

Proposed: 10/03/2022

ORDINANCE NO. 148-2022 (PD), *Second Reading*

By Mayor Seren

An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; authorizing a compensation agreement with the Cleveland Heights-University Heights City School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43, and declaring an emergency.

WHEREAS, the City of Cleveland Heights (the “City”) owns certain parcels of real property known as the Cedar-Lee Meadowbrook parcels consisting of approximately 4.8 acres located between Cedar Road and Meadowbrook Road, as shown on **Exhibit A** hereto (collectively referred to herein as the “TIF Area,” with the parcels comprising the real property within the TIF Area, as improved, referred to herein as the “Parcels”); and

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

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

WHEREAS, the City has entered into a Development Agreement with F & C Development, Inc. (the “Developer”) pursuant to which the Developer will lease the Parcels from the City and improve the Parcels by building thereon a mixed-use development which will include construction of (a) one or more buildings of varying heights including approximately 200-225 market-rate apartments, (b) approximately 5,000-9,000 square feet of first floor non-residential space such as commercial, retail and/or restaurant space, (c) public gathering and green spaces, and (d) all private and public sidewalks, as well as driveways, access ways, street and parking lot lighting and utility connections and sanitary, stormwater drainage and other infrastructure improvements on the Project Site, all as further described in the Development Agreement (all of the foregoing being referred to herein collectively as the “Development”); and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide that the owner of the Development (initially, the Developer) be required to make service payments in lieu of real property taxes (“Service Payments,” as further defined below) with respect to the Improvements located on the Parcels pursuant to R.C. Section 5709.42; and

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WHEREAS, this Council has determined that it is in the City's best interests for the City to enter into a compensation agreement (the "Compensation Agreement") with the Board of Education of the Cleveland Heights-University Heights City School District (the "School District"), which Compensation Agreement provides for the payment of compensation by the City to the School District; and

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

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

WHEREAS, as a result of the Development, certain surface parking spaces used by staff and students of the School District will be eliminated, and the City desires to allow staff and students of the School District to utilize certain additional parking spaces owned by the City in the vicinity of the Parcels in accordance with the terms of a School District Additional Parking Agreement; and

WHEREAS, an emergency exists in the usual daily operations of the City in that it is immediately necessary to approve tax exemptions for the Improvements for the preservation of the public health, peace, property and safety, that preservation being related to the need for the Development to move forward and for construction to commence at the earliest possible date;

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

SECTION 1. The Improvements (other than those Improvements, if any, to be used for residential purposes as such term is used in R.C. Section 5709.41(B)) to the Parcels on which the Developer will construct the Development are hereby declared to be a public purpose for purposes of R.C. Section 5709.41. One hundred percent (100%) of the increase in the assessed value of the Parcels (which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.41) shall be exempt from real property taxation for a period of thirty (30) years commencing with tax year ____.

SECTION 2. As provided in R.C. Section 5709.42, the owner of the Development (initially, the Developer) is hereby required to make annual service payments for a period of thirty (30) years in lieu of taxes to the County Fiscal Officer on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable if the Improvements were not exempt from taxation (with the payments in lieu of taxes, including any penalties, interest and rollback payments, collectively referred to as "PILOTS"). The County Fiscal Officer shall remit all PILOTS to the City. In addition to the payment of PILOTS described herein, in accordance with the Compensation Agreement, in connection with any TIF Debt (as defined in the Compensation Agreement), the owner(s) of the

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Development may also be required to make minimum service payments (the “Minimum Service Payments”) as described in the Compensation Agreement.

This Council hereby authorizes the Mayor or designee (the “Mayor”) or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those PILOTS from the County Fiscal Officer or collect the Minimum Service Payments from the Developer and to make such arrangements as are necessary and proper for payment of the portion of PILOTS and/or Minimum Service Payments dedicated to TIF Debt to be paid, if appropriate, to the trustee for any TIF Debt. Any late payments of PILOTS shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time.

No Owner of any portion of the Development shall, under any circumstances, be required in any tax year to both pay PILOTS with respect to an Improvement or reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing authorities had the Improvements not been exempted from taxation to the extent set forth in this Ordinance.

SECTION 3. The Mayor shall make payments to the School District as described in the Compensation Agreement.

SECTION 4. This Council hereby establishes pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Cedar-Lee Meadowbrook Urban Redevelopment Tax Increment Equivalent Fund (the “Fund”), into which shall be deposited the PILOTS distributed to the City with respect to the Improvements on the Parcels by or on behalf of the County Fiscal Officer as provided in Section 5709.42 of the Revised Code. One hundred percent (100%) of the moneys collected shall be deposited in the Fund and shall be retained by the City and used for any or all of the following purposes:

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

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

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

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

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

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

SECTION 5. The Compensation Agreement between the City and the School District, substantially in the form attached to this Ordinance as Exhibit B, is hereby approved and authorized, with changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City as determined by the Director of Law and which are approved by the Mayor. The Mayor, for and in the name of the City, is hereby authorized to execute that Compensation Agreement and any amendments thereto. The approval of changes or amendments by the Mayor, and the character of the changes or amendments as not being inconsistent with this Ordinance and not being materially adverse to the City, shall be evidenced conclusively by the execution thereof by the Mayor with the concurrence of the Director of Law. This Council further hereby authorizes and directs the Mayor to make such arrangements as are necessary and proper for payments to be made to the School District pursuant to the Compensation Agreement.

SECTION 6. The School District Additional Parking Agreement between the City and the School District, substantially in the form attached to this Ordinance as Exhibit C, is hereby approved and authorized, with changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City as determined by the Director of Law and which are approved by the Mayor. The Mayor, for and in the name of the City, is hereby authorized to execute that School District Additional Parking Agreement and any amendments thereto. The approval of changes or amendments by the Mayor, and the character of the changes or amendments as not being inconsistent with this Ordinance and not being materially adverse to the City, shall be evidenced conclusively by the execution thereof by the Mayor with the concurrence of the Director of Law.

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

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

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

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

SECTION 11. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need for the Development to move forward and for construction to commence at the earliest possible date. 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.

President of the Council
MELODY JOY HART

Clerk of Council
ADDIE BALESTER

PASSED:

Presented to Mayor: _____ Approved by Mayor: _____

KAHLIL SEREN
Mayor

EXHIBIT A

DESCRIPTION OF PARCELS INCLUDED IN TIF AREA

(Identified by Parcel Number. See Separate Attachment.)

ALTA COMMITMENT FOR TITLE INSURANCE

Issued By:



Commitment Number:

GLC2100402

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, Commonwealth Land Title Insurance Company, a Florida corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within one hundred eighty (180) days after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Commonwealth Land Title Insurance Company

By:

A handwritten signature in black ink, appearing to read "Randy Quirk".

Randy Quirk, President

Countersigned By:

A handwritten signature in black ink, appearing to read "Winifred Glaser-Fries".

Authorized Officer or Agent
Winifred Glaser-Fries

Attest:

A handwritten signature in black ink, appearing to read "Marjorie Nemzura".

Marjorie Nemzura, Secretary

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Commonwealth Land Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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Transaction Identification Data for reference only:

ISSUING OFFICE:	FOR SETTLEMENT INQUIRIES, CONTACT:
Title Officer: Genevieve Jonas Commonwealth Land Title Insurance Company 30 Garfield Place, Suite 720 Cincinnati, OH 45202 Phone: 513-337-5489 Fax: 513-682-5927 Main Phone: (513)985-0550 Email: GJonas@cltic.com	Escrow Officer: Genevieve Jonas Commonwealth Land Title Insurance Company 30 Garfield Place, Suite 720 Cincinnati, OH 45202 Phone: 513-337-5489 Fax: 513-682-5927 Main Phone: (513)985-0550 Email: GJonas@cltic.com

Order Number: GLC2100402**Project Name: Cedar Lee****SCHEDULE A**

1. Commitment Date: June 1, 2021 at 12:00 AM

2. Policy to be issued:

(a) ALTA Owner's Policy 2006 - OH (12/01/2015)

Proposed Insured: F & C Development, Inc. (or affiliated company)

Proposed Policy Amount: \$100,000.00

3. The estate or interest in the Land described or referred to in this Commitment is:

Fee Simple

4. The Title is, at the Commitment Date, vested in:

Judith Wolf aka Judith V. Wolf, by deed filed for record October 3, 1989 in [Volume 89-5369, page 59](#), and Certificate of Transfer filed June 5, 2006 in [AFN 200606050617](#) of the Cuyahoga County Records. (Parcels 1 and 2)

NOTE: Transfer on Death Designation Affidavit executed by Judith V. Wolf, transfers upon death to Eliezer Wolf as to an undivided one-half interest, and Samuel Wolf as to an undivided one-half interest, filed for record December 12, 2019 in [AFN 201912120332](#), of the Cuyahoga County Records.

Note: We find no estate of record for Judith V. Wolf in the Cuyahoga County Probate Records.

LC Holdings LLC by deed filed for record December 8, 2011 in [AFN 201112080135](#), of the Cuyahoga County Records. (as to Parcel 3)

The City of Cleveland Heights, Ohio by deed filed for record June 25, 1959 in [Volume 9719, page 112](#), of the Cuyahoga County Records. (as to Parcel 4)

The City of Cleveland Heights by deed filed for record May 1, 1959 in [Volume 9498, page 594](#), of the Cuyahoga County Records. (as to Parcel 5)

City of Cleveland Heights by deed filed for record May 18, 1959 in [Volume 9704, page 180](#), of the Cuyahoga County Records. (as to Parcel 6)

The City of Cleveland Heights, Ohio by deed filed for record May 22, 1959 in [Volume 9706, page 208](#), of the Cuyahoga County Records. (as to Parcel 7)

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SCHEDULE A

(continued)

City of Cleveland Heights, Ohio, a Municipal corporation by deed filed for record July 21, 1959 in [Volume 9728, page 271](#), of the Cuyahoga County Records. (as to Parcel 8)

City of Cleveland Heights by deed filed for record May 11, 1959 in [Volume 9702, page 23](#), of the Cuyahoga County Records. (as to Parcel 9)

The City of Cleveland Heights, Ohio, a municipal corporation by deed filed for record April 12, 1960 in [Volume 9919, page 616](#), of the Cuyahoga County Records. (as to Parcels 10, 11, and 12)

The City of Cleveland Heights, Ohio, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Ohio by deed filed for record August 30, 1960 in [Volume 9971, page 731](#), of the Cuyahoga County Records. (as to Parcel 13)

City of Cleveland Heights by deed filed for record April 1, 1959 in [Volume 9488, page 76](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights, a municipal corporation duly organized under and by virtue of the laws of Ohio by deed filed for record April 23, 1959 in [Volume 9495, page 444](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights, Ohio by deed filed for record May 1, 1959 in [Volume 9498, page 343](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights, Ohio by deed filed for record May 1, 1959 in [Volume 9498, page 346](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights, Ohio by deed filed for record May 8, 1959 in [Volume 9500, page 712](#), of the Cuyahoga County Records. (as to part of Parcel 14)

City of Cleveland Heights by deed filed for record May 8, 1959 in [Volume 9701, page 214](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights, Ohio by deed filed for record May 15, 1959 in [Volume 9703, page 674](#), of the Cuyahoga County Records. (as to part of Parcel 14)

City of Cleveland Heights by deed filed for record May 15, 1959 in [Volume 9703, page 677](#), of the Cuyahoga County Records. (as to part of Parcel 14)

City of Cleveland Heights (a Municipal Corporation) by deed filed for record May 19, 1959 in [Volume 9704, page 665](#), of the Cuyahoga County Records. (as to part of Parcel 14)

City of Cleveland Heights, a municipal corporation by deed filed for record March 2, 1960 in [Volume 9907, page 1](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights, Ohio by deed filed for record June 3, 1959 in [Volume 9710, page 512](#), of the Cuyahoga County Records. (as to part of Parcel 14)

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SCHEDULE A

(continued)

The City of Cleveland Heights, Ohio by deed filed for record June 17, 1959 in [Volume 9715, page 614](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights, Ohio by deed filed for record July 15, 1959 in [Volume 9726, page 154](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights by deed filed for record June 3, 1960 in [Volume 9937, page 505](#), of the Cuyahoga County Records. (as to part of Parcel 14)

The City of Cleveland Heights by deed filed for record January 25, 2001 in [AFN 200101250210](#), of the Cuyahoga County Records. (as to part of Parcel 15)

The City of Cleveland Heights by deed filed for record August 15, 2001 in [AFN 200108150531](#), of the Cuyahoga County Records. (as to part of Parcel 15)

The City of Cleveland Heights by deed filed for record August 24, 2001 in [AFN 200108241093](#), of the Cuyahoga County Records. (as to part of Parcel 15)

City of Cleveland Heights by deed filed for record December 17, 2001 in [AFN 200112170869](#), of the Cuyahoga County Records. (as to part of Parcel 15)

The City of Cleveland Heights, Ohio by deed filed for record September 14, 2005 in [AFN 200509140579](#), of the Cuyahoga County Records. (as to part of Parcel 15)

5. The Land is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

END OF SCHEDULE A

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EXHIBIT "A"
Legal Description

Parcel 1: (East Part of PPN: 687-06-011)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being part of Sublots Nos. 202 and 203 in the J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and together forming a parcel of land bounded and described as follows:

Beginning on the Southerly line of Cedar Road, at a point 15 feet Easterly, measured along said Southerly line, from the Northwestern corner of said Sublot No. 203;

Thence Easterly, along said Southerly line of Cedar Road, 45 feet to a point 20 feet Westerly, measured along said Southerly line, from the Northeasterly corner of said Sublot No. 202;

Thence Southerly, on a line parallel to the Easterly line of said Sublot No. 202, about 128.125 feet to the Southwesterly line of said Sublot 202;

Thence Northwesterly, along the Southwesterly line of said Sublots Nos. 202 and 203, about 46.76 feet to a point 25 feet Westerly, measured at right angles, from the Easterly line of Sublot No. 203;

Thence Northerly about 115.47 feet to the place of beginning, as appears by said plat, be the same more or less.

Parcel 2: (West Part of PPN: 687-06-011)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being part of Sublot No. 203, in the J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and being further bounded and described as follows:

Beginning at a point in the Southerly line of Cedar Road, 60 feet wide, which point bears North 89 deg. 43' 10" East, 238.02 feet from an angle point in Cedar Road, which angle point is at the Westerly line of said Original Warrensville Township Lot No. 3;

Course No. 1: Thence continuing North 89 deg. 43' 10" East, along said Southerly line of Cedar Road, 0.20 feet to the Northwest corner of a parcel of land conveyed by the Northland Investment Company to Joseph M. Sands by deed recorded in Volume 2908, page 522, of the Cuyahoga County Records;

Course No. 2: Thence South 0 deg. 16' 50" East, 115.47 feet to a point in the Southerly line of said Sublot No. 203, being along the Westerly line of land so conveyed to Joseph M. Sands;

Course No. 3: Thence North 74 degrees 34' 20" West, along said Southerly line of said Sublot No. 203, a distance of 0.21 feet to a point;

Course No. 4: Thence North 0 deg. 16' 50" West, 115.42 feet to the place of beginning, according to the survey made by The Bauer Surveys Company, dated August 23, 1937, be the same more or less.

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EXHIBIT "A"

Legal Description

Parcel 3: (PPN: 687-06-012)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being part of Sublots 200, 201, and 202, in the J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lot Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and bounded and described as follows:

Beginning in the Easterly line of said Sublot No. 200, at the Southeasterly corner of a parcel of land conveyed to The City of Cleveland Heights by deed recorded in Volume 9971, page 728, of the Cuyahoga County Records;

Thence South 89 deg. 43' 10" West, 37.12 feet along the Southerly line of land so conveyed to The City of Cleveland Heights, to the most Westerly corner of a parcel of land conveyed to The City of Cleveland Heights, by deed recorded in Volume 9971, page 731, of the Cuyahoga County Records, and the principal place of beginning of premises described herein;

Thence South 89 deg. 43' 10" West, 62.88 feet along the Southerly line of land conveyed to the City of Cleveland Heights, as first aforesaid, to a point in the Westerly line of a parcel of land conveyed to the City Ice and Fuel Company by deed recorded in Volume 5896, page 668, of the Cuyahoga County Records;

Thence South 0 deg. 16' 50" East, 128.12 feet along the Westerly line of land so conveyed to the City Ice and Fuel Company to a point in the Southerly line of said Sublot No. 202;

Thence South 74 deg. 34' 20" East, 62.33 feet along the Southerly line of said Sublot Nos. 202 and 201, to the Southwesterly corner of said Sublot No. 200;

Thence North 89 deg. 43' 10" East, 4.88 feet along the Southerly line of said Sublot No. 200, to the Southwesterly corner of land conveyed to the City of Cleveland Heights by deed recorded in Volume 9971, page 731, of the Cuyahoga County Records;

Thence North 0 deg. 16' 50" West, 138 feet along the Westerly line of land so conveyed to The City of Cleveland Heights to an inner corner thereof;

Thence North 45 deg. 16' 50" West, 2.83 feet to the principal place of beginning, be the same more or less.

Parcel 4: (PPN: 687-06-088)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being Sublot No. 191, in The J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, as appears by said plat, be the same more or less.

Parcel 5: (PPN: 687-06-089)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being Sublot No. 192, in The J. A. Wigmore Company's Cedarbrook Allotment, of part of Original

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EXHIBIT "A"

Legal Description

Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, as appears by said plat, be the same more or less.

Parcel 6: (PPN: 687-06-090)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being Sublot No. 193, in The J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and being 40 feet front on the Northeasterly side of Cedarbrook Road, and extending back 140.04 feet deep on the Southeasterly line, 151.71 feet deep on the Northwesterly line, and being 49.32 feet in the rear, as appears by said plat, be the same more or less.

Parcel 7: (PPN: 687-06-091)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being Sublot No. 194, in The J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, as appears by said plat, be the same more or less.

Parcel 8: (PPN: 687-06-092)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being Sublot No. 195, in The J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, as appears by said plat, be the same more or less.

Parcel 9: (PPN: 687-06-093)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being Sublot No. 196, in The J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and being 40 feet front on the Northeasterly side of Cedarbrook Road, and extending back 143.67 feet deep on the Northwesterly line, 149.84 feet deep on the Southeasterly line, and being 52.49 feet in the rear, as appears by said plat, be the same more or less.

Parcel 10: (All of PPN: 687-06-094 and 687-06-009, East Part of 687-06-095, and West Part of 687-06-010)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being all of Sublots Nos. 197, and 198, and part of Sublots Nos. 204, and 205, in the J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and together forming a parcel of land bounded and described as follows:

Beginning on the Northeasterly line of Cedarbrook Road, at the Southeasterly corner of said Sublot No. 197;

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EXHIBIT "A"

Legal Description

Thence Northwesterly, along the Northeasterly line of Cedarbrook Road, 79.98 feet to the Southwesterly corner of said Sublot No. 198;

Thence Northerly, along the Westerly line of said Sublot No. 198, a distance of 132.28 feet to the Northwesterly corner thereof;

Thence Easterly, along the Northerly line of said Sublot No. 198, a distance of 1.25 feet to the Southwesterly corner of said Sublot No. 205;

Thence Northerly, along the Westerly line of said Sublot No. 205, a distance of 95 feet to a point distant 5 feet Southerly, measured along the Westerly line of said Sublot, from the Southerly line of Cedar Road (60 feet wide);

Thence Easterly, and parallel with the Southerly line of Cedar Road, 50 feet;

Thence Northerly, and parallel with the Westerly line of said Sublot No. 204, a distance of 5 feet to the Southerly line of Cedar Road;

Thence Easterly, along the Southerly line of Cedar Road, 30 feet to the Northeasterly corner of said Sublot No. 204;

Thence Southerly, along the Easterly line of said Sublot No. 204, a distance of 111.25 feet to the Northeasterly line of said Sublot No. 197;

Thence Southeasterly, along the Northeasterly line of said Sublot No. 197, a distance of 19.67 feet to the Northeasterly corner thereof;

Thence Southwesterly, along the Southeasterly line of said Sublot, 143.67 feet to the place of beginning, as appears by said plat, be the same more or less.

Parcel 11: (West Part of PPN: 687-06-095)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being part of Sublot No. 199, in the J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and bounded and described as follows:

Beginning on the Northeasterly line of Cedarbrook Road, at the most Southerly corner of said Sublot No. 199;

Thence Northeasterly, along the Southeasterly line of said Sublot, 132.28 feet to the Northeasterly corner thereof;

Thence Westerly, along the Northerly of said Sublot, about 34 feet to the Easterly face of the Easterly wall of the existing brick building on said Sublot No. 199;

Thence Southerly, along the Easterly line of the Easterly face of the Easterly wall of said building, and along the Southerly prolongation thereof, to the Northeasterly line of Cedarbrook Road;

Thence Southeasterly, along the Northeasterly line of Cedarbrook Road, to the place of beginning, as appears by said plat, be the same more or less.

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EXHIBIT "A"
Legal Description

Parcel 12: (East Part of PPN: 687-06-010)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being part of Sublot No. 203, in the J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and bounded and described as follows:

Beginning on the Southerly line of Cedar Road (60 feet wide), at the Northwesterly corner of said Sublot No. 203;

Thence Easterly, along the Southerly line of Cedar Road, 14.80 feet;

Thence Southerly, and parallel with the Westerly line of said Sublot No. 203, and distant 14.80 feet Easterly therefrom, to the Southwesterly line of said Sublot No. 203;

Thence Northwesterly, along the Southwesterly line of said Sublot, to the Southwesterly corner thereof;

Thence Northerly, along the Westerly line of said Sublot No. 203, a distance of 111.25 feet to the place of beginning, as appears by said plat, be the same more or less.

Parcel 13: (PPN: 687-06-013)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being part of Sublot No. 200 in the J. A. Wigmore Company's Cedarbrook Allotment, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 59 of Maps, page 26, of the Cuyahoga County Records, and bounded and described as follows:

Beginning at a point in the Easterly line of said Sublot No. 200, a distance of 5 feet (measured along said Easterly line), Southerly from the Northeasterly corner of said Sublot;

Thence South 89 deg. 43' 10" West, 37.12 feet to a point;

Thence South 45 deg. 16' 50" East, 2.83 feet to a point;

Thence South 0 deg. 16' 50" West, parallel with the Easterly line of said Sublot No. 200, a distance of 138 feet to a point in the Southerly line of said Sublot;

Thence North 89 deg. 13' 10" East, 35.12 feet along the said Southerly line, to the Southeasterly corner of said Sublot No. 200;

Thence North 0 deg. 16' 50" West, along the Easterly line of said Sublot No. 200, a distance of 140 feet to the place of beginning, be the same more or less.

Parcel 14: (PPN: 687-06-096, 097, 098, 099, 100, 104, and 155, 156, 157, and 158)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

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EXHIBIT "A"

Legal Description

And known as being Parcel A, in the Map of Survey and Consolidation for The City of Cleveland Heights, Ohio, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 351 of Maps, pages 20 and 21, of the Cuyahoga County Records, containing 2.1133 acres, more or less, as appears by said plat.

Parcel 15: (PPN: 687-06-001, 002, 003, 004, 109, 110, and 111)

Situated in the City of Cleveland Heights, County of Cuyahoga, and State of Ohio:

And known as being Parcel B, in the Map of Survey and Consolidation for The City of Cleveland Heights, Ohio, of part of Original Warrensville Township Lots Nos. 2 and 3, as shown by the recorded plat in Volume 351 of Maps, pages 20 and 21, of the Cuyahoga County Records, containing 1.0696 acres, more or less, as appears by said plat.

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**SCHEDULE B, PART I
REQUIREMENTS**

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. Receipt of proof of corporate status, or limited liability company status, or partnership status, and all agreement(s), and necessary consents, authorizations, resolutions, notices and corporate/partnership actions have been conducted, given or properly waived relating to the transaction to be insured, including entity resolution(s) authorizing and designating appropriate officers/members/or partners to execute any and all necessary documents.
6. Completion of real property conveyance fee statement, if transferring subject premises.
7. The Company should be furnished an Owner's/Seller's Affidavit.

The Company reserves the right to add additional items or make further requirements after review of the requested Affidavit.

8. The Company should be furnished a letter from Planning and Zoning and/or a surveyor certification stating there are no zoning violations, if a zoning endorsement is requested.
9. Payment of taxes, charges, and assessments levied and assessed against the Land, which are due and payable.
10. The actual value of the estate or interest to be insured must be disclosed to the Company and, subject to approval by the Company, shown on this Commitment as the liability of the policy(ies) to be issued. Until the liability of the policy(ies) to be issued shall be determined and shown on the Commitment, the total liability of the Company under this Commitment shall not exceed \$100,000.00.
11. For each policy to be issued as identified in Schedule A, Item 2; the Company shall not be liable under this Commitment until it receives a designation for a Proposed Insured, acceptable to the Company. The Company may amend this commitment to add, among other things, additional exceptions or requirements after the designation of the Proposed Insured.
12. The Company may make additional requirements and/or exceptions upon further ascertaining details of the transaction and/or its review of the documents creating the interest or estate to be insured.
13. Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.

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**SCHEDULE B, PART I
REQUIREMENTS**
(continued)

14. Notice: If the Company will be serving as the closing agent, closing funds provided in excess of \$1,000.00 must be good funds in compliance with Ohio Revised Code Section 1349.21. In order to comply and close your transaction timely, we require all closing funds be tendered to our office by wire transfer, so that all funds are collected in the escrow account and available at the time of closing.
15. The search did not disclose any open mortgages or deeds of trust of record, therefore the Company reserves the right to require further evidence to confirm that the property is unencumbered, and further reserves the right to make additional requirements or add additional items or exceptions upon receipt of the requested evidence.
16. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of a Company agent, an authorized employee of the insured lender, or by using Bancserv or other Company-approved third-party service. If the above requirement cannot be met, please call the Company at the number provided in this report.
17. Due to office closures related to Covid-19, we may be temporarily unable to record/access documents in the normal course of business. As such, we will require our Affidavit of Understanding and Indemnity and Hold Harmless Agreement due to Coronavirus Pandemic to be signed by all parties .

END OF SCHEDULE B, PART I

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**SCHEDULE B, PART II
EXCEPTIONS**

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.
2. Taxes or special assessments which are not shown as existing liens by the Public Records.
3. Rights or claims of parties in possession not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.

In order to delete the survey exception shown above, a satisfactory survey of the subject Land, which complies with the minimum standards for land surveys made for title insurance purposes, is to be furnished to the Company.

The Company reserves the right to add additional items as disclosed by the survey, or make further requirements after review of the requested documentation.

5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
6. Oil and gas leases, pipeline agreements or any other instruments related to the production or sale of oil and gas which may arise subsequent to the date of the Policy, pursuant to Ohio Revised Code Section 1509.31(D).
7. Easements or claims of easements not shown by the Public Records.
8. Representations of the acreage or area in the property descriptions in Schedule A or on the survey, if any.
9. Rights of public to use those portions of the Land lying within the confines of public roads and highways.
10. Any lease, grant, exception or reservation of minerals or mineral rights together with any rights appurtenant thereto.
11. Restrictions, building lines, easements and other matters as shown on the Plat of Vacation of part of Cedarbrook Road, filed for record September 1, 1960 in [Volume 179 of Maps, page 98](#), of the Cuyahoga County Records. (as to Parcel 14)

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SCHEDULE B, PART II
EXCEPTIONS
(continued)

12. Reservations, restrictions, covenants, limitations, easements, and/or conditions, as set forth in the deed from The Cedar Heights Land Company, a Corporation, to Dan B. Cull, M. F. Donovan, and James Donovan, filed for record July 18, 1921 in [Volume 2388, page 607](#), of the Cuyahoga County Records. (as to Parcel 1)
13. Reservations, restrictions, covenants, limitations, easements, and/or conditions, including, but not limited to, a right to repurchase, as set forth in the deed from Charles D. Simmons (also known as Chas. D. Simmons) and Catherine B. Simmons, to The City of Cleveland Heights, Ohio, a municipal corporation, filed for record April 12, 1960 in [Volume 9919, page 616](#), of the Cuyahoga County Records. (as to Parcels 10, 11, and 12)
14. Reservations, restrictions, covenants, limitations, easements, and/or conditions, as set forth in the deed from City Products Corporation, a corporation incorporated under the laws of the State of Ohio, to The City of Cleveland Heights, Ohio, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Ohio, filed for record August 30, 1960 in [Volume 9971, page 728](#), of the Cuyahoga County Records. (as to Parcels 3 and 13)
15. Reservations, restrictions, covenants, limitations, easements, and/or conditions, as set forth in the deed from City Products Corporation, a corporation incorporated under the laws of the State of Ohio, to The City of Cleveland Heights, Ohio, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Ohio, filed for record August 30, 1960 in [Volume 9971, page 731](#), of the Cuyahoga County Records. (as to Parcel 13)
16. Easement between the City of Cleveland Heights, Ohio, and Dr. Elizabeth T. Endicott, filed for record June 22, 1962 in [Volume 10392, page 121](#), of the Cuyahoga County Records. (as to Parcel 8)
17. Easement from Cedar Road Building Co., a Corporation incorporated under the laws of Ohio, to the City of Cleveland Heights, Ohio, filed for record October 16, 1962 in [Volume 10635, page 585](#), of the Cuyahoga County Records. (as to Parcel 3)
18. Deed of Easement from The City of Cleveland Heights, a municipal corporation, to the Ohio Bell Telephone Company, filed for record January 24, 1973 in [Volume 13177, page 355](#), of the Cuyahoga County Records. (as to Parcel 10)
19. Easement from Ben D. Stallworth, to the Ohio Bell Telephone Company, filed for record January 15, 1976 in [Volume 14209, page 971](#), of the Cuyahoga County Records. (as to Parcel 15)
20. Right-of-Way Easement (Traffic Control Easement) from The City of Cleveland Hts., to the City of Cleveland Heights, filed for record September 15, 1998 in [Volume 98-11912, page 38](#), of the Cuyahoga County Records. (as to Parcel 13)
21. AT&T Non-Exclusive Easement from the City of Cleveland Heights, a municipal corporation, to The Ohio Bell Telephone Company, d/b/a AT&T Ohio, an Ohio Corporation, filed for record April 20, 2007 in [AFN 200704200102](#), of the Cuyahoga County Records. (as to Parcel 14)
22. Parking Lot Easement Agreement by and between the City of Cleveland Heights, Ohio, a municipal corporation, and Landau Enterprises LLC, an Ohio limited liability company, by deed filed for record September 25, 2009 in

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SCHEDULE B, PART II
EXCEPTIONS
(continued)

[AFN 200909250298](#), of the Cuyahoga County Records. (as to Parcel 14)

23. Reservations, restrictions, covenants, limitations, easements, and/or conditions, including, but not limited to, the right to re-convey, as set forth in the deed from Ohio Savings Bank (successor in interest to Shaker Savings Association), to the City of Cleveland Heights, Ohio, filed for record September 14, 2005 in [AFN 200509140579](#), of the Cuyahoga County Records. (as to Parcel 15)
24. Claims, if any, by the State of Ohio under the Medicaid recovery program, ORC Sections 5162.21 and 5162.211. (as to Parcels 1 and 2)
25. Pending Board of Revision Complaint No. 687-06-012-2018, for the tax year 2018.
Note: For further information contact Board of Revision 216-443-7195.
26. Pending Board of Revision Complaint No. 687-06-012-2018-C, for the tax year 2018.
Note: For further information contact Board of Revision 216-443-7195.
27. Easements, if any, for public utilities pipelines or facilities installed in, and any private right to use, any portion of the vacated street or alley, namely Cedarbrook Road, lying within the land, together with the right of ingress and egress to repair, maintain, replace and remove the same.
28. No liability is assumed for tax increases occasioned by retroactive revaluation arising out of the change in land usage, on account of errors or omissions and changes in the valuation of the property by legally constituted authorities.
29. Taxes and assessments for the second half of 2020 and subsequent years are a lien, but are not yet due and payable.
The County Treasurer's General Tax Records for the tax year 2020 are as follows:

PPN: 687-06-011 (as to Parcels 1 and 2)

Taxes for the first half are paid.

Taxes for the second half are a lien, due and payable on or before July 15, 2021.

Per half amount \$5,580.65.

The above amount includes the following special assessments:

Assessment for M203106B-Street Lighting Forestry Cleveland Heights in the amount of \$45.45 per half year.

Assessment for M913131C-SID Cedar Lee Cleveland Heights in the amount of \$697.14 per half year.

PPN: 687-06-012 (as to Parcels 1 and 2)

Taxes for the first half are paid.

Taxes for the second half are a lien, due and payable on or before July 15, 2021.

Per half amount \$10,534.78.

The above amount includes the following special assessments:

Assessment for M283100A-Trash Hauling-Cleveland Heights in the amount of \$761.04 per half year.

Assessment for M203106B-Street Lighting Forestry Cleveland Heights in the amount of \$63.63 per half year.

Assessment for M223127K-Board Up - Cleveland Heights in the amount of \$55.55 per half year.

Assessment for M913131C-SID Cedar Lee Cleveland Heights in the amount of \$981.22 per half year.

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SCHEDULE B, PART II
EXCEPTIONS
(continued)

Note: As to PPN 687-08-001 above, taxes are exempt from general real estate taxes for the 2020 tax year and may be subject to increase upon change in status or ownership or upon failure to otherwise qualify for exemption.

PPN: 687-06-009 (including 687-06-010, 013, 088, 089, 090, 091, 092, 093, 094, and 095) (as to Parcels 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13)

Taxes for the first half are paid.

Taxes for the second half are a lien, due and payable on or before July 15, 2021.

Per half amount \$7,514.35.

PPN: 687-06-096 (including 687-06-097, 098, 099, 100, 101, 102, 103, 104, 155, 156, 157, and 158) (as to Parcel 14)

Taxes for the first half are paid.

Taxes for the second half are a lien, due and payable on or before July 15, 2021.

Per half amount \$61,555.42.

PPN: 687-08-001 (including 687-08-002, 003, 004, 109, 110, and 111) (as to Parcel 15)

Taxes are exempt.

Taxes for the first half are a lien, UNPAID, PAST DUE AND DELINQUENT.

Taxes for the second half are a lien, due and payable on or before July 15, 2021.

Per half amount \$252.50.

The above amount includes the following special assessments:

Assessment for M913131C-SID Cedar Lee Cleveland Heights in the amount of \$252.50 per half year.

30. Property Taxes for prior years are delinquent and are subject to payment plan with the county treasurer. The county treasurer must be contacted for exact figures. (as to Parcel 15)

END OF SCHEDULE B, PART II

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COMMITMENT CONDITIONS**1. DEFINITIONS**

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I-Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I-Requirements;
- (f) Schedule B, Part II-Exceptions; and
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - (i) comply with the Schedule B, Part I-Requirements;
 - (ii) eliminate, with the Company's written consent, any Schedule B, Part II-Exceptions; or
 - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I-Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Commonwealth Land Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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(continued)

- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II-Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is Two Million And No/100 Dollars (\$2,000,000.00) or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

END OF CONDITIONS

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Commonwealth Land Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE

Effective January 1, 2021

Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF," "our," or "we") respect and are committed to protecting your privacy. This Privacy Notice explains how we collect, use, and protect personal information, when and to whom we disclose such information, and the choices you have about the use and disclosure of that information.

A limited number of FNF subsidiaries have their own privacy notices. If a subsidiary has its own privacy notice, the privacy notice will be available on the subsidiary's website and this Privacy Notice does not apply.

Collection of Personal Information

FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- identity information (e.g. Social Security Number, driver's license, passport, or other government ID number);
- financial account information (e.g. loan or bank account information); and
- other personal information necessary to provide products or services to you.

We may collect Personal Information about you from:

- information we receive from you or your agent;
- information about your transactions with FNF, our affiliates, or others; and
- information we receive from consumer reporting agencies and/or governmental entities, either directly from these entities or through others.

Collection of Browsing Information

FNF automatically collects the following types of Browsing Information when you access an FNF website, online service, or application (each an "FNF Website") from your Internet browser, computer, and/or device:

- Internet Protocol (IP) address and operating system;
- browser version, language, and type;
- domain name system requests; and
- browsing history on the FNF Website, such as date and time of your visit to the FNF Website and visits to the pages within the FNF Website.

Like most websites, our servers automatically log each visitor to the FNF Website and may collect the Browsing Information described above. We use Browsing Information for system administration, troubleshooting, fraud investigation, and to improve our websites. Browsing Information generally does not reveal anything personal about you, though if you have created a user account for an FNF Website and are logged into that account, the FNF Website may be able to link certain browsing activity to your user account.

Other Online Specifics

Cookies. When you visit an FNF Website, a "cookie" may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. Information gathered using cookies helps us improve your user experience. For example, a cookie can help the website load properly or can customize the display page based on your browser type and user preferences. You can choose whether or not to accept cookies by changing your Internet browser settings. Be aware that doing so may impair or limit some functionality of the FNF Website.

Web Beacons. We use web beacons to determine when and how many times a page has been viewed. This information is used to improve our websites.

Do Not Track. Currently our FNF Websites do not respond to "Do Not Track" features enabled through your browser.

Links to Other Sites. FNF Websites may contain links to unaffiliated third-party websites. FNF is not responsible for the privacy practices or content of those websites. We recommend that you read the privacy policy of every website you visit.

Use of Personal Information

FNF uses Personal Information for three main purposes:

- To provide products and services to you or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you about our, our affiliates', and others' products and services, jointly or independently.

When Information Is Disclosed

We may disclose your Personal Information and Browsing Information in the following circumstances:

- to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to nonaffiliated service providers who provide or perform services or functions on our behalf and who agree to use the information only to provide such services or functions;
- to nonaffiliated third party service providers with whom we perform joint marketing, pursuant to an agreement with them to jointly market financial products or services to you;
- to law enforcement or authorities in connection with an investigation, or in response to a subpoena or court order; or
- in the good-faith belief that such disclosure is necessary to comply with legal process or applicable laws, or to protect the rights, property, or safety of FNF, its customers, or the public.

The law does not require your prior authorization and does not allow you to restrict the disclosures described above. Additionally, we may disclose your information to third parties for whom you have given us authorization or consent to make such disclosure. We do not otherwise share your Personal Information or Browsing Information with nonaffiliated third parties, except as required or permitted by law. We may share your Personal Information with affiliates (other companies owned by FNF) to directly market to you. Please see "Choices with Your Information" to learn how to restrict that sharing.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of bankruptcy, reorganization, insolvency, receivership, or an assignment for the benefit of creditors. By submitting Personal Information and/or Browsing Information to FNF, you expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings.

Security of Your Information

We maintain physical, electronic, and procedural safeguards to protect your Personal Information.

Choices With Your Information

If you do not want FNF to share your information among our affiliates to directly market to you, you may send an "opt out" request as directed at the end of this Privacy Notice. We do not share your Personal Information with nonaffiliates for their use to direct market to you without your consent.

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you.

For California Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties, except as permitted by California law. For additional information about your California privacy rights, please visit the "California Privacy" link on our website (<https://fnf.com/pages/californiaprivacy.aspx>) or call (888) 413-1748.

For Nevada Residents: You may be placed on our internal Do Not Call List by calling (888) 934-3354 or by contacting us via the information set forth at the end of this Privacy Notice. Nevada law requires that we also provide you with the following contact information: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: BCPINFO@ag.state.nv.us.

For Oregon Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

For Vermont Residents: We will not disclose information about your creditworthiness to our affiliates and will not disclose your personal information, financial information, credit report, or health information to nonaffiliated third parties to market to you, other than as permitted by Vermont law, unless you authorize us to make those disclosures.

Information From Children

The FNF Websites are not intended or designed to attract persons under the age of eighteen (18). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian.

International Users

FNF's headquarters is located within the United States. If you reside outside the United States and choose to provide Personal Information or Browsing Information to us, please note that we may transfer that information outside of your country of residence. By providing FNF with your Personal Information and/or Browsing Information, you consent to our collection, transfer, and use of such information in accordance with this Privacy Notice.

FNF Website Services for Mortgage Loans

Certain FNF companies provide services to mortgage loan servicers, including hosting websites that collect customer information on behalf of mortgage loan servicers (the "Service Websites"). The Service Websites may contain links to both this Privacy Notice and the mortgage loan servicer or lender's privacy notice. The sections of this Privacy Notice titled When Information is Disclosed, Choices with Your Information, and Accessing and Correcting Information do not apply to the Service Websites. The mortgage loan servicer or lender's privacy notice governs use, disclosure, and access to your Personal Information. FNF does not share Personal Information collected through the Service Websites, except as required or authorized by contract with the mortgage loan servicer or lender, or as required by law or in the good-faith belief that such disclosure is necessary: to comply with a legal process or applicable law, to enforce this Privacy Notice, or to protect the rights, property, or safety of FNF or the public.

Your Consent To This Privacy Notice; Notice Changes; Use of Comments or Feedback

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of the information in accordance with this Privacy Notice. We may change this Privacy Notice at any time. The Privacy Notice's effective date will show the last date changes were made. If you provide information to us following any change of the Privacy Notice, that signifies your assent to and acceptance of the changes to the Privacy Notice.

Accessing and Correcting Information; Contact Us

If you have questions, would like to correct your Personal Information, or want to opt-out of information sharing for affiliate marketing, visit FNF's [Opt Out Page](#) or contact us by phone at (888) 934-3354 or by mail to:

Fidelity National Financial, Inc.
601 Riverside Avenue,
Jacksonville, Florida 32204
Attn: Chief Privacy Officer



Inquire before you wire!

WIRE FRAUD ALERT

This Notice is not intended to provide legal or professional advice.
If you have any questions, please consult with a lawyer.

All parties to a real estate transaction are targets for wire fraud and many have lost hundreds of thousands of dollars because they simply relied on the wire instructions received via email, without further verification. **If funds are to be wired in conjunction with this real estate transaction, we strongly recommend verbal verification of wire instructions through a known, trusted phone number prior to sending funds.**

In addition, the following non-exclusive self-protection strategies are recommended to minimize exposure to possible wire fraud.

- **NEVER RELY** on emails purporting to change wire instructions. Parties to a transaction rarely change wire instructions in the course of a transaction.
- **ALWAYS VERIFY** wire instructions, specifically the ABA routing number and account number, by calling the party who sent the instructions to you. DO NOT use the phone number provided in the email containing the instructions, use phone numbers you have called before or can otherwise verify. **Obtain the number of relevant parties to the transaction as soon as an escrow account is opened.** DO NOT send an email to verify as the email address may be incorrect or the email may be intercepted by the fraudster.
- **USE COMPLEX EMAIL PASSWORDS** that employ a combination of mixed case, numbers, and symbols. Make your passwords greater than eight (8) characters. Also, change your password often and do NOT reuse the same password for other online accounts.
- **USE MULTI-FACTOR AUTHENTICATION** for email accounts. Your email provider or IT staff may have specific instructions on how to implement this feature.

For more information on wire-fraud scams or to report an incident, please refer to the following links:

Federal Bureau of Investigation:
<http://www.fbi.gov>

Internet Crime Complaint Center:
<http://www.ic3.gov>

WIRE FRAUD ALERT

IMPORTANT! YOUR FUNDS MAY BE AT RISK

This Notice is not intended to provide legal or professional advice. If you have any questions, please consult with a lawyer.

Realtors®, Real Estate Brokers, Closing Attorneys, Buyers and Sellers are targets for wire fraud and many have lost hundreds of thousands of dollars because they simply relied on the wire instructions received via email, without further verification.

A fraudster will hack into a participant's email account to obtain information about upcoming real estate transactions. After monitoring the account to determine the likely timing of a closing, the fraudster will send an email to the Buyer purporting to be the escrow agent or another party to the transaction. The fraudulent email will contain new wiring instructions or routing information, and will request that the Buyer send funds to a fraudulent account.

Please be advised that the wire instructions listed below are the only wire instructions we will send you. This is the only form that should be used to wire funds to us in this transaction. If you receive another email or unsolicited call purporting to alter these instructions, please immediately call us at: (513)985-0550.

BANK NAME:	US Bank	ACCOUNT NO.:	130125375100
ABA NO.:	042000013		GLC2100402 / Cedar Rd, Tullamore Rd, and Lee Rd,
	Commonwealth Land Title Insurance Company	REFERENCE:	Cuyahoga Heights

*****Closing funds in the form of ACH Electronic Transfers will NOT be accepted.*****

In addition, the following non-exclusive self-protection strategies are recommended to minimize exposure to possible wire fraud.



NEVER RELY on emails or other communications purporting to change wire instructions. Parties to a transaction rarely change wire instructions in the course of a transaction.



DO NOT FORWARD wire instructions to other parties without first verbally verifying the instructions from the sending party.



ALWAYS VERIFY WIRE INSTRUCTIONS, specifically the ABA routing number and account number, by calling the party who is receiving the funds. **DO NOT RELY** on other parties calling you.

Obtain the number of your Realtor®, Real Estate Broker and your escrow officer as soon as an escrow account is opened.

DO NOT use the phone number provided in the email containing the instructions, use phone numbers you have called before or can otherwise verify. DO NOT send an email to verify as the email address may be incorrect or the email may be intercepted by the fraudster.

For more information on wire-fraud scams or to report an incident, please refer to the following links:

Federal Bureau of Investigation: <http://www.fbi.gov>

Internet Crime Complaint Center: <http://www.ic3.gov>

ACKNOWLEDGEMENT OF RECEIPT

Your signature below acknowledges receipt of this Wire Fraud Alert.

Buyer 1

Signature _____

Printed Name _____

Address _____

Date _____

Phone Number _____

Buyer 2

Signature _____

Printed Name _____

Address _____

Date _____

Phone Number _____

F & C Development, Inc. (or affiliated company)

Date: July 13, 2021
Escrow No.: GLC2100402-GJ
Project: Cedar Lee
Buyer(s): F & C Development, Inc. (or affiliated company)
Seller(s): City of Cleveland Heights, Ohio
Property: Cedar Rd, Tullamore Rd, and Lee Rd
Cuyahoga Heights, OH 44127

Dear F & C Development, Inc. (or affiliated company):

Congratulations on your pending real estate transaction for the property referenced above. Thank you for choosing Commonwealth Land Title Insurance Company.

In our role as your escrow service provider, we want to alert you to the current threat of criminal activities in the real estate industry relating to wire fraud resulting from email compromise and identity theft.

Our *WIRE SAFE* Wire Fraud Alert form, which contains our wiring instructions, is attached for your reference. We will never email or call you to alter these instructions. Please retain a copy for your records AND sign and return one copy as soon as possible. It is critical that we know you have received the *WIRE FRAUD ALERT*.

During the course of this escrow, we urge you to contact us immediately at our phone number shown above if you have any questions or receive any information that conflicts with the information contained in the ALERT.

PLEASE USE EXTREME CAUTION WHEN REMITTING FUNDS TO ESCROW.

We look forward to working with you.

Sincerely,



Genevieve Jonas
Commercial Escrow Officer
GJonas@cltic.com

Enclosure(s)

NOTICE

FILE NO.: GLC2100402

IF THIS IS A RESALE OR REFINANCE WITHIN TEN (10) YEARS, YOU MAY BE ENTITLED TO A REDUCED PREMIUM. PLEASE DISCUSS WHETHER YOU ARE ELIGIBLE FOR A DISCOUNTED PREMIUM WITH THE ESCROW OFFICER HANDLING THE TRANSACTION.

To determine eligibility for a discounted premium, please provide the escrow officer with:

- A copy of any owners title insurance policy that has been issued for the Property within the past ten (10) years; or
- A closing statement confirming payment of the premium for the prior owners title insurance policy and the policy amount; or
- Evidence of the amount due on the existing mortgage being refinanced for a refinance transaction of the Property.

Dated: July 13, 2021

EXHIBIT B

COMPENSATION AGREEMENT

This Compensation Agreement (this “Agreement”), is made and entered into on this ____ day of _____, 2022, by and between the CITY OF CLEVELAND HEIGHTS, OHIO (the “City”), a municipal corporation organized and existing under the laws of the State of Ohio, and the BOARD OF EDUCATION OF THE CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT (the “School District”), a city school district organized and existing under the laws of the State of Ohio and joined by F & C DEVELOPMENT, INC., an Indiana Corporation (“FCD”) as to Section 2(D)(2) herein (on behalf of the Project Improvement owners).

WITNESSETH:

WHEREAS, the City owns certain real property, and may acquire additional real property generally known as the “Cedar-Lee-Meadowbrook Property” (collectively herein, the “CLM Property” or “Property”), including a parcel located on the east side of Lee Road between Meadowbrook and Tullamore Roads and additional real property (12 – 16 existing parcels) located to the east of Lee Road between Tullamore and Cedar Roads (including a portion of Cedarbrook Road previously vacated by the City), as more particularly depicted and/or identified in Exhibit A attached hereto; and

WHEREAS, pursuant to (i) a development agreement relating to the CLM Property with FCD (the “Development Agreement”) and (ii) one or more Ordinances to be introduced in Cleveland Heights City Council (collectively, with any amendments, the “TIF Ordinance”), the City proposes to:

- establish a tax increment financing area with respect to the CLM Property,
- exempt from real property taxation certain improvements (herein “TIF Improvements”) to the CLM Property pursuant to Section 5709.41 of the Ohio Revised Code (together with related statutory provisions, the “TIF Statute”),
- lease the CLM Property (exclusive of the municipal public parking garage located thereon and constructed pursuant to a prior plan for the redevelopment of the CLM Property) to an entity created and controlled by FCD (together with any sublessee of all or substantially all of the CLM Property, “Leasehold Owner”) for development of the Project Improvements (defined below),
- require the Leasehold Owner to make Service Payments In Lieu of Taxes in an amount equal to the amount of real property taxes that would have been payable if the TIF Improvements had not been exempted from taxation under the TIF Ordinance (those payments in lieu of taxes, together with any related penalties, interest and rollback payments, are collectively referred to herein as “PILOTs” or “Service Payments”), and
- require such PILOTs to be used to pay debt service on revenue bonds expected to be issued by the City (or another governmental authority designated by the City),

any related credit enhancement or administrative costs, and any other financing costs payable therefrom, and any renewals or refundings thereof (collectively, the "TIF Debt"), which may be issued or entered into to pay a portion of the cost of acquisition and construction of the Project Improvements; and

WHEREAS, by the TIF Ordinance, the City intends to exempt the TIF Improvements to all or a portion of the parcels included in the CLM Property (those parcels, collectively, are referred to herein as the "TIF Area"), with the parcels comprising the real property within the TIF Area, as improved, referred to hereinafter as the "Parcels" or "TIF Parcels"; and

WHEREAS, the City has provided information to the School District with respect to a proposed mixed-use development of the TIF Parcels which will include construction of one or more four-to-five-story buildings, including approximately 200 - 225 market-rate apartments, approximately 5,000 to 9,000 square feet of first floor commercial, retail and restaurant space, public gathering and green spaces, and any necessary infrastructure improvements (all of the foregoing being referred to herein collectively as the "Project Improvements"); and

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

WHEREAS, the City, in the TIF Ordinance, intends to declare the Project Improvements (other than those Project Improvements to be used for residential purposes as such term is used in the TIF Statute) to be in furtherance of urban redevelopment and for a "public purpose", to declare the TIF Improvements (the "improvements" under and as defined in the TIF Statute) to the TIF Parcels resulting from those Project Improvements to be a "public purpose" under the TIF Statute, and to exempt 100% of those TIF Improvements from real property taxation for a period not to exceed thirty (30) years in accordance with the TIF Statute; and

WHEREAS, on [_____], 2022, the Board of Education of the School District adopted a resolution (the "School District Resolution") approving this Agreement and the exemption of the TIF Improvements under the TIF Ordinance (the "TIF Exemption") and waiving any other or further rights to notice of the TIF Exemption and, except as provided in this Agreement, compensation in respect of the TIF Exemption or the approval thereof; and

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

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and to induce the City and FCD to proceed with the proposed development of the CLM Property and the Leasehold Owner to proceed with the construction of the Project Improvements, the parties hereto agree as follows:

SECTION 12. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

“Additional School District Millage” means, for any Exemption Year, any Total School District Millage in excess of the Base School District Millage.

“Base Value” means the assessed value (35% of market value under current law) of the Parcels to the extent that such value is not subject to the TIF Exemption and therefore remains subject to real property taxation during the period of the TIF Exemption, as determined by the Cuyahoga County Fiscal Officer consistent with the TIF Ordinance.

“Base School District Millage” means for any Exemption Year, the lesser of Total School District Millage and 99.444261 mills.

“Exempted Value” means the assessed value (35% of market value under current law) of the Parcels within the TIF Area in excess of the Base Value thereof, which is to be exempted from real estate taxation under the TIF Ordinance and the TIF Statute.

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

“Excess PILOTs” means, for any year, an amount equal to the positive difference, if any, between (i) the aggregate amount of PILOTs attributable to the Exempted Value for an Exemption Year, less the amount of such PILOTs attributable to the Additional School District Millage, and (ii) the Projected PILOTs Threshold.

“Projected PILOTs” means the projected PILOTs based on the projected market value of the TIF Improvements, according to pro forma projections presented to both the City and the School District prior to the issuance of the TIF Debt.

“Projected PILOTs Threshold” means, for purposes of determining School Payments under Section 2(A) hereof, the initial Projected PILOTs based upon the Projected Valuation of the TIF Parcels and the applicable effective millage (for all overlapping subdivisions) for tax year 2021. The Projected PILOTs Threshold, based on available information as of May 4, 2022, is estimated to be \$1,252,706.

“Projected Valuation” means, for the Parcels within the TIF Area, the aggregate valuation of all of the TIF Parcels, as estimated and projected in the market value projections utilized for the Projected PILOTs, as described in Section 2(C) hereof.

“Total School District Millage” means, for any given Tax Year, the School District’s effective real property tax rate for Commercial Property applicable to the Parcels in that Tax Year, as determined for that Tax Year under the laws of the State of Ohio (currently pursuant to Ohio Revised Code Section 319.301).

SECTION 13. City Payments to School District. Unless otherwise agreed to in writing by the City and the School District, with respect to TIF Improvements within the

TIF Area, for each tax collection year following an Exemption Year for such TIF Improvements, the City agrees to pay to the School District, from the PILOTs, if any, the payments determined under subsection (A) of this Section 2 (referred to herein as the "School Payments"):

(i) School Payments. The School Payments shall include the amounts calculated under the following clauses for each tax collection year following an Exemption Year:

SECTION 1. For any Exemption Year, an annual payment equal to 33.883459% of the tax revenue that the School District would have received with respect to that Exemption Year on the Exempted Value but for the TIF Exemption, based on the Base School District Millage (the "Basic School Payments").

SECTION 2. For any Exemption Year in which there are Excess PILOTs, an annual payment equal to 50.00% of the Excess PILOTs (the "Excess PILOT School Payments").

(3) In addition to the Basic School Payments and Additional School Payments required by subsections (A)(1) and (A)(2) hereof, an annual payment equal to 100% of the tax revenue that the School District would have received with respect to that Exemption Year on the Exempted Value but for the TIF Exemption, based on the Additional School District Millage (the "Additional School Millage Payments", and together with the Basic School Payments and the Excess PILOT School Payments, the "School Payments").

See Exhibit B for examples.

(B) Timing of Payments. The City shall cause all School Payments for any Exemption Year to be paid within thirty-five (35) days after the end of the applicable tax collection year to the extent that PILOTs are received by the City from the Treasurer of Cuyahoga County, Ohio (the "Treasurer") and available for such School Payments. Such School Payments shall be made to the School District by (or on behalf of) the City solely from the PILOTs it receives from the Treasurer. The City may provide that such School Payments be paid directly by the Treasurer, or by a corporate bond trustee or lender engaged in connection with the issuance of the TIF Debt, to the School District. Owing to the subordination of School Payments pursuant to Section 2(D) hereof, the City generally expects that all School Payments for any Exemption Year will, except in unusual circumstances, most likely be paid in a lump sum to the School District on or about February 1 following the end of the applicable tax collection year.

(C) Bond Issuance Test. Unless the School District consents as hereinafter described, no TIF Debt shall be issued by the City, the Cleveland-Cuyahoga County Port Authority or any such other governmental authority as may be designated by the City unless, at the time of authorization of the TIF Debt, the Projected PILOTs, which shall assume no growth in value, will result in a debt service coverage ratio of not less than 1.25:1 for all of the TIF Debt (except to the extent any TIF Debt payments are irrevocably funded at the time of issuance), including principal and interest, the replenishment of any required reserve funds and any administrative expenses of the City (or any other such governmental authority as may be designated by the City) with respect to the TIF Debt, including but not limited to the fees of the City, the issuer of the TIF Debt and any trustee for the TIF Debt (collectively, "Debt Service") (the "Minimum DSCR Requirement"). If the School District consents in writing, TIF Debt may be issued by the City, the Cleveland-Cuyahoga County Port Authority or any other such governmental authority as may be designated by the City even if the Minimum DSCR Requirement is not satisfied. Such consent by the School District is in the sole and absolute discretion of the School District. It is the intention of the parties hereto that there will always be sufficient PILOTs during any given calendar year to pay both the Debt Service described in Section 2(D)(1)(a) below and all School Payments as required by this Agreement.

(D) Subordination of School Payments; Minimum Service Payment; Deficiencies.

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

(a) First, to pay Debt Service on the TIF Debt.

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

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

(2) In consideration of the foregoing agreement of the School District to subordinate the School Payments to Debt Service, the City agrees that, in connection with any TIF Debt, the owners of the Project Improvements on the Parcels within the TIF Area (initially, the Leasehold Owner) will be required to pay so-called minimum service payments in an amount not less than the amount of PILOTs that would be payable had the market value of the Parcels in the TIF Area been equal to the Projected Valuation; provided that the payment of Minimum Service Payments by the owners of the Project Improvements on the Parcels within the TIF Area will not entitle the School District to School Payments in amounts greater than the amounts calculated as set forth in Section 2(A) hereof. Pursuant to Section 2(C) hereof, prior to the issuance of TIF Debt, the City shall notify, or cause to be notified, the School Board as to the Projected Valuation, the Projected PILOTs and the Projected PILOTs Threshold.

(3) In the event that the amounts paid to the School District for any tax collection year are not sufficient to pay the School Payments due for such year in accordance with this Agreement, any such School Payments not paid when due shall become a deficiency hereunder (each, a "Deficiency"). Notwithstanding anything to the contrary in this Agreement, in the event that one or more Deficiencies shall exist, in any tax collection year following an Exemption Year in which there are any Excess PILOTs, the Excess PILOTs not needed to pay School Payments under Section 2(A)(2) above shall be used first to pay any Deficiencies due to the School District under this Section 2(D)(3) (beginning with the oldest then-remaining Deficiency) and then, after payment of all such Deficiency amounts, the remainder shall be applied according to Section 2(D)(1) hereof.

(E) Income Tax Sharing. The City shall cause fifty percent (50%) of documented new income tax revenue of the City attributable to "new employees" (as defined in Section 5709.82, Revised Code) employed in the original construction of the Project Improvements to be paid to the School District as additional compensation for foregone real property tax revenues ("Income Tax Sharing Payment"). The City and the School District shall establish a mutually acceptable procedure for payment of the Income Tax Sharing Payment following execution of this Agreement.

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

SECTION 14. Review of Records. The School District may from time to time, with reasonable advance notice, review the records of the City relating to the receipt of PILOTs and income tax revenue subject to the Income Tax Sharing Payments. The City and School District shall work together and communicate as to the calculation of the payments required under Section 2, including exchanging information as to the valuation of the Parcels and applicable effective tax rates for all School District levies. Further, the City shall, upon request of the School District in writing, notify the School District as to the receipt of PILOTs and whether such PILOTs are sufficient to pay both the TIF Debt Service described in Section 2(D)(1)(a) and all School Payments as required by this Agreement.

SECTION 15. Reconciliation. The City and School District shall annually meet to review, calculate and reconcile payments to the School District and City.

SECTION 16. School District Consents and Waivers. In consideration of the compensation to be provided to it under this Agreement, the School District hereby:

(i) approves each TIF Exemption that may be granted under the TIF Ordinance as to all Parcels within the TIF Area for the number of years, commencing in

the year or years specified, and for the percentage or percentages specified in the TIF Ordinance (collectively, the "TIF Exemptions");

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

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

(iv) waives any defects or irregularities relating to the TIF Exemptions of the TIF Improvements, and agrees not to challenge, directly or indirectly, the validity of the TIF Exemption of any TIF Improvement.

SECTION 17. Application of Ohio Revised Code Section 5709.82. The School District acknowledges and agrees that this Agreement provides for the only compensation to be received by the School District from the City in connection with real property tax exemptions granted pursuant to the TIF Ordinance, that there will be no income tax sharing in connection with those exemptions, other than as described in Section 2(E) of this Agreement, and that the compensation provided for herein is in lieu of any other compensation that may be provided for in Section 5709.82, Revised Code.

SECTION 18. Amendment. This Agreement may be amended or modified by the parties only in writing, signed by both parties to the Agreement.

SECTION 19. Entire Agreement. This Agreement is executed pursuant to Sections 5709.41, 5709.82, 5709.83 and 5715.27(D) of the Ohio Revised Code, and sets forth the entire agreement and understanding between the parties as to the subject matter hereof, including without limitation all forms of compensation to be paid by the City to the School District pursuant to those sections, and merges and supersedes all prior discussions, agreements, and undertakings of every kind and nature between the parties with respect to the subject matter of this Agreement. It is understood by the parties hereto that if all or a portion of the Parcels are ever deemed to be exempt from real property taxes under any other section of the Revised Code, and if as a result, the City does not receive any PILOTs, the City's payment to the School District will terminate.

SECTION 20. Notices. All payments, certificates and notices which are required to or may be given pursuant to the provisions of this Agreement shall be sent by the United States ordinary mail, postage prepaid, and shall be deemed to have been given or delivered when so mailed to the following addresses:

If to the City:

City of Cleveland Heights
40 Severance Circle
Cleveland Heights, OH 44118
Attention: Director of Finance
Copy: Director of Law

If to the School District: Board of Education of the
Cleveland Heights-University Heights
City School District
2155 Miramar Boulevard
University Heights, OH 44118
Attention: Scott Gainer, CFO/Treasurer

With a copy to: David Seed, Esq.
Brindza, McIntyre & Seed LLP
1111 Superior Avenue, Suite 1025
Cleveland, OH 44114

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

SECTION 21. Change in Development.

(A) The City shall notify the School District if the Project Improvements to be constructed change substantially after the date of this Agreement, and if requested by the City or the School District, those parties agree to meet to discuss the implications of any such change.

(B) The City shall request the School District to reaffirm, amend or enter into a new Compensation Agreement in the event of (i) a deviation by FCD from the Final Development Plan (as defined in the Development Agreement) concerning the Project Improvements in any material fashion, (ii) the replacement or substitution of FCD (other than a related entity) as the Leasehold Owner and Developer, or (iii) the failure to approve the TIF Ordinance for the herein described Project Improvements on or prior to December 31, 2023. The purpose of this provision is to protect the intent of the parties in that the School District's approval of the TIF Exemption and this Agreement is based on the current description of the Project Improvements on the Property, including the intended developer and timing of those Project Improvements, as presented to the School District. The obligations of the City under this Section 10(B) shall terminate definitively upon the issuance of TIF Debt.

SECTION 22. Severability of Provisions. The invalidity of any provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed in all respects as if any invalid portions were omitted.

SECTION 23. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this Agreement may execute this Agreement by signing any such counterpart.

SECTION 24. Extent of Covenants; Binding Effect; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law.

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

Section 14. No Other Real Property Tax Exemptions. The City shall not authorize a real property tax exemption for the CLM Property identified in Exhibit A other than the TIF Exemption, including as provided in Ohio law under Sections 3735.65 to 3735.70, 5709.40 and 5709.62, Revised Code, without the prior consent of the School District.

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CITY OF CLEVELAND HEIGHTS, OHIO

CLEVELAND HEIGHTS-UNIVERSITY
HEIGHTS CITY SCHOOL DISTRICT
BOARD OF EDUCATION

By: _____
Mayor

By: _____
President

By: _____
Superintendent

By: _____
Treasurer

Approved as to Form and Correctness:

Joined as to Section 2(D)(2) herein, on
behalf of the Project Improvement
owners)

F & C DEVELOPMENT, INC.

By: _____
City Law Director

By: _____
Chief Executive Officer

FISCAL OFFICER'S CERTIFICATE

The undersigned, [Acting/Interim] Director of Finance of the City of Cleveland Heights under the foregoing Agreement, certifies hereby that any moneys required to meet the obligations of the City during the year 2022 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2022

[Acting/Interim] Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

The undersigned, CFO/Treasurer of the Cleveland Heights-University Heights City School District under the foregoing Agreement, certifies hereby that the moneys required to meet any obligations of the School District during the year 2022 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the District or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2022

Treasurer, Board of Education,
Cleveland Heights-University Heights
City School District, Ohio

EXHIBIT C

FORM OF SCHOOL DISTRICT ADDITIONAL PARKING AGREEMENT

SCHOOL DISTRICT ADDITIONAL PARKING AGREEMENT

THIS SCHOOL DISTRICT ADDITIONAL PARKING AGREEMENT (this “**Agreement**”) has been executed as of _____, _____ (the “**Effective Date**”), by and between the CITY OF CLEVELAND HEIGHTS, OHIO, an Ohio municipal corporation, having an address at 40 Severance Circle, Cleveland Heights, Ohio 44118 (the “**City**”) and the BOARD OF EDUCATION OF THE CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT (the “**School District**”), a city school district organized and existing under the laws of the State of Ohio.

RECITALS

A. The City has entered into a Development Agreement dated December 9, 2021 (as supplemented and amended, the “**Development Agreement**”) with F&C Development, Inc. (the “**Developer**”) pursuant to which the Developer or a designated affiliate expects to build a mixed-used development (the “**Project Improvements**”) on certain parcels of land commonly known as the Cedar-Lee-Meadowbrook parcels (the “**Project Site**”).

B. In connection with redevelopment of the Project Site, certain surface parking spaces used by staff and students of the School District will be eliminated, and the City desires to allow staff and students of the School District to utilize certain additional parking spaces controlled by the City in the vicinity of the Project Site in accordance with the terms this Agreement.

NOW, THEREFORE, in consideration of the above Recitals, which are incorporated in and made a part of this Agreement, and the covenants and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I – USE OF CERTAIN CITY PARKING BY SCHOOL DISTRICT

Section 1. Permit Parking Spaces for School District Use. Beginning with the date Municipal Lot 5 (as depicted on Exhibit A) closes for construction of the Project Improvements and for the remaining duration of the Cedar-Lee-Meadowbrook Urban Redevelopment Tax Increment Finance District, the City agrees to make available to the School District a total of 50 parking passes for use in Municipal Parking Lot 34 (as depicted on Exhibit B). These permits shall be designated for Cleveland Heights High School (the “**High School**”) students and staff for use during school hours (7:30am to 4:30pm) on days when school is in session. The permits shall be sold by the School District to staff and students with all collected funds being paid to the City. The permits shall be issued for each school semester at a rate equal to the City’s quarterly senior citizen parking permit fee (currently \$34.50), as such rate may adjusted in the future. Along with the collected funds for the permits, the School District shall provide permit holder information to the City.

Section 2. Special Event Parking. Beginning with the date Municipal Lot 5 closes for construction of the Project Improvements, and for the remaining duration of the Cedar-Lee-Meadowbrook Urban Redevelopment Tax Increment Finance District, the City agrees to provide the School District access to parking spaces in Municipal Parking Lot 34 for use by attendees of special events at Cleveland Heights High School (the "High School") at the same cost, if any, that such parking spaces are made available to the general public. These parking spaces are currently available to the public, but the City agrees to provide wayfinding signage designating Municipal Parking Lot 34 as special event parking for the High School during such special events. Additionally, the City agrees to review the current lighting of Municipal Parking Lot 34 and ensure adequate lighting is in place.

Section 3. Additional Parking. The City further agrees to work with the School District to identify and implement additional on-street parking options along Washington Boulevard adjacent to the High School and on other side streets in close proximity to the High School.

Section 4. Claims; Indemnity. The City shall not be liable for any damage or injury to School District staff or students utilizing the additional parking spaces described in this Agreement and the School District agrees to hold the City harmless for any staff or student claim for damages during the term of this Agreement, except to the extent such damage or injury is the result of the gross negligence of the City or any of the City's agents. The City shall not be responsible for any theft, loss or damage to any vehicle or property left in any vehicle.

ARTICLE II – MISCELLANEOUS

Section 1. Term. The Term of this Agreement shall expire upon the expiration or termination of the Cedar-Lee-Meadowbrook Urban Redevelopment Tax Increment Finance District.

Section 2. Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Ohio.

Section 3. Headings. Sections and paragraph headings in this Agreement are for convenience or reference only, and shall not affect the interpretation or construction of the provisions hereof.

Section 4. Severability. Invalidation of any of the provisions contained in this Agreement or the application thereof to any person by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

Section 5. Amendment. This Agreement may be amended or modified by the parties only in writing, signed by both parties to the Agreement.

Section 6. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this Agreement may execute this Agreement by signing any such counterpart.

Section 7. Extent of Covenants; Binding Effect; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. Each provision of the Agreement is binding upon the officer(s) or other person(s) and any body or bodies as may from time to time have the authority under law to take the actions as may be necessary to perform all or any part of the duty required by a given provision of this Agreement. Each duty of the City and its bodies, officers and employees, undertaken pursuant to the Agreement, is established as a duty with the City and of each such officer, employee or body having authority to perform that duty, specifically enjoined by law resulting from an office, trust or station within the meaning of Section 2731.01, Revised Code, providing for enforcement by writ of mandamus. No such covenant, stipulation, obligation or agreement shall be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties in their individual capacity.

Section 8. Assignment. The City and the School District shall not assign their respective rights or interests under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld, delayed and conditioned.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the City and the School District have executed this Agreement on the day and year first above written.

Cleveland Heights-University Heights City City of Cleveland Heights, Ohio
School District Board Education

By: _____
President

By: _____
Its: _____

By: _____
Superintendent

The legal form and correctness
of this Agreement is hereby approved:

By: _____
Treasurer

Date: _____

(Signature Page to School District Additional Parking Agreement)

FISCAL OFFICER'S CERTIFICATE

The undersigned, [Acting/Interim] Director of Finance of the City of Cleveland Heights under the foregoing Agreement, certifies hereby that any moneys required to meet the obligations of the City during the year 2022 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2022

[Acting/Interim] Director of Finance
City of Cleveland Heights, Ohio

(Fiscal Officer's Certificate to School District Additional Parking Agreement)

5683101.1