



COUNCIL UPDATE

April 7, 2021

MEETINGS & REMINDERS

Please note meetings are being held as webinars and conference calls. Information for residents to participate may be found on the clevelandheights.com calendar.

Thursday, April 8	-	5:00 p.m.	-	Historic Preservation Design Guidelines Project Kick-Off Meeting
Monday, April 12	-	7:00 p.m.	-	Joint Boards Meeting
Tuesday, April 13	-	7:00 p.m.	-	Cleveland Heights Police Department Community Town Hall #1
Wednesday, April 14	-	7:00 p.m.	-	Planning Commission
Thursday, April 15	-	6:00 p.m.	-	Administrative Services Committee
Monday, April 19	-	6:30 p.m.	-	Committee of the Whole
	-	7:30 p.m.	-	City Council

LEGISLATION

- **Source of Income, Third Reading.** An Ordinance amending various Sections of Chapter 749, "Fair Practices" of the Codified Ordinances of the City of Cleveland Heights to include Source of Income as a prohibited, discriminatory rationale for the purposes of fair housing practices.
- **Third Party Delivery Fee Cap, Second Reading.** An Ordinance enacting new Chapter 765 of the Cleveland Heights Codified Ordinances, pertaining to third-party food delivery services; establishing a limit on the commission that third parties can charge to restaurants located in the City of Cleveland Heights to 15% of the purchase price on delivery or pick-up orders

while restaurants are unable to provide unrestricted dine-in service; prohibiting a reduction in compensation for delivery drivers as a result of this limit

- **County HOME.** A Resolution authorizing the City Manager to enter into an agreement with Cuyahoga County for funding through the HOME Program for the City's affordable housing programs through April 30, 2023
- **HRRC for HOME.** A Resolution authorizing the City Manager to enter into an agreement with the Home Repair Resource Center, a non-profit corporation, for the use of HOME Funds to administer its down payment assistance loan program; providing compensation therefor
- **Family Connections.** A Resolution authorizing the City Manager to enter into an agreement with Family Connections of Northeast Ohio a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Parent Café Program; providing compensation therefor
- **Start Right CDC.** A Resolution authorizing the City Manager to enter into an agreement with Start Right CDC, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Good Neighbor Home Rehab Program; providing compensation therefor

UPDATES FROM CITY MANAGER

- **Lower Lake:** Included in the packet is information regarding the lower lake issue. There will be further discussion but I thought these statements were pertinent to the Cleveland Heights position.
 - Statement from Victoria Mills, the Executive Director of the Doan Brook Watership Partnership (Please note that Councilwoman Dunbar and Assistant Planning Director Karen Knittel are both members representing Cleveland Heights).
 - Statement from Peggy Spaeth and John Barber (past Director of the Shaker Nature Center) are currently coordinators of the Friends of Lower Lake
 - A map of the Lower Lake
 - Parks & Recreation Director Joe McCrae attends the Parkland Management Committee and his comments are included.
- **Novak Report:** Attached you will find the March 3, 2021 memo for your reference regarding the Novak report. The following is an update for your information:

- The positions of Assistant Director, Rehabilitation Specialist and 3 Housing Inspectors (additional one due to a recent resignation) are advertised.
- Performance reviews/check ins to occur this month
- CitizenServe is now being used for all housing applications; new business applications will be introduced in May which will bring Building and Zoning in to the loop.
- The Department Guidebook to be discussed during the review check ins this month and then will be updated.
- In collaboration with the court, forms are in place for tenants regarding the use of escrow when rental violations are not being corrected.
- Civil procedures are now in place with Foreclosure bonds, and Housing staff and Law are working on housing violations possibly being civil as well.

Housing continues to be a top priority in our City. The reality is that for the last year, staff and residents have been dealing with changes mandated by the covid health crisis. Also, key vacant positions have been slow to fill, however interest has definitely picked up in recent weeks.

The Novak report cited the development of goals /housing strategy. It is worth noting that in previous staff development meetings, the following was determined to be an accurate goal:

‘The Housing Department’s mission (goal) is to perform fair, standardized, comprehensive inspections of Cleveland Heights properties in order to preserve the housing stock, promote higher property values, eliminate health and safety hazard and make the City a more desirable community’

- **Community Relations.** At this time, due to an abundance of caution regarding the covid virus and possible variants, we are not taking block party or park pavilion registrations at this time. This is true of our surrounding communities as well. Of course, staff will be vigilant as to whatever health updates/notices are issued.

From Victoria Mills, Cleveland Heights resident and Executive Director of the Doan Brook Watershed Partnership

A week ago, an anonymous angler posted fliers to trees calling for a state-funded fishing stocking program to commence around Lower Lake. To start, it's hard to assimilate information that will alter Lower Lake from an individual who will not share a name.

