	--	1 day	Apr 26, 2022	Apr 26, 2022	All Construction Services LLC	<a href="#">33</a>
41	● Deliver Flatwork Gravel	--	1 day	Apr 29, 2022	Apr 29, 2022	Redland Quarries NY Inc DBA	<a href="#">39</a>
42	● Inspect Plumbing	--	1 day	Apr 29, 2022	Apr 29, 2022	--	<a href="#">39</a>
43	● Prep Flatwork	--	1 day	May 2, 2022	May 2, 2022	Precision Snow and Ice Mana	<a href="#">39</a>
44	● Deliver Concrete for Flatwork	--	1 day	May 3, 2022	May 3, 2022	--	<a href="#">43</a>
45	● Pour Flatwork	--	1 day	May 3, 2022	May 3, 2022	Precision Snow and Ice Mana	<a href="#">44</a>
46	● Install Furnace/Ductwork	--	1 day	May 4, 2022	May 4, 2022	Viccarone Heating	<a href="#">47</a>
47	● Rough HVAC	--	1 day	May 4, 2022	May 4, 2022	Viccarone Heating	<a href="#">45</a>
48	● Electrical Rough	--	3 days	May 5, 2022	May 9, 2022	RO-Check Electric, Inc	<a href="#">47</a>

49	● Inspect HVAC	--	1 day	May 5, 2022	May 5, 2022	--	<a href="#">47</a>
50	● Frame Punch	--	1 day	May 9, 2022	May 9, 2022	Country View Woodworking	<a href="#">48</a>
51	● Install Meter Set	--	1 day	May 9, 2022	May 9, 2022	RO-Check Electric, Inc	<a href="#">48</a>
52	● Deliver Siding	--	1 day	May 10, 2022	May 10, 2022	Homestead Exterior Solutions	<a href="#">50</a>
53	● Framing Inspection	--	1 day	May 10, 2022	May 10, 2022	--	<a href="#">50</a>
54	● Gas Tap	--	1 day	May 10, 2022	May 10, 2022	--	<a href="#">37</a>
55	● Inspect Rough Electric	--	1 day	May 10, 2022	May 10, 2022	--	<a href="#">48</a>
56	● Install Siding	--	2 days	May 11, 2022	May 12, 2022	Homestead Exterior Solutions	<a href="#">52</a>
57	● Install Gutters	--	1 day	May 13, 2022	May 13, 2022	All Construction Services LLC	<a href="#">56</a>
58	● Insulation	--	1 day	May 13, 2022	May 13, 2022	All Construction Services LLC	<a href="#">56</a>
59	● HERS Inspection #1	--	1 day	May 16, 2022	May 16, 2022	R Family Company LLC	<a href="#">58</a>
60	● Insulation Inspection	--	1 day	May 16, 2022	May 16, 2022	City of Vermilion	<a href="#">58</a>
61	● Install Electric Meter	--	1 day	May 17, 2022	May 17, 2022	--	<a href="#">58</a>
62	● Install Gas Meter	--	1 day	May 17, 2022	May 17, 2022	--	<a href="#">54</a>
63	● Order Appliances	--	1 day	May 17, 2022	May 17, 2022	<b>Francis Amato</b>	<a href="#">64</a>
64	● Stock Drywall	--	1 day	May 17, 2022	May 17, 2022	R.A.M Drywall Co	<a href="#">60</a>
65	● Hang Drywall	--	2 days	May 18, 2022	May 19, 2022	R.A.M Drywall Co	<a href="#">64</a>
66	● Attic Insulation	--	1 day	May 20, 2022	May 20, 2022	All Construction Services LLC	<a href="#">65</a>

67	● Drywall Inspection	--	1 day	May 20, 2022	May 20, 2022	--	<a href="#">65</a>
68	● Finish Drywall	--	5 days	May 23, 2022	May 27, 2022	R.A.M Drywall Co	<a href="#">67</a>
69	● Install Garage Door/Opener	--	1 day	May 23, 2022	May 23, 2022	Homenik Door Co, Inc.	<a href="#">65</a>
70	● Cut Driveway/Walks	--	1 day	May 24, 2022	May 24, 2022	Precision Snow and Ice Mana	<a href="#">69</a>
71	● Deliver Drive Stone	--	1 day	May 24, 2022	May 24, 2022	Redland Quarries NY Inc DBA	<a href="#">69</a>
72	● Form Driveway	--	1 day	May 25, 2022	May 25, 2022	Precision Snow and Ice Mana	<a href="#">71</a>
73	● Deliver Exterior Concrete	--	1 day	May 26, 2022	May 26, 2022	--	<a href="#">72</a>
74	● Pour Driveway	--	1 day	May 26, 2022	May 26, 2022	Precision Snow and Ice Mana	<a href="#">73</a>
75	● Deliver Cabinets	--	1 day	May 30, 2022	May 30, 2022	Rite Rug Co	<a href="#">68</a>
76	● Deliver Trim/Hardware	--	1 day	May 30, 2022	May 30, 2022	The Carter-Jones Lumber Cor	<a href="#">68</a>
77	● Final Grade	--	1 day	May 30, 2022	May 30, 2022	Precision Snow and Ice Mana	<a href="#">74</a>
78	● Install Water Meter	--	1 day	May 30, 2022	May 30, 2022	--	<a href="#">67</a>
79	● As-Built Topo	--	1 day	May 31, 2022	May 31, 2022	Atwell LLC	<a href="#">77</a>
80	● Prime Walls	--	1 day	May 31, 2022	May 31, 2022	Lorain Interiors	<a href="#">68</a>
81	● Install Mailbox	--	1 day	Jun 1, 2022	Jun 1, 2022	--	<a href="#">79</a>
82	● Install Trim	--	1 day	Jun 1, 2022	Jun 1, 2022	Elite Trim Carpentry LLC	<a href="#">80</a>
83	● Stabilization	--	1 day	Jun 1, 2022	Jun 1, 2022	Ross Maintenance LLC	<a href="#">79</a>
84	● Measure Tops	--	1 day	Jun 2, 2022	Jun 2, 2022	Bradley Stone Industries, Ltd	<a href="#">82</a>

85	● Paint Walls/Trim	--	5 days	Jun 2, 2022	Jun 8, 2022	Lorain Interiors	<a href="#">82</a>
86	● Point up	--	1 day	Jun 2, 2022	Jun 2, 2022	R.A.M Drywall Co	<a href="#">82</a>
87	● Exterior Paint	--	1 day	Jun 8, 2022	Jun 8, 2022	Lorain Interiors	<a href="#">85</a>
88	● Hard Surface Flooring	--	3 days	Jun 9, 2022	Jun 13, 2022	WCCV Floor Coverings LLC	<a href="#">85</a>
89	● Finish HVAC	--	1 day	Jun 14, 2022	Jun 14, 2022	Viccarone Heating	<a href="#">88</a>
90	● Basement Insulation	--	1 day	Jun 15, 2022	Jun 15, 2022	All Construction Services LLC	<a href="#">89</a>
91	● Final HVAC Inspection	--	1 day	Jun 15, 2022	Jun 15, 2022	--	<a href="#">89</a>
92	● Set AC	--	1 day	Jun 15, 2022	Jun 15, 2022	Viccarone Heating	<a href="#">89</a>
93	● Trim Punch	--	1 day	Jun 15, 2022	Jun 15, 2022	Elite Trim Carpentry LLC	<a href="#">89</a>
94	● Deliver Appliances - DW	--	1 day	Jun 16, 2022	Jun 16, 2022	GE Electric Co - GE Appliances	<a href="#">96</a>
95	● Deliver Electrical Fixtures	--	1 day	Jun 16, 2022	Jun 16, 2022	WESCO Distribution	<a href="#">93</a>
96	● Install Tops	--	1 day	Jun 16, 2022	Jun 16, 2022	Bradley Stone Industries, Ltd	<a href="#">85</a>
97	● Deliver/Install Appliances	--	1 day	Jun 17, 2022	Jun 17, 2022	GE Electric Co - GE Appliances	<a href="#">96</a>
98	● Finish Plumbing	--	1 day	Jun 20, 2022	Jun 20, 2022	Edgell Plumbing	<a href="#">96</a>
99	● Final Plumbing Inspection	--	1 day	Jun 21, 2022	Jun 21, 2022	--	<a href="#">98</a>
100	● Finish Electrical	--	1 day	Jun 21, 2022	Jun 21, 2022	RO-Check Electric, Inc	<a href="#">98</a>
101	● Deliver Appliances - Micro/Range	--	1 day	Jun 22, 2022	Jun 22, 2022	GE Electric Co - GE Appliances	<a href="#">100</a>
102	● Final Electrical Inspection	--	1 day	Jun 22, 2022	Jun 22, 2022	--	<a href="#">100</a>

103	● Install Bath Hardware	--	1 day	Jun 22, 2022	Jun 22, 2022	All Construction Services LLC	<a href="#">100</a>
104	● Install Garage Door Openers/Accessories	--	1 day	Jun 22, 2022	Jun 22, 2022	Homenik Door Co, Inc.	<a href="#">100</a>
105	● Install Mirrors	--	1 day	Jun 22, 2022	Jun 22, 2022	All Construction Services LLC	<a href="#">100</a>
106	● Install Shelving	--	1 day	Jun 22, 2022	Jun 22, 2022	All Construction Services LLC	<a href="#">100</a>
107	● Install Carpet	--	1 day	Jun 23, 2022	Jun 23, 2022	WCCV Floor Coverings LLC	<a href="#">100</a>
108	● Cleaning	--	1 day	Jun 24, 2022	Jun 24, 2022	Addison Cleaning Company L	<a href="#">107</a>
109	● HERS Inspection #2	--	1 day	Jun 27, 2022	Jun 27, 2022	R Family Company LLC	<a href="#">108</a>
110	● Punchout	--	3 days	Jun 27, 2022	Jun 29, 2022	<b>Francis Amato</b>	<a href="#">108</a>
111	● Remove Dumpster	--	1 day	Jun 27, 2022	Jun 27, 2022	North American Waste Solutic	<a href="#">108</a>
112	● Remove Porta John	--	1 day	Jun 27, 2022	Jun 27, 2022	P and J Sanitation, Inc.	<a href="#">108</a>
113	● Remove Propane	--	1 day	Jun 27, 2022	Jun 27, 2022	--	<a href="#">108</a>
114	● Occupancy Inspection	--	1 day	Jun 30, 2022	Jun 30, 2022	--	<a href="#">110</a>
115	● Paint Touch-up	--	1 day	Jun 30, 2022	Jun 30, 2022	Phoenix Painting, LLC	<a href="#">110</a>
116	● Touch Up Clean	--	1 day	Jul 4, 2022	Jul 4, 2022	Addison Cleaning Company L	<a href="#">115</a>
117	● Certificate of Occupancy	--	1 day	Jul 7, 2022	Jul 7, 2022	--	<a href="#">114</a>
118	● Delivery	--	1 day	Jul 8, 2022	Jul 8, 2022	<b>Francis Amato</b>	<a href="#">117</a>

## **EXHIBIT F**

### **ACCESS AGREEMENT**

This Access Agreement (the “Agreement”) is made by and between the CITY OF CLEVELAND HEIGHTS, OHIO, a municipal corporation and political subdivision duly organized and existing under the laws of the State of Ohio (the “City”) and AMATO HOMES I LLC, a Colorado limited liability company (the “Developer”) effective as of the last date set forth below their respective signatures hereto (the “Effective Date”) in connection with the possible sale to and development of up to 18 lots by Developer of single-family owner-occupied dwelling units of City-owned/controlled real property located along Desota Avenue in the City (the “Project Site”). As a condition to City’s agreement to allow Developer access to the Project Site which the City hereby grants to the Developer and its Representatives, Developer agrees to be bound by the terms set forth in this Agreement (the “Agreement”).

1. In connection with any entry by Developer or any of its officers, directors, employees, agents, advisors or representatives (collectively “Representatives”) onto the Project Site, Developer shall give City reasonable advance notice of such entry, which shall not be less than twenty-four (24) hours, and shall conduct such entry and any inspections in connection therewith so as to reasonably minimize interference with (i) the business of the City and (ii) neighboring properties, and otherwise in a manner reasonably acceptable to City. Notwithstanding the foregoing, Developer shall not perform any physically invasive testing of the Project Site, including, without limitation, performing any environmental testing, drilling or sampling, without first obtaining City’s prior written consent thereto. City may have a representative present to observe all testing, work, inspections or entries onto the Project Site (such testing and other work, inspections and entries onto the Project Site are referred to herein as the “Inspection Work”). The Inspection Work shall be at Developer’s sole cost and expense and Developer agrees to keep the Project Site free and clear of any liens that may arise as a result thereof. All activities undertaken in connection with the Inspection Work shall fully comply with applicable law and regulations, including, without limitation, laws and regulations relating to worker safety, proper disposal of any disturbed or discarded materials, and noise and operating hour restrictions. Developer is solely responsible for the off-site disposal of any samples taken. Developer shall repair promptly any physical damage caused by the Inspection Work, and shall restore the Project Site to its condition immediately prior to entry by Developer on the Project Site. The Developer shall provide copies to the City of any test results and reports relating to the Inspection Work promptly after completion of such work on the Project Site. The Developer shall maintain parking and minimize traffic issues during all testing and inspection activities on the Project Site.
2. Developer shall maintain, and shall ensure that its contractors maintain, public liability and property damage insurance reasonably satisfactory to the City insuring Developer and its Representatives against any liability arising out of any entry or

inspections of the Project Site pursuant to the provisions hereof. Such insurance maintained by Developer (and Developer's contractors) shall be in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) combined single limit for injury to or death of one or more persons in an occurrence, and for damage to tangible property (including loss of use) in an occurrence. The policies maintained by Developer and its contractors shall insure the contractual liability of Developer covering the indemnities herein and shall (i) name the City (and its successors and assigns) as additional insureds, (ii) contain a cross-liability provision, and (iii) contain a provision that the insurance provided by Developer hereunder shall be primary and noncontributing with any other insurance available to such City. Developer shall provide City with evidence of such insurance coverage for City's review and approval prior to any entry or inspection of the Project Site. Developer shall indemnify and hold City and its respective affiliates, partners, trustees, shareholders, members, controlling persons, directors, officers, attorneys, employees and agents of each of them, and their respective heirs, successors, personal representatives and assigns, harmless from and against any and all suits, actions, proceedings, investigations, demands, claims, liabilities, fines, penalties, liens, judgments, losses, injuries, damages, expenses or costs whatsoever, including, without limitation, attorneys' and expert' fees and costs, costs of investigation and remediation costs arising out of or relating to any entry on the Project Site by Developer or any of its Representatives and/or the Inspection Work, except to the extent arising out of an existing condition of or on the Project Site or caused by the City or any person or party acting at the request, or on behalf, of the City. Notwithstanding any provision in this agreement to the contrary, except as may be required by law, neither Developer nor any of its Representatives shall contact any governmental official or representative regarding any hazardous or toxic materials on or the environmental condition of the Project Site, without City's prior written consent thereto, which consent may be withheld in City's sole discretion.

3. Notwithstanding anything to the contrary contained in this Agreement, City shall have the right to terminate Developer's access to the Project Site at any time upon the termination of the MOU between the parties regarding the Project Site.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

CITY OF CLEVELAND HEIGHTS, OHIO

AMATO HOMES I LLC

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

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

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

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

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

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

\_\_\_\_\_  
Date:\_\_\_\_\_, 2021

\_\_\_\_\_  
Date:\_\_\_\_\_, 2021

The legal form and correctness of this  
instrument is approved:

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

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

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

\_\_\_\_\_  
Date:\_\_\_\_\_, 2021\_\_\_\_

**EXHIBIT G**  
**PLAN FOR COMMUNICATION AND**  
**COORDINATION BETWEEN DEVELOPER AND THE CITY**

The plan for communication and coordination between Developer and the City during the pre-construction planning period and the construction period for the Project shall be as follows:

**I. Pre-Construction Planning Period:**

All press releases, briefings, council updates, public briefings, or information sessions shall be coordinated between the two parties and are subject to the approval of the City..

Community Meetings intended to update the community, answer questions and receive input from residents on the project will be held periodically throughout this period. Community engagement is a key element for a successful development project and input from citizens will be a vital ingredient in the final development agreement for this project. Anyone interested in this important project is encouraged to attend these community meetings.

A meeting representing the Closing shall be held at such time as deemed acceptable so as to enable Developer to commence all construction activities.

At least one (1) pre-construction meeting will be held between the parties to this agreement, general contractor and subcontractor and all other parties as determined by the City. The purpose of this meeting is to exchange contact information and discuss all pertinent construction related issues in prepare for commencement of the building of the project improvements. A complaint resolution process shall also be negotiated and agreed to by the parties at this meeting.

**II. Construction Period:**

All press releases, briefings, council updates, public briefings, or information sessions shall be coordinated between the two parties and are subject to the approval of the City.

A Ground-Breaking Ceremony shall be held at the project site prior to commencement of construction. The City shall issue invitations to this event and coordinate all media coverage as deemed necessary.

A schedule for periodic Construction Progress meetings shall be agreed to at the pre-construction meeting for the project. Notes will be taken at these meetings and distributed to all parties within a reasonable time after the progress meeting is held.

**THE CITY SHALL HAVE THE RIGHT TO INSPECT THE PROJECT AT ALL REASONABLE TIMES DURING CONSTRUCTION, AFTER WRITTEN NOTICE TO DEVELOPER, AND FOLLOWING ALL OTHER REQUIREMENTS STATED IN THIS AGREEMENT. THE FOREGOING SHALL NOT BE DEEMED AS LIMITING IN ANY WAY THE RIGHTS OF THE CITY'S BUILDING INSPECTORS TO**

**CONDUCT INSPECTIONS FROM TIME TO TIME AND WITHOUT PRIOR NOTICE, IN ACCORDANCE WITH NORMAL CITY INSPECTION PROCEDURES.**

**EXHIBIT H**

**DESCRIPTION OF STANDARD FEATURES IN  
EACH HOUSE CONSTRUCTION**

**[SEE ATTACHED]**



Modern Series –  
Standard Features

***Foundation***

- \* Cast in Place Concrete Foundation (per plan)
- \* GMX Ultrashield waterproofing w/Thermal Drain Board (R-3)

***Electrical***

- \* 200-amp main service
- \* 2 cable outlets
- \* 2 GFI exterior outlets
- \* Smoke detectors on all floors, hard wired with battery backup
- \* Switched light in basement/attic

***Insulation***

- \* R-13 walls, R- vaulted ceilings, R-49 ceilings
- \* All windows, doors and open corners sealed with insulation and foam
- \* Air Circulation maintained in insulated areas directly under roof

***Plumbing & Baths***

- \* Exhaust fans in all baths
- \* Moen Genta Faucets nickel finish
- \* Kohler or equal four-piece tub/shower units
- \* Arbor High Arch Kitchen Faucet nickel finish
- \* Moen "Scaldguard Protection" in all showers
- \* 50-gallon high-efficiency electric water heater
- \* Kohler or equal sinks, china
- \* Twin-bowl stainless steel kitchen sink
- \* Shut-off valves at accessible locations
- \* Moisture resistant board behind shower
- \* Mirrors above all bath vanities
- \* Shower rods, towel bars, and paper holders in all baths

***Cabinetry***

- \* Tru cabinets and vanities with soft close drawers, and nickel door hardware
- \* Granite countertops with back-splashes

***Heating & Cooling***

- \* 92% gas furnace, Goodman
- \* 13 seer Air conditioning unit, Goodman

***Trim & Doors***

- \* 2 1/4" case and 3 1/4" base MDF trim
- \* 2 Panel Squaretop Doors, painted white
- \* Ventilated wire closet shelving
- \* Kwikset locks and deadbolts, nickel finish

***GE Appliances- Stainless Steel***

- \* Range (Electric)
- \* Microwave
- \* Dishwasher
- \* Disposal (Badger or equivalent)

***Lighting***

- \* Kichler Lighting package nickel finish
- \* Ceiling fan in Family Room/Owners Suite
- \* 2 Exterior Coach Lights at garage

***Flooring***

- \* Armstrong LVP selected areas on 1<sup>st</sup> floor, laundry, baths
- \* Dwellings 25oz carpet w/8# pad in bedrooms, closets, hallways, 2<sup>nd</sup> floor stairway

***Exterior & Siding***

- \* Royal 4.5 vinyl siding (.42 thickness)
- \* Harvey vinyl insulated windows w 1/2 screens
- \* Certainteed Limited Lifetime Architectural shingles
- \* Schuster Fiberglass exterior doors
- \* Schuster Steel garage man door
- \* Schuster Rear glass man door (per plan)
- \* Insulated Wayne Dalton 9100 garage doors
- \* Liftmaster openers/remotes
- \* Steps to grade (as required by code)

***General Features***

- \* Varied ceiling heights
- \* One-year HBA home warranty
- \* Generous closet & storage space

***Construction***

- \* On-site stick-built construction
- \* HERS Testing (energy efficiency)
- \* Pre-engineered roof trusses
- \* **IN CASE OF A CONFLICT, THIS DOCUMENT WILL SUPERCEDE THE ARCHITECTURAL BLUEPRINTS.**

In our continuing effort to meet the challenges of product improvement, we reserve the right to modify or change plans, specifications and features. Updated 11-30-2021.





Traditions Series –  
Standard Features

***Foundation***

- \* Cast in Place Concrete Foundation (per plan)
- \* GMX Ultrashield waterproofing w/Thermal Drain Board (R-3)

***Electrical***

- \* 200-amp main service
- \* 2 cable outlets
- \* 2 GFI exterior outlets
- \* Smoke detectors on all floors, hard wired with battery backup
- \* Switched light in basement/attic

***Insulation***

- \* R-13 walls, R- vaulted ceilings, R-49 ceilings
- \* All windows, doors and open corners sealed with insulation and foam
- \* Air Circulation maintained in insulated areas directly under roof

***Plumbing & Baths***

- \* Exhaust fans in all baths
- \* Moen Chateau chrome finish
- \* Kohler or equal four-piece tub/shower units
- \* Moen "Scaldguard Protection" in all showers
- \* 50-gallon high-efficiency electric water heater
- \* Kohler or equal sinks, china
- \* Twin-bowl stainless steel kitchen sink
- \* Shut-off valves at accessible locations
- \* Moisture resistant board behind shower
- \* Mirrors above all bath vanities
- \* Shower rods, towel bars, and paper holders in all baths – Chrome

***Cabinetry***

- \* Tru cabinets and vanities with soft close drawers and nickel door hardware
- \* Granite countertops with back-splashes

***Heating & Cooling***

- \* 92% gas furnace, Goodman
- \* 13 seer Air conditioning unit, Goodman

***Trim & Doors***

- \* 2 1/4" case and 3 1/4" base MDF trim
- \* 2 Panel Squaretop Doors, painted white
- \* Ventilated wire closet shelving
- \* Kwikset locks and deadbolts, nickel finish

***GE Appliances- Stainless Steel***

- \* Range (Electric)
- \* Microwave
- \* Dishwasher
- \* Disposal (Badger or equivalent)

***Lighting***

- \* Kichler Lighting package nickel finish
- \* Ceiling fan in Family Room/Owners Suite
- \* 2 Exterior Coach Lights at garage

***Flooring***

- \* Armstrong LVP Selected areas on 1<sup>st</sup> floor, laundry, baths
- \* Dwellings 25oz carpet w/5# pad in bedrooms, closets, hallways, 2<sup>nd</sup> floor stairway

***Exterior & Siding***

- \* Royal 4.5 vinyl siding (.42 thickness)
- \* Harvey vinyl insulated windows/1/2 screens
- \* Certainteed Limited Lifetime Architectural shingles
- \* Schuster Fiberglass exterior doors
- \* Schuster Steel garage man door
- \* Schuster Rear glass man door (per plan)
- \* Insulated Wayne Dalton 9100 garage doors
- \* Liftmaster openers/remotes
- \* Steps to grade (as required by code)

***General Features***

- \* Varied ceiling heights
- \* One-year HBA home warranty
- \* Generous closet & storage space

***Construction***

- \* On-site stick-built construction
- \* HERS Testing (energy efficiency)
- \* Pre-engineered roof trusses
- \* **IN CASE OF A CONFLICT, THIS DOCUMENT WILL SUPERCEDE THE ARCHITECTURAL BLUEPRINTS.**

In our continuing effort to meet the challenges of product improvement, we reserve the right to modify or change plans, specifications and features. Updated 11-30-2021.



Proposed: 12/20/2021

RESOLUTION NO. 163-2021 (PD), *First Reading*

By Council Member

A Resolution authorizing the Mayor to submit the Community Development Block Grant entitlement application for the year beginning January 1, 2022; and declaring an emergency.

WHEREAS, the City has participated, and does currently participate, in the Community Development Block Grant program; and

WHEREAS, the receipt of such funds has been essential to this City in accomplishing its goals; and

WHEREAS, the City has conducted hearings and has participated in extensive discussions with the Citizens Advisory Committee and citizens relative to the activities to be accomplished in the forty-eighth year of such program.

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

SECTION 1. The Mayor be, and he is hereby, authorized to file with the Department of Housing and Urban Development of the United States Government and any required review agencies, for the program year beginning on January 1, 2022, and continuing for a one (1) year period thereafter, the Community Development Block Grant entitlement submittal, a copy of which is on file with the Clerk of Council, copies of which have been reviewed by members of Council. A copy of the forty-eighth year proposed budget, attached hereto as Exhibit A, describes the activities and the proposed amount of expenditures to be approved by this Council for each such activity during the year 2022.

SECTION 2. The Mayor is further authorized and directed to sign any and all forms, applications, or other documents necessary to obtain funding for these described programs and to submit such documents to the proper reviewing agencies within the time permitted by law. Should the City receive more than the amount estimated in this proposal, 15% of any increase in 2022 formula funding will increase public service activities up to the amount of the CAC Subcommittee recommendations. Any increase outside of the 15% public service set aside or decrease in 2022 formula funding that was not anticipated will increase or decrease the 2022 Strategic Impact Opportunity fund. Any decrease that exceeds the balance of the fund will decrease the lowest priority slum and blight activities. Prior to a final decision on any such amendment, the City will consult with the Citizens Advisory Committee.

SECTION 3. The Mayor be, and he is hereby, further authorized to file with HUD and any required reviewing agencies the Annual Action Plan for 2022, a copy of which was made available for review beginning on December 12, 2021, on the City's website and in the Cleveland Heights Planning Department for at least thirty (30) days.

RESOLUTION NO. 163-2021 (PD), *First Reading*

SECTION 4. 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 5. 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 to permit immediate filing of the described applications with all appropriate governmental agencies in order to ensure funding prior to the commencement of the program year. Wherefore, provided it receives the affirmative vote of five 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 STEIN  
President of the Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

**EXHIBIT A**  
**COMMUNITY DEVELOPMENT BLOCK GRANT**  
**FY 2022 ALLOCATION**

**Goal I: Improve, Maintain and Expand Affordable Housing**

<i>PROGRAMS &amp; PROJECTS</i>	<i>\$552,500</i>
Housing Preservation Office	
Administration/Program Delivery	\$300,000
Exterior Paint Program	\$ 60,000
Violation Repair Program for Seniors	\$ 20,000
Short Term Deferred Loan (program income)	\$ 3,500
Home Repair Resource Center	
Administration/Program Delivery	\$139,000
Assist Incentive Grant	\$ 18,000
Deferred Loan Match	\$ 8,000
Senior Home Stability Grant	\$ 4,000

**Goal II: Revitalize Residential Neighborhoods**

<i>PROGRAMS &amp; PROJECTS</i>	<i>\$396,060</i>
FutureHeights	
Cedar Lee Mini-Park	\$ 70,000
Noble Road Banner Project	\$ 10,000
Benjamin Rose Institute -Accessibility Improvements	\$ 15,000
Housing Preservation Office	
LMI Code Enforcement	\$ 50,000
Nuisance Abatement (incl. program income)	\$ 56,060
Public Works Department	
2021 ADA Curb Ramp Replacement Project	\$195,000

**Goal III: Provide Needed Public Services**

<i>PROGRAMS &amp; PROJECTS</i>	<i>\$240,000</i>
Office on Aging	\$ 36,000
Heights Emergency Food Center	\$ 24,000
Heights Emergency Food Ctr. – Accessibility Improvements	\$ 45,000
Family Connections	\$ 21,000
Family Connections-Parent Café	\$ 3,000
Open Doors-Middle School Program	\$ 10,000
Open Doors-High School Program	\$ 16,000
Start Right Food Program	\$ 7,000
Gesher	\$ 10,000
Lake Erie Ink	\$ 11,000
Bhutanese Community of Greater Cleveland	\$ 9,000
WAVE Mentoring Program	\$ 15,000

RESOLUTION NO. 163-2021 (PD), *First Reading*

Naaleh Cleveland	\$ 8,000
HRRC – Housing Counseling	\$ 25,000
<b>Goal IV: Increase Economic Opportunities</b>	
<i>PROGRAMS &amp; PROJECTS</i>	<i>\$240,000</i>
Economic Development Department	
Administration/Program Delivery	\$ 40,000
Storefront Renovation Loan (program income)	\$ 20,000
Storefront Renovation Rebate	\$ 80,000
Commercial Revolving Loan (program income)	\$ 75,000
FutureHeights – Small Business Outreach Program	\$ 25,000
<b>Grant Administration, Planning and Fair Housing</b>	
CDBG Administration	\$149,223
Geographic Information Services	\$ 35,000
FutureHeights Community Capacity Building	\$ 45,000
Fair Housing Activities	\$ 26,036
North Coventry Neighborhood Planning Project	\$ 30,000
Mayfield Warrensville Streetscape Planning	\$ 38,000
2021 Strategic Impact Opportunity	\$ 0
<b><i>TOTAL CDBG PROGRAMS &amp; PROJECTS</i></b>	<b><i>\$1,751,819</i></b>
YEAR 48 PROJECTED PROGRAM INCOME -	\$ 128,500
REPROGRAMMED PRIOR YEAR FUNDS -	\$ 23,319

# MEMO

To: Susanna Niermann O'Neil, City Manager

From: Brian Iorio, CDBG Coordinator

C.C.: Cleveland Heights City Council; Eric Zamft; William Hanna

RE: Resolution 163-2021; Year 48 (2022) CDBG Annual Action Plan

---

Resolution 163-2021 is asking City Council to authorize the Mayor to submit to the US Department of Housing and Urban Development the City's Year 48 (FY 2022) Community Development Block Grant (CDBG) Annual Action Plan. This is a required step in the City's allocation of CDBG funds from HUD.

As discussed at the November 1, 2021 Council Committee of the Whole, the allocations listed in Exhibit A of Resolution 163-2021 are being recommended by both the CAC and the City Administration. These recommendations were determined at a series of Public Hearings held on August 10<sup>th</sup> and August 17<sup>th</sup>, and at a Public Meeting held on October 19, 2021. Public notice for the availability of the Plan for review and the acceptance of public comment was made on November 11, 2021. The CAC reviewed and unanimously approved the plan for recommendation at the November 16, 2021 CAC Public Hearing. The plan can be viewed by visiting this link: [Year 48 Annual Action Plan](#). This link can also be accessed through the CDBG page on the City's website located at [www.clevelandheights.com/CDBG](http://www.clevelandheights.com/CDBG).

As always, please contact me if you have any questions, comments or concerns. I can be reached via email at [biorio@clvhts.com](mailto:biorio@clvhts.com) or by phone at (216) 291-4845.

Proposed: 12/20/2021

ORDINANCE NO. 164-2021 (PSH), *First Reading*

By Council Member

An Ordinance accepting and ratifying the material terms of the Janssen Settlement Agreement pursuant to the OneOhio Memorandum of Understanding consistent with the terms of the July 21, 2021, National Opioid Settlement Agreement; and declaring an emergency.

WHEREAS, the City of Cleveland Heights, Ohio (“City”), is a municipal entity formed and organized pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, the people of the State of Ohio and its communities, including Cleveland Heights, have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Opioid Pharmaceutical Supply Chain; and

WHEREAS, the State of Ohio, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Opioid Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance; and

WHEREAS, the State of Ohio, through its Governor and Attorney General, and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Ohio; and

WHEREAS, the City has adopted, and hereby reaffirms its adoption of, the OneOhio Memorandum of Understanding (“OneOhio MOU”) relating to the allocation and the use of the proceeds of any potential settlements described; and

WHEREAS, the OneOhio MOU has been collaboratively drafted to maintain all individual claims while allowing the State and Local Governments to cooperate in exploring all possible means of resolution; and

WHEREAS, this Council understands that an additional purpose of the OneOhio MOU is to create an effective means of distributing any potential settlement funds obtained under the OneOhio MOU between the State of Ohio and Local Governments in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Ohio, as well as to permit collaboration and explore potentially effectuation earlier resolution of the Opioid Litigation against Opioid Pharmaceutical Supply Chain Participants; and

WHEREAS, nothing in the OneOhio MOU binds any party to a specific outcome, but rather, any resolution under the OneOhio MOU requires acceptance by the State of Ohio and the Local Governments; and

WHEREAS a settlement proposal is being presented to the State of Ohio and Local Governments by Janssen Pharmaceuticals, Inc., and its parent company, Johnson & Johnson, (collectively “Janssen”) pursuant to the July 21, 2021, National Opioid Settlement Agreement, available at <https://nationalopioidsettlement.com/>; and

ORDINANCE NO. 164-2021 (PSH), *First Reading*

WHEREAS, this Council finds it to be in the interest of the City to participate in the Janssen Settlement under the terms of the OneOhio MOU; and

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

SECTION 1. This Council hereby accepts and approves the proposed Janssen Settlement on behalf of the City of Cleveland Heights pursuant to the terms of the OneOhio MOU.

SECTION 2. The City Manager be, and she is hereby, authorized to execute the Participation Agreement and any related documents for the Janssen Settlement under the terms of the OneOhio MOU and consistent with the material terms of the July 21, 2021, National Opioid Settlement Agreement, and her execution of such documents is approved and ratified.

SECTION 3. That it is found and determined that all formal actions of the Council relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

SECTION 4. Notice of 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 5. 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 timely approve the Participation Agreements to participate in the Janssen Settlement before the deadline currently set for January 2, 2022, and to facilitate the receipt of funds to assist in abating the opioid epidemic throughout Ohio. Wherefore, provided it receives the affirmative vote of five 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 S. STEIN  
President of Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

Proposed: 12/20/2021

RESOLUTION NO. 165-2021, *First Reading*

By Council Member

A Resolution authorizing the City Manager to execute a Memorandum of Understanding with the Cuyahoga County Board of Health concerning the Regional Sewer District Storm Water Program; and declaring an emergency.

WHEREAS, the City wishes to participate in a program with the Cuyahoga County Board of Health to provide Illicit Discharge Detection and Elimination services and Pollution Prevention/Good Housekeeping training for Service Department personnel; and

WHEREAS, these services will be provided to the City at no cost and will be paid for by the Northeast Ohio Regional Sewer District from storm sewer revenues;

NOW, THEREFORE, be it resolved by the Council of the City of Cleveland Heights, State of Ohio, that:

SECTION 1. The City Manager be, and she is hereby, authorized to execute a Memorandum of Understanding and any related documents with the Cuyahoga County Board of Health on behalf of the City as a member of the Regional Sewer District Storm Water Program. The terms of the MOU shall be substantially similar to those contained in the MOU attached hereto as Exhibit A.

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 need to enter into the above-mentioned agreement at the earliest time possible to receive the services as provided therein. 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  
President of the Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

# CUYAHOGA COUNTY BOARD OF HEALTH

YOUR TRUSTED SOURCE FOR PUBLIC HEALTH INFORMATION

December 6, 2021

Susanna Niermann O'Neil  
City of Cleveland Heights  
40 Severance Circle  
Cleveland Heights, OH 44118

Re: Phase II Stormwater Support Services for NEORS D Member Communities

Dear Ms. O'Neil:

CCBH anticipates the upcoming Northeast Ohio Regional Sewer District (District) approval of the Cuyahoga County Board of Health (CCBH) Stormwater Program, which incorporates activities for Minimum Control Measure (MCM) #3, Illicit Discharge Detection and Elimination, and MCM #6, Pollution Prevention/Good Housekeeping for Municipal Operations. Our Stormwater program includes dry weather outfall inspections, sampling, and employee training that will continue to assist your community in meeting the Ohio EPA's Phase II Stormwater requirements.

CCBH is able to offer your community these support services at no cost for areas that have been identified to be located within the District's Regional Stormwater Management Program (RSMP) service area. CCBH will once again offer the annual IDDE and Pollution Prevention/Good Housekeeping program activities to those communities that enter into a Memorandum of Understanding (MOU) with CCBH for 2022-2025. Please note that this MOU will cover the next four years of stormwater services.

CCBH has developed a program that is intended to assist communities in meeting their stormwater management plan requirements. Through this proposed MOU, CCBH will provide the following services:

- IDDE services including the identification of MS4 outfall locations, dry weather inspections of outfalls, and sampling of outfalls within the community's MS4 system.
- Annual training of municipal employees on stormwater topics and best management practices related to Pollution Prevention/Good Housekeeping for Municipal Operations.
- Annual site inspection of the community's municipal operations facility.
- A detailed annual report of IDDE and Pollution Prevention/Good Housekeeping activities in your community.

The MOU for 2022-2025 has been included with this letter. Please return a copy of the signed MOU to our office as soon as possible. Electronic copies are acceptable. If your community does not wish to utilize the stormwater services offered in this letter, please send written

correspondence to our office indicating that your community declines CCBH's stormwater services for 2022-2025.

Please do not hesitate to contact me at 216-201-2000 ext. 1248 or [msymanski@ccbh.net](mailto:msymanski@ccbh.net), or Domenica McClintock, Supervisor, at 216-201-2000 ext. 1223 or [dmcclintock@ccbh.net](mailto:dmcclintock@ccbh.net) with any questions.

Sincerely,



Megan Symanski, REHS, M.A.  
Program Manager  
Environmental Public Health Services



Domenica McClintock, M.P.H., REHS  
Supervisor  
Environmental Public Health Services

cc: Collette Clinkscale, Director of Public Works

5550 Venture Drive ♦ Parma, Ohio 44130

Direct: 216-201-2000 ♦ Fax: 216-676-1311 ♦ TTY: 216-676-1313 ♦ [www.ccbh.net](http://www.ccbh.net)

Terrence M. Allan, R.S., M.P.H. Health Commissioner

# **MEMORANDUM OF UNDERSTANDING**

## **CUYAHOGA COUNTY BOARD OF HEALTH AND THE CITY OF CLEVELAND HEIGHTS AUTHORITY AND CONSENT TO PROVIDE PHASE II STORMWATER SERVICES IN 2022 - 2025**

This Memorandum of Understanding ("MOU") is entered into by and between The Cuyahoga County Board of Health ("CCBH") and The City of Cleveland Heights ("City"), both separate political subdivisions of the State of Ohio.

- WHEREAS: The Cuyahoga County Board of Health is committed to improving the water quality in Cuyahoga County and protecting the health of the residents within its jurisdiction; and
- WHEREAS: In response to the implementation of the US EPA's Phase II Stormwater Regulations on March 10, 2003, CCBH developed its Stormwater Management Program to assist municipalities in Cuyahoga County and Northeast Ohio in creating their stormwater management plans and meeting their required stormwater management goals; and
- WHEREAS: Each municipality within Northeast Ohio has been issued an MS4 permit by the Ohio EPA which requires each municipality to perform specific functions related to inspecting and monitoring stormwater within the municipality; and
- WHEREAS: The Northeast Ohio Regional Sewer District ("The District"), pursuant to the authority of Ohio Revised Code Chapter 6119 adopted Title V - Stormwater Management Code as part of the District's Code of Regulations ("Title V") and is authorized to provide and contract for overall Stormwater Management of the Regional Stormwater System within the jurisdiction of NEORSD; and
- WHEREAS: Title V requires NEORSD, on behalf of the municipalities within its jurisdiction to provide planning, financing, design, improvement, construction, inspection, monitoring, maintenance, operation, and regulation for the proper handling of stormwater runoff and the development and provision of technical support information and services to member municipalities; and
- WHEREAS: Section 5.0502 of Title V requires the District to provide Phase II stormwater regulation support services to member communities of the District with Ohio EPA's NPDES General Permit for Municipal Separate Storm Sewer Systems for Minimum Control Measures (MCMs) #1, #2, #3, and #6; and
- WHEREAS: Recently, the District passed resolution 332-21 authorizing an agreement with the CCBH for services in support of NEORSD member communities' compliance with the Ohio EPA's NPDES General Permit for Municipal Separate Storm Sewer Systems; and
- WHEREAS: Pursuant to the agreement between CCBH and NEORSD, the District recognizes CCBH as a service provider for the implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) programming and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations; and

WHEREAS: In order for CCBH to provide the above described services to municipalities within the NEORSJ jurisdiction, CCBH must contract with those municipalities that are part of the NEORSJ jurisdiction in order to obtain consent and authority to perform these services; and

WHEREAS: City has authority to grant consent and authority to CCBH for the purposes of performing the services outlined herein; and

WHEREAS: Both parties desire to enter this MOU agreement for the purposes outlined herein.

**Now therefore, in consideration of the mutual promises and conditions set forth herein, BOARD and the CITY (each, a "Party" and collectively, the "Parties") agree as follows:**

## **A. PROJECT DESCRIPTION**

CCBH and the City have identified the need for the following described project:

- The implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations programming;

## **B. SCOPE OF WORK**

1. The Board will monitor the City's designated Municipal Separate Stormwater System (MS4) outfall locations during a dry weather period (a minimum of 72 hours with no rain event) and sample all flowing outfall locations that are within the District's RSMP area for E. coli, during the 2022, 2023, 2024, and 2025 report periods.
2. The Board will provide an annual training presentation related to Good Housekeeping/Pollution Prevention for Municipal Operations for the community's employees on various best management practices. This will be coordinated with the community during the 2022, 2023, 2024, and 2025 report periods.
3. The Board will conduct an annual site inspection of the community's municipal operation facilities in 2022, 2023, 2024, and 2025 and provide a completed report.
4. The Board will provide the City an annual summary of the work that was performed as it relates to Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination and MCM #6: Good Housekeeping/Pollution Prevention for Municipal Operations to be included in the City's Phase II Stormwater Annual report to the Ohio EPA.
5. The City will provide aid in opening storm sewer manholes where and when deemed necessary for the purpose of sample collections.

## **C. CONSENT STATEMENT**

Being in the public interest, The City of Cleveland Heights hereby gives consent to CCBH to complete the above described project.

#### **D. COOPERATION STATEMENT**

The City of Cleveland Heights shall cooperate with CCBH in the above described project as follows:

1. Provide maps, assistance and/or direction for CCBH to obtain access and/or samples for testing purposes;
2. The City will provide aid in opening storm sewer manholes where and when needed.

#### **E. COMPENSATION.**

The City shall have no obligation to pay the Board for the Scope of Work or services performed identified in Section B.

#### **F. INDEPENDENT CONTRACTOR.**

The Board is performing its duties and obligations under this Agreement as an independent contractor and is not an agent or employee of the City. The Board shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowable by law. The entire cost and expense of these services will be provided by NEORSD to CCBH. No financial participation will be required by The City of Cleveland Heights.

#### **G. EFFECT OF ELECTRONIC SIGNATURE**

By entering into this Agreement, the parties agree that this transaction may be conducted by electronic means, including, without limitation, that all documents requiring signatures by the parties may be executed by electronic means, and that the electronic signatures affixed by the authorized representatives of the parties shall have the same legal effect as if the signatures were manually affixed to a paper version of the documents. The parties also agree to be bound by the provisions of Chapter 1306 of the Ohio Revised Code as it pertains to electronic transactions.

#### **H. TERM AND TERMINATION**

The term of this Agreement shall begin on \_\_\_\_\_ and shall end on December 31, 2025, unless extended by the parties by agreement in writing. Either party may cancel this Agreement, for cause, with sixty (60) days written notice to the other party of such intent, when either the progress or results achieved under this Agreement is unacceptable to either party. Prior to cancellation of this Agreement, a meeting will be held by the parties to discuss issues of concern and seek resolution. If this Agreement is canceled by the parties prior to completion, the Board, within twenty (20) days, shall submit a certified final progress report if a percentage of work is completed by the date of cancellation. The City will pay the Board for the work completed as certified in this statement, subject to the provisions of this Agreement.

#### **I. MISCELLANEOUS TERMS**

a. Waivers and Amendments. The waiver by either Party of any provision of this MOU on any occasion and upon any particular circumstance shall not operate as a waiver of such provision of this MOU on any other occasion or upon any other circumstance. This MOU may be modified or amended only via a writing signed by both Parties.

b. Assignment. Neither Party shall have the right to assign this MOU to any third party. Any such attempted assignment will be null and void.

c. Complete Agreement; Integration. This MOU contains the complete understanding of the Parties with respect to the subject matter hereof and supersedes all other agreements, understandings, communications and promises of any kind, whether oral or written, between the Parties with respect to such subject matter.

d. Compliance with Laws. The Parties will comply with all applicable laws and regulations in performing their obligations hereunder. When taking actions (or failing to act) in any way relating to this MOU, neither Party shall unlawfully discriminate on the basis of race, sex, pregnancy, religion, disability, age, national origin, or color.

e. No Third Party Beneficiaries. This MOU does not and is not intended to confer any rights or remedies upon any party other than the City and CCBH.

f. Notices. All notices required or permitted under this MOU shall be given in writing by courier or reputable overnight delivery services, or by certified mail, return receipt requested, at the Party's address first set forth above, on behalf of the City, an additional copy shall be forwarded to the District. Such notices shall be effective when received.

IN WITNESS WHEREOF, authorized representatives of the parties to this CONTRACT, indicating their party's approval of the terms herein, have signed as of the dates set forth below.

**FOR THE BOARD:**

Approved as to form.

\_\_\_\_\_  
Terrence Allan  
Health Commissioner

\_\_\_\_\_  
Thomas P. O'Donnell  
CCBH General Counsel

Date:\_\_\_\_\_

Date:\_\_\_\_\_

**FOR THE CITY OF CLEVELAND  
HEIGHTS:**

Approved as to form.

\_\_\_\_\_

\_\_\_\_\_  
, Esq.  
Law Director

Date:\_\_\_\_\_

Date:\_\_\_\_\_

Proposed: 6/21/2021

ORDINANCE NO. 79-2021 (AS), *Second Reading*

By Council Member Ungar

An Ordinance enacting and adopting Chapter \_\_\_, “Tenant’s Right to Pay to Stay,” of the Codified Ordinances of the City of Cleveland Heights.

WHEREAS, the public health crisis from the COVID-19 pandemic has had substantial and continuing negative impacts on residents and the economy, internationally and nationally, including within the State of Ohio, Cuyahoga County, and the City of Cleveland Heights; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residents and businesses in the City experienced and will likely continue to experience material loss of income; and

WHEREAS, the public health crisis has caused multiple adverse economic impacts for numerous people including loss of employment, reduction in income and loss of health care coverage, leading for many to the inability to pay for housing and basic needs, and placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, further adverse economic impacts are anticipated, leaving residential tenants vulnerable to eviction; and

WHEREAS, notwithstanding COVID-19 and its deleterious effects, it is essential at all times to avoid unnecessary housing displacement/evictions to protect the City’s housing stock and to prevent housed individuals from falling into homelessness; and

WHEREAS, although unemployment compensation, rental assistance, and other programs have been made available to Ohioans so they can meet their basic needs, the City wishes to provide additional safeguards to residents and tenants concerning their ability to pay to stay in rental properties located within the City.

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

SECTION 1. That until December 31, 2022, in any eviction action for non-payment of rent due under a residential lease, the following shall apply:

SECTION 2. Chapter \_\_\_ of the Codified Ordinances of Cleveland Heights shall be, and is hereby, enacted and adopted to read as follows:

**Chapter \_\_\_\_ Tenant's Right to Pay to Stay**

**\_\_\_\_.01 Definition**

**\_\_\_\_.02 Tenant's affirmative defense after tendering rent prior to the filing of an eviction action (Complaint for Forcible Entry and Detainer)**

**\_\_\_\_.03 Tenant's affirmative defense after tendering rent prior to an eviction judgment (Judgment for Restitution)**

**\_\_\_\_.04 Rent receipt required**

**\_\_\_\_.05 Other Causes for Eviction**

**\_\_\_\_.06 Reasonable Fees**

**\_\_\_\_.07 Severability**

**\_\_\_\_.01 Definition**

For the purposes of this Chapter, "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

For the purposes of this Chapter, "Tender" means an offer of payment.

**\_\_\_\_.02 Tenant's right to pay to stay prior to the filing prior to the filing of an eviction action for non-payment of rent (Complaint for Forcible Entry and Detainer)**

(a) At any time prior to the filing of an action under Ohio Revised Code 1923 for nonpayment of rent by a landlord, a tenant shall have the right to pay the landlord all past due rent with reasonable late fees to avoid the filing of such action for the restitution of the lands or tenements.

If the tenant tenders all past due rent and reasonable late fees to the landlord, the landlord shall accept the tendered payment and allow the tenant to maintain the tenancy.

(b) If the tenant tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under Ohio Revised Code 1923 and the landlord refuses the tender, the tenant's tender of all past due rent with reasonable late fees shall be an affirmative defense to any action filed by the landlord against the tenant for nonpayment of rent.

**\_\_\_\_.03      Tenant's right to pay to stay prior to an eviction judgment (Judgment for Restitution)**

(a) After the filing of an action under Ohio Revised Code 1923 for nonpayment of rent but prior to a judgment, the tenant shall have the right to pay the landlord all past due rent, reasonable late fees and court costs so that the tenant may maintain the tenancy. If the tenant tenders all past due rent amounts, including late fees and court costs, the landlord must accept the payment. Upon receipt of the payment, the landlord shall dismiss the action against the tenant.

(b) If the tenant tenders all past due rent with reasonable late fees and court costs to the landlord prior to a judgment and the landlord refuses the tender, the tenant's tender of all past due rent, reasonable late fees and court costs shall be an affirmative defense to the eviction action filed by the landlord against the tenant for nonpayment of rent.

**\_\_\_\_.04      Rent receipt required**

The landlord shall provide the tenant with a signed receipt for the security deposit and all rental payments except for payments made by personal check of the tenant, at the time the security deposit or rental payments are made.

**\_\_\_\_.05      Reasonable Late Fees**

No landlord may charge a tenant late fees that are not reasonable late fees. If a rental agreement includes a provision that authorizes the landlord to assess the tenant a fee for late payment of the monthly rent, to be considered "reasonable late fees" the total amount of that late payment fee for any month may not exceed the larger of: (i) twenty-five dollars (\$25.00); or (ii) five percent (5%) of the monthly contract rent.

**\_\_\_\_.06      Other Causes for Eviction**

This Chapter in no way limits the ability of a landlord to initiate an eviction action for reasons other than solely for non-payment of rent.

**\_\_\_\_.07      Severability**

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. Cleveland Heights City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable

ORDINANCE NO. 79-2021 (AS), *Second Reading*

SECTION 3. 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 4. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

---

JASON S. STEIN  
President of the Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

Proposed: 12/06/2021

ORDINANCE NO. 155-2021 (AS), *Second Reading*

By Council Member Seren

An Ordinance amending Section 183.01, “Public Hearing,” of Chapter 183, Political Influence by Corporate Entities, of the Cleveland Heights Codified Ordinances to the date of the public hearing that is to be held annually;

WHEREAS, in 2013, an initiative Ordinance was submitted to the City to amend the Codified Ordinances of the City of Cleveland Heights to enact a new Chapter entitled “Political Influence by Corporate Entities”; and

WHEREAS, this Council, by Resolution No. 143-2013, submitted the initiative Ordinance to the City’s electorate at the next regular election; and

WHEREAS, the electorate of the City of Cleveland Heights passed the initiative Ordinance at the regular election on November 5, 2013, thereby establishing Chapter 183 of the Codified Ordinances of the City of Cleveland Heights; and

WHEREAS, Section 183.01, “Public Hearing,” of Chapter 183, Political Influence by Corporate Entities, of the Cleveland Heights Codified Ordinances currently establishes that a public hearing shall be held during the month of January each year; and

WHEREAS, based upon the press of new business and the potential for inclement weather during the month of January, this Council has determined it is in the best interests of the City and its residents to move the date of the public hearing required under Section 183.01 to June of each year.

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

SECTION 1. Section 183.01, “Public Hearing,” of Chapter 183, Political Influence by Corporate Entities, of the Codified Ordinances of Cleveland Heights is hereby amended to henceforth read as follows:

Beginning in 2014, City Council shall hold a public hearing during the month of ~~January~~ June each year to examine the impact on our City, our state and our nation of political influence by corporate entities and big money in connection with the most recent election. Corporate entities include business corporations, Political Action Committees, Super PACs, 501 c4 groups and unions. Members of the general public in attendance shall be afforded the opportunity to speak on these matters for up to five (5) minutes per person. The public hearing shall be held during an evening or weekend time. The City will publicize the public hearing on its website and in area media at least two (2) weeks in advance. The City shall record the

ORDINANCE NO. 155-2021 (AS), *Second Reading*

minutes of the hearing and make them available to the public no later than ~~March~~ August 1 of each year by posting them on the City's website.

SECTION 2. All remaining provisions of Chapter 183 shall remain in full force and effect.

SECTION 3. 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 4. This Ordinance shall take effect and be in force at the earliest time permitted by law.

---

JASON S. STEIN  
President of Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:



To: Members of Council

From: William R. Hanna, Director of Law  
Alix Nouredine, Assistant Director of Law

Cc: Susanna Niermann O'Neil

Date: December 3, 2021

Re: Ordinance 155-2021 Amending Chapter 183 of the Codified Ordinances

---

The attached Ordinance 155-2021 was prepared following the receipt of a request from “Cleveland Heights Move to Amend” to change the date for “Democracy Day.” Cleveland Heights Move to Amend is the organization that submitted the initiative Ordinance, that was approved by voters in 2013 and established Chapter 183 of the Codified Ordinance of the City of Cleveland Heights, “Political Influence by Corporate Entities.” Pursuant to Section 183.01 of the Codified Ordinances, the City is required to hold a public hearing in January every year, colloquially known as ‘Democracy Day,’ to consider the topic of Chapter 183.

Cleveland Heights Move to Amend has requested that City Council amend Chapter 183 so as to avoid potential interference with governmental operations during the month of January, especially in light of the transition to a new form of government and the seating of a substantially new Council in 2022. Accordingly, Cleveland Heights Move to Amend suggested revising Chapter 183 to change the date of the annual Democracy Day hearing until later in the year in 2022 and going forward. Changing the date of the annual Democracy Day to June is also expected to make it easier for the public to participate, due to better weather.

Proposed: 12/06/2021

RESOLUTION NO. 156-2021 (AS), *Second Reading*

By Council Member Seren

A Resolution authorizing the City Manager to enter into an agreement with Arthur J. Gallagher & Company for continuation of its protected liability self-insurance program for the City; and declaring an emergency.

WHEREAS, the City of Cleveland Heights, after careful evaluation of over twenty-five years of experience with its program of protected liability self-insurance, has determined that it is in the best interests of the City to continue such program; and

WHEREAS, the service to be performed by Arthur J. Gallagher & Company is a professional service for which bidding is not required, and after informal evaluation of other alternatives, it has been determined that the fees proposed are competitive and reasonable.

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

SECTION 1. The City Manager be, and she is hereby, authorized to enter into all necessary agreements with Arthur J. Gallagher & Company and all other necessary entities for the continuation of the City's protected liability self-insurance program for the period from January 1, 2022, through December 31, 2022, at a cost not to exceed One Million Seven Thousand Dollars (\$1,007,000.00), in accordance with the terms and conditions set forth in the proposal from Arthur J. Gallagher & Company, a copy of which is on file with the Clerk of Council.

SECTION 2. All documents and contracts necessary to effectuate the Program shall be approved as to form by the Director of Law.

SECTION 3. 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 4. 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 continue uninterrupted the program of protected liability self-insurance. 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.

RESOLUTION NO. 156-2021 (AS), *Second Reading*

---

JASON S. STEIN  
President of the Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

Proposed: 12/20/2021

RESOLUTION NO. 166-2021 (AS), *First Reading*

By Council Member

A Resolution declaring the organizational meeting of City Council on January 3, 2022 to be held at the City of Cleveland Heights Community Center; providing for the first regular meeting of City Council to be held on January 10, 2022; and declaring an emergency.

WHEREAS, Section III-7 of the Charter of the City of Cleveland Heights provides in part that “Council shall meet for the purpose of organization on the first Monday in January following each regular municipal election”; and

WHEREAS, Section III-7 of the Charter of the City of Cleveland Heights further provides that “Council shall meet at such times and at such public places within the City of Cleveland Heights as may be prescribed by ordinance or resolution”; and

WHEREAS, Section 111.01 of the Codified Ordinances of the City of Cleveland Heights provides that regular meetings of Council be held on the first and third Mondays of each month but that Council may “authorize a change in the regular meeting schedule set forth above”; and

WHEREAS, Section 111.01 of the Codified Ordinances of the City of Cleveland Heights further provides that Council may authorize a meeting of Council at a “public building located within the City of Cleveland Heights”; and

WHEREAS, the City’s change in form of government to Mayor-Council will occur on January 1, 2022; and

WHEREAS, the City anticipates, and would like to accommodate, a historical number of residents in attendance at the City’s first organization meeting of Council held under its new form of Mayor-Council government; and

WHEREAS, holding the organizational meeting at the City of Cleveland Heights Community Center will permit a greater number of residents to attend such meeting; and

WHEREAS, at its first meeting in January, this Council wishes to focus exclusively on its organizational composition and the change to the Mayor-council form of government, and devote significant time to this historical event.

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

SECTION 1. This Council hereby declares that its organizational meeting occurring on January 3, 2022 shall be held at the City of Cleveland Heights Community Center.

RESOLUTION NO. 166-2021 (AS), *First Reading*

SECTION 2. This Council further declares that the first regular meeting of City Council shall be held on January 10, 2022.

SECTION 3. 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 4. 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 schedule and prepare for the above-mentioned meetings at the earliest time possible. 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  
President of Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:



**Monday, November 22, 2021 Minutes**

**SPECIAL CITY COUNCIL MEETING**

7:38 – 8:49 p.m.

President Stein presiding

Roll Call: Present: Stein, Seren, Russell, Hart, Cobb, Ungar  
Absent: Moore

Staff present: Boland, Hanna, Himmelein, Niermann O'Neil, Zamft

**Personal communications from citizens**

Bert Stratton is involved in the community through his band “Yiddishe Cup.” They’ve played many times at Cain Park and throughout the community for decades. He lives near Shaker Lakes and would like Horseshoe Lake to remain a lake. Mr. Stratton said there are 1,964 people who signed a petition to save Shaker Lakes and most of those people are from the local area. He believes we have to find a way to come up with the money to save the lake and he understands that the City does not have the funds. However, he believes it can be done and we need to be patient.

Michael Madorsky thanked staff and Council for keeping the City going. Now that he is involved in a civic issue himself, he has a better understanding of all the time, effort, and thought that goes into running the City. He has lived in Cleveland Heights since he was a kid and grew up near Lower Lake. He’s enjoyed the Shaker Lakes the entire time he’s lived in the area and likes to bicycle, hike, and walk around the lakes. Mr. Madorsky studied Environmental Science in college. He believes one of the issues is that maintenance problems have fallen through the cracks for decades because the lakes belong to two cities. He doesn’t believe that either city has done much work on the perimeter of the lakes as far as the walkways, trails, and foliage are concerned unless there was an emergency. Going forward, it would be helpful to have a jurisdictional arrangement for the maintenance and ongoing operations of these lakes. He believes these lakes are a treasure that most cities would be love to have. He does not agree with the argument that we should return the area to its natural state. He does not believe it is possible to return the earth to its natural state once man has modified nature. Another argument is that the Shakers built these lakes for commerce and not for aesthetic reasons.

He does not believe the value of the lake is diminished because it was originally built for commerce. Additionally, Mr. Madorsky does not understand the argument that Horseshoe Lake does not contribute to stormwater management. He believes Council should hold off passing this legislation to give everyone time to come up with another solution that would preserve Horseshoe Lake.

Fran Mentch was originally told by a staff member that there would not be public comment at tonight's special meeting. She wishes the staff member had sent her a follow up email informing her that they would be having public comment after all. She does not understand why the development agreement legislation that is on tonight's agenda is being considered a first reading when she believes it is devoid of content. Many of the exhibits included with the legislation contained no content. Ms. Mentch watched the Committee of the Whole meeting in which Council Member Ungar recommended waiting for the new year to assign residents to the various Boards and Commissions because there will be new members on Council and a new form of government. She does not understand why he would take this stance but then choose to forge ahead with the Cedar Lee Meadowbrook project legislation instead of allowing the new Council and new form of government make those decisions. She reiterated that she does not consider this to be a first reading of tonight's resolution since it is so devoid of content.

Destiny Burns has been a homeowner in Cleveland Heights for seven years and owns a business located in the Cedar Lee district. She is also the Vice President of the Cedar Lee SID. She is here tonight to support the development project and thanked Council for all of the work they've done over the years. Many of the other business owners are in favor of the project as well. They are hopeful that the projected economic development/activity will allow them to get their businesses back to where they were pre-pandemic. She is in favor of Council going forward with the project and would like work to begin on the site as soon as possible. Ms. Burns read the parking and traffic study and encouraged Council to consider extending that across the entire district because she believes there would be a lot of benefits to doing so.

Rosemary Ludway has been a resident of Cleveland Heights for twelve years and thinks it is a great community. She is an avid swimmer and heard that Council was considering cutting a few weeks of the swimming schedule. She is concerned about this and wanted to speak on behalf of all of the swimmers who use this pool.

President Stein thanked Ms. Ludway for coming to the meeting and speaking about this topic. He said they have some good news for her.

City Manager Niermann O'Neil said they looked at the recommendations from staff and realized how important it was to add the two weeks back to the Cumberland pool season. This pool is a huge draw for the community so the two weeks are being restored.

Ms. Ludway said this is wonderful news and thanked Council and the City Manager.

Deborah Van Cleef asked Council to concur with the NEORSD's plan for the area in the Shaker parklands, currently known as Horseshoe Lake. Environmentalists that she knows and trust are in favor of this change. Change can be difficult, especially when we are unable to envision the end result. This is why it is important for a lot of people to be involved in the process of planning for the area that will replace the lake. Ms. Van Cleef hopes to see native plants, shrubs, and trees that will provide a healthy habitat for pollinators, birds, and other creatures. She hopes that there will be paths and boardwalks to allow access to the area so people can observe the streams and banks throughout the seasons. She would like to see stones from the dam incorporated into walls, benches, and other structures. Although it is sad to dismantle the work of the Shakers, we must accept that the earthen dams have outlived their usefulness and are no longer safe. Residents should look beyond their own immediate interests and the surrounding region. We should also consider future generations and how they will be affected by extreme climate conditions with increased rainfall. She does not believe the NEORSD has an agenda beyond good stewardship of our waterways and management of our storm water. She also does not believe NEORSD has a vendetta against Horseshoe Lake. They are a highly regarded public agency that is trying to preserve and ultimately enhance this local treasure in a way that will be beneficial to the natural environment and the community.

John Ludway is here tonight with his wife, Rosemary the swimmer, and they are both happy with the news about the swim schedule. This is the second Council meeting he has attended and he is a friend of former Council Member Dunbar and was saddened to see her step down due to health issues. He is a cyclist and frequently cycles from his home in Cleveland Heights to St. Vincent Charity Hospital where he is a clinical counselor. He was surprised to see sharrows in the right-hand lane going down Monticello. He is glad that there is signage along the bike route but thinks it is dangerous to encourage cyclists to take up one lane when it is a two-lane road and a high traffic area. He rides as far to the right as practicable, per the law. He is curious about whether the cycling community was asked about this change because he was never asked and believes it to be dangerous. Personally, he would love to see a sharrow on Mayfield Road near Lakeview Cemetery. He believes it is important to put sharrows in strategic places where cyclists are in the most danger.

President Stein asked City Manager Niermann O'Neil to forward Mr. Ludway's concerns to the Transportation Advisory Committee.

Penny Allen urged Council to delay their vote on the Horseshoe Lake matter. She does not believe that the arguments about the area being better without the lake are credible. The streams would not provide the same aquatic environment as the lake provides for wildlife. The lake environment hosts fifty-four different species of birds that need this environment. The Shaker Lakes are important for migrating birds and they attract bird watchers from all over. She believes that we now have new opportunities to consider including three billion dollars that is available for dam restoration and repair through the Infrastructure Act. She said these opportunities should be explored so the City can restore and improve this environmental gem of a lake. She would like to see this lake restored for not only its environmental value, recreational value, and beauty but also to honor the work of those who fought so hard to keep the lakes.

Christine Heggie reiterated her support for postponing the Horseshoe Lake legislation and exploring other alternatives. She finds it frustrating that there hasn't been a lot of upkeep over the past fifty to seventy years despite Shaker Heights and Cleveland Heights having the responsibility to do that. She is also frustrated because people in these communities pay taxes and expect the municipalities to maintain the park lands. It seems unfair that after not properly maintaining the dams, the cities are allowing the NEORSD to come in and the people who love Horseshoe Lake have to fight for it at the last minute. She wanted to point that although the NEORSD has a good reputation, there are still conflicts of interest. She felt that the public was provided with a one-sided point of view from NEORSD who were supported by Doan Brook Partnership and the Nature Center. They did not hear the opinions of those who want to keep Horseshoe Lake. Ms. Heggie is very pleased that Josie Moore is now a council member. Council Member Moore has been encouraging residents to sign up for committees and be involved in their local government. Ms. Heggie would like to help out but unfortunately her experience has been that people with different opinions will be ignored. Residents need to feel that their voices matter and they can make a difference. She hopes Council will consider other options that will allow for the preservation of Horseshoe Lake.

Korbi Roberts, Cleveland Heights Historical Society Trustee, said when Horseshoe Lake was drained, it was shocking to the residents and they sought answers from their cities, Doan Brook Partnership, the Nature Center, and Shaker Heights Historical Society. All of these organizations immediately showed their support for the NEORSD's plan to destroy Horseshoe Lake and parroted the opinions of the NEORSD on their websites. According to Ms. Roberts, the Shaker Heights Historical Society is supposed to protect the remains of the Shakers and the history of the area. She found it shocking that the Shaker Heights Historical Society would support the destruction of Horseshoe Lake. She also brought up the homeowners who purchased real estate in the area because of the beauty of the lakes. These people pay taxes and bring in revenue to the City. She is

certain they are shocked and disappointed with the decision to destroy the lake. She believes the NEORSD should not be the authority on Horseshoe Lake because their interest is sewers and ways of making cheap sewers. Ms. Roberts said the NEORSD has a large budget for its various projects and replacing the dam would not take a lot away from those funds. She said the Cleveland Heights Historical Society is made up of volunteers and they do not get paid for their work but they do this because they love their cities. They know the Shaker Lakes are much more than a sewer. While some argue Shaker Lakes don't have commercial, reservoir, or flood control value, they believe the lakes are commercially valuable in many other ways. They bring in visitors from all over, they increase real estate value, and they are valuable green spaces. This land was given to the people as a park and should be preserved instead of being made into streams. She encouraged the people who are interested in streams to rehabilitate other areas but to leave Horseshoe Lake alone. Ms. Roberts concluded by saying that throughout this process, the people were told they had a say but they did not really have a say since the plans were made behind their backs. She asked Council to delay voting on this legislation so the people who want to preserve Horseshoe Lake can look for other alternatives and funding.

Jim Mueller retired from Cleveland Heights Municipal Court and started exploring the hidden streams in the area. He does not consider Doan Brook to be a "natural" stream because it has been dammed, shaped, and redirected. It would not be recognizable to the indigenous people who lived here for thousands of years before the 19<sup>th</sup> century. Mr. Mueller believes that restoring the area where Horseshoe Lake is currently located to its natural state would be a wonderful addition to the park lands.

Pete Zicari, believes that if the lake is drained, it will be challenging to keep the invasive species out. He has already discovered invasive species since the lake was drained. He believes we have the time to allow alternatives to be explored and they should delay voting on the legislation.

## **Report of the City Manager**

City Manager Niermann O'Neil reminded residents to go to the City website if they are interested in applying for the various boards and commissions.

In the spirit of Thanksgiving, the City Manager thanked staff for keeping things going during a very challenging year. The City has faced budget and financial issues as well as staff vacancies in addition to the ups and downs with COVID-19. She also thanked Council for understanding the demands that were put on staff this year and for giving them the space to get things done. She is grateful for the residents who are supportive of City staff. They've been very encouraging throughout this difficult time.

## **Report of the Clerk of Council**

Nothing to report at this time.

## **ADMINISTRATIVE SERVICES COMMITTEE**

**ORDINANCE NO. 153-2021 (AS), *First Reading***. An Ordinance amending various sections of the Codified Ordinances of the City of Cleveland Heights in furtherance of the transition from the Council-Manager to the Mayor-Council form of government; and declaring an emergency

Introduced by Vice President Seren

**Legislation Introduced**

## **COMMUNITY RELATIONS AND RECREATION COMMITTEE**

Council Member Russell wished everyone a Happy Thanksgiving and hopes they have the opportunity to spend the holiday with their families.

Council Member Russell also wanted to mention that there are three vacancies on the Commission of Aging and applicants need to be at least sixty years old. There are also three vacancies on the Parks & Recreation Committee and five vacancies on the Racial Justice Task Force. She requested that interested residents go to the City website and apply for these committees.

## **FINANCE COMMITTEE**

Council Member Hart wanted to remind everyone that there will be a special meeting of the new council at 6pm on December 29<sup>th</sup> where they will discuss the process of appointing someone to fill the council vacancy. Per the charter amendment that was recently passed, they have 45 days to appoint someone. They want to start the process early since the clock starts ticking on January 1st.

Council Member Hart also wished everyone a Happy Thanksgiving.

## **MUNICIPAL SERVICES COMMITTEE**

**RESOLUTION NO. 149-2021 (MS), *Second Reading***. A Resolution authorizing the City Manager to enter into an agreement with Advantech Services and Parts LLC, for the

acquisition of a 2022 E-One HR 100ft Aerial Ladder Truck for the Fire Department; providing compensation therefor; and declaring an emergency.

Introduced by Council Member Russell, Seconded by Council Member Ungar

Roll Call: Ayes: Hart, Russell, Seren, Stein, Ungar, Cobb  
Nays: None

**Legislation Passed**

Council Member Russell also congratulated everyone who won their seat on Council since it is now official after the Board of Elections certified the results.

## **PLANNING AND DEVELOPMENT COMMITTEE**

**RESOLUTION NO. 151-2021 (PD), Second Reading.** A Resolution to concur in the proposal of the Northeast Ohio Regional Sewer District (NEORS), as a part of its regional stormwater management program, and at its cost, to remove Horseshoe Lake Dam and return the lake bed to its naturalized state, including streams, plantings, trees, and other amenities, following a public planning process undertaken in concert with the cities of Cleveland Heights and Shaker Heights; and meet Ohio Department of Natural Resources (ODNR) standards for a Class I dam; and declaring an emergency.

Introduced by Council Member Ungar, Seconded by Vice President Seren

\***MOTION** to amend Resolution No. 151-2021 by amending Section 2 of the Resolution to read as follows:

*Many residents of the City of Cleveland Heights cherish Horseshoe Lake for its historic significance, tranquil aesthetic, bird sanctuary, and overall as an important amenity for the community and the region. Prior to and during the design and planning phases, the City encourages the Northeast Ohio Regional Sewer District to be open to other ideas from the community that preserve Horseshoe Lake and protect public safety, while effectively managing storm water, and not placing any financial burden on the City.*

Moved by Council Member Hart, Seconded by Council Member Ungar

Roll Call: Ayes: Russell, Seren, Stein, Ungar, Cobb, Hart  
Nays: None

**Motion Passed**

Roll Call: Ayes: Seren, Stein, Ungar, Cobb, Hart, Russell

Nays: None

**Legislation Passed**

Council Member Cobb said he was asked about his position on preserving Horseshoe Lake and he would like to see it preserved. However, this comes at a high cost. The Ohio Department of Natural Resources said that the two dams need to be replaced and the independent consulting firm hired by the City confirmed this. Cleveland Heights and Shaker Heights would be responsible for covering the cost of replacing or removing two dams. The NEORSD has offered to relieve Cleveland Heights and Shaker Heights of this responsibility and the other costs connected to the State's order. However, they will only be replacing the dam at Lower Lake. Cleveland Heights does not have the money to comply with the State's order. Shaker Heights has already decided to accept the NEORSD's proposal. Personally, Council Member Cobb does not want to see the dam go but he feels that the City has no alternative but to accept the NEORSD's proposal. Delaying voting tonight would simply be delaying the inevitable.

Council Member Ungar said these lakes are an absolute treasure in this community. He heard remarkable comments from both sides of this debate. A lot of comments have mentioned "beauty" and "aesthetics" which he pointed out is truly in the eye of the beholder. This is a situation where reasonable minds can differ and this was not an easy decision to make. He is proud with how Council has handled this and wanted to be clear that they did not seek a second opinion because they doubted the NEORSD's motivations or integrity. It was Council's duty to thoroughly review and objectively review the issues and the analysis and recommendations of the NEORSD before committing to a decision. He believes they fulfilled this duty. He is appreciative of staff for their work and Gannett Fleming for providing a second opinion. Council Member Ungar will be voting in favor of this legislation tonight.

Council Member Russell said this decision has been very tough and one that she did not see coming. However, we need to focus on safety in our community and we have to consider the City's revenue. There are major budget cuts throughout the City so she knows we would not be able to take care of a dam. She does appreciate the beauty of Horseshoe Lake but believes it can be beautiful again with the input of our citizens and something we could all be proud of. Ultimately, our duty as City Council is to keep our community safe and stay within the budget. Council Member Russell was told that 85% of the Shaker Lakes property belongs to Shaker Heights. Cleveland Heights is only a small part of it but shares equal liability. She believes that the citizens of Cleveland Heights and Shaker Heights will come together and they will have time because it will take nearly a year before the NEORSD can start implementing their plan. Council Member Russell will be voting yes on this legislation tonight.

Council Member Hart said Horseshoe Lake was an idyllic spot for reflection and for people to get together. It was an integral part of the community for close to two hundred years. There are various sides to this issue and having stormwater properly regulated is very important to prevent loss of life. There are those who want to see the area returned to its natural state and those who have enjoyed the lake and want to preserve it as well as the history of the area. These views are all valid. The goal is to find the place where environmental benefit, economic benefit, and the benefit to the people can all be met. There are people who are working to find alternative solutions that will satisfy these three conditions and they will have time to do so because this project will take a long time. The intention of Council Member Hart's amendment to the legislation is to encourage the NEORSD to remain open to alternatives. Because her amendment was passed, she is going to vote in favor of this legislation tonight. However, she encourages the NEORSD to do what is right and listen to any alternatives and give them consideration.

Vice President Seren feels that while this is not an attractive option for many in the community, it is the only option at this point that is reliable and sustainable long term both financially and ecologically. We cannot simply wait and see if another option becomes available. We need to take action. He looks forward to working with Mayor Weiss in Shaker Heights, Shaker Heights City Council, our City Council, and the residents in both cities to design what will replace Horseshoe Lake. He hopes to create an amenity that is treasured for generations much like Horseshoe Lake was.

**RESOLUTION NO. 154-2021 (PD), First Reading.** A Resolution authorizing the City Manager to enter into a Development Agreement with F&C Development, Inc. concerning the "Cedar-Lee Meadowbrook" development; and declaring an emergency.

Introduced by Council Member Ungar

**Legislation Introduced**

Council Member wished everyone a very Happy Thanksgiving.

## **PUBLIC SAFETY AND HEALTH COMMITTEE**

Nothing to report at this time.

### **Report of the Council President**

President Stein wished everyone a Happy and Healthy Thanksgiving.

**NEXT MEETING OF COUNCIL: MONDAY, DECEMBER 6, 2021**

Respectfully submitted,

---

Jason S. Stein  
President of Council

---

Amy Himmelein  
Clerk of Council