Doan Brook Watershed Partnership (DBWP), the Nature Center at Shaker Lakes, the Northeast Ohio Regional Sewer District and the cities of Cleveland, Cleveland Heights and Shaker Heights held three or four meetings in 2020 specifically to consider an active public fishing program at Lower Lake. We invited three fish biologists and recreational fishing experts from the Ohio Department of Natural Resources and the Cleveland Metroparks. Our conversations explored the pros and the cons of establishing Lower Lake as a fishing destination. Pros include a new recreational activity for the community that connects them to our local natural resources and a funding source (the State of Ohio) for annual fish stockings. Cons far outweighed the pros, however. The cons included:

- An increase of fishing waste/litter along the shores, tangled in trees, and in the waterway, which continues through the three communities to Lake Erie.
- A public health hazard posed by fishing litter, most importantly the hooks that have already cut the mouths of dogs and the hands of humans that visit Lower Lake.
- No fishing pier or dock to distance casting from people visiting the shore of the lake.
- Very limited open (unvegetated) shoreline from which to fish, with almost none on the Cleveland Hts. side of the lake.
- A threat to birds and birders that continue to celebrate Lower Lake's Audubon designation as an official Important Bird Area in Ohio.
- If fishing stocking were permitted, Lower Lake would automatically be added as a destination to a map that's issued across Ohio. This has the potential to shift this small park from a local amenity to a more crowded amenity, without an increase in funding for parking, facilities, maintenance etc. and without engaging in a wider public input process.
- An interest in delaying formal fishing activities until the Northeast Ohio Regional Sewer completes a stormwater master plan for the future of Lower Lake. Included in this study, will be a public input process for residents of Cleveland Heights and Shaker Heights.
- Lower Lake is very shallow. The addition of hot summers and nutrient runoff from lawns, can create eutrophic conditions (low aquatic oxygen levels).
- Fishing programs require management. Neither City has staff capacity or budget to manage a fishing program.
- No imperative need because there are several nearby fishing destinations (without vegetated shorelines exist in Forest Hills Park and Rockefeller Park.

Improving the ecology of Doan Brook is paramount to our mission. Staff and volunteers work hard to create projects that restore ecosystem services, including allowing earth's systems to filter air and water, create soil fertility and stability, and build a resilient future through biodiversity. All of DBWP's recent stream restoration projects have restored habitat for native fish populations. We are also keenly aware that North American bird populations have dropped

by a third in the last fifty years. Introducing farm-raised fish to a manmade lake without considering impacts to wild bird populations is short-sighted. In the same vein, a campaign to promote fishing without engaging in a forum that encourages the exchange of facts and ideas is short-sighted.

All residents of the watershed are invited to learn about, and comment on, the future of Doan Brook, the lakes and our shared parklands. Each quarter, DBWP hosts a Parklands Management Committee (PMC) meeting with volunteers and the agencies and organizations listed above. This is a forum to discuss park management, science and restoration. The public can bring ideas to the committee for consideration; in fact, several citizen science projects that bring great benefit to our community started through PMC process. Many of the concepts found in the anonymous posting are not factual, but we look forward to opportunities to share information on the current conditions at Lower Lake. The public is invited to send comments to info@doanbrookpartnership.org.

Public Fishing at Lower Lake

Lower Lake in the Shaker Parklands is owned by the City of Cleveland, and leased to Shaker Heights and Cleveland Heights for management in a division bisecting the the lake on its east-west axis.

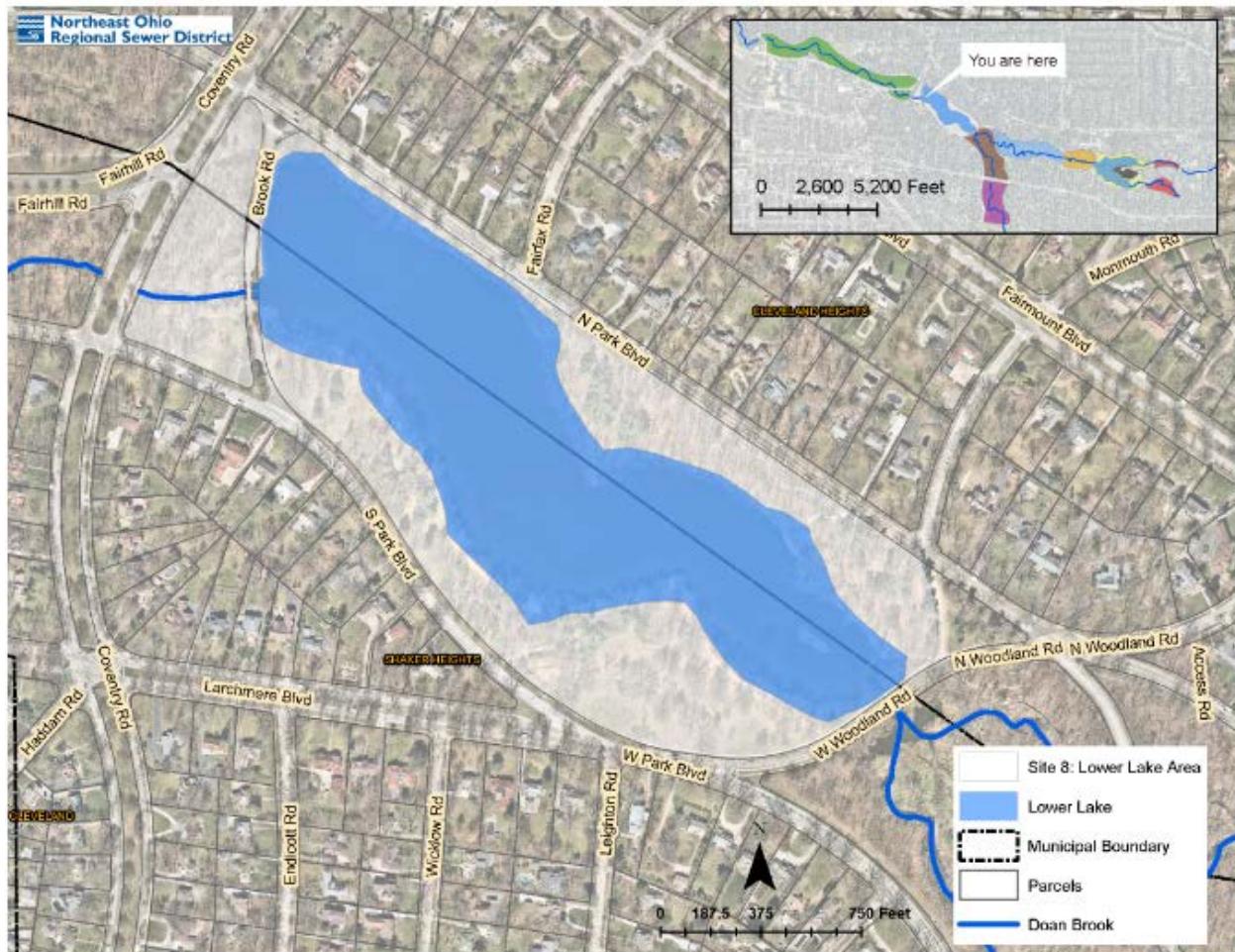
Fishing has not been allowed at Lower Lake until the 2020 Shaker Parklands Committee review and update to the 2013 "Land Management and Land Use Plan for the Shaker Parklands." Shaker Heights asked the group to approve the document with the following addition: "Shaker Heights does not prohibit fishing on the south side of Lower Lake, pending a public use planning process." This language allows fishing in Shaker Heights from the South Park side of the lake and part of Brook Road, such as the bridge, for an indeterminate period. We would like to see a uniform policy for the park, but unfortunately the managing partners did not agree and fishing remained prohibited on the Cleveland Heights side of the lake.

We support Cleveland Heights prohibiting fishing on the North Park side of Lower Lake for both ecological and human safety reasons:

- There are already several nearby sites for fishing with posted rules for safety:
Distance from 14353-14061 South Park (mid-block of Lower Lake):
 - 3.1 miles Rockefeller Lagoon (stocked)
 - 3.4 miles Forest Hill Park (East Cleveland pond, stocked)
 - 5.3 miles Acacia Reservation (Metroparks-2 ponds)
 - 6.6 miles Gordon Park, E.72nd Street (Metroparks)
- The site is designated an Audubon Important Bird Area. Permitting fishing in the lake would change the character of the lake to one of active, rather than passive, recreation. Of all the Shaker Lakes, Lower Lake has been most often described as a nature preserve through its history. Evidence of this can been seen through the historic wildflower garden and the Shaker Memorial Garden at its west end.
- Public safety is a big concern. The 1897 bridge on the dam is a natural place for anglers, but too narrow to safely accommodate them with the constant pedestrians, joggers, bicyclists, dogs, and baby strollers. This past summer careless anglers caused first a dog, and then the dog's owner, to become impaled on a hook. EMS had to transport the resident to the emergency room for removal of the hook. Hooks, lines, lead sinkers, and nets have been found along the perimeter of the lake that endanger passers-by as well.
- Wildlife safety is of equal concern. Lower Lake has dramatic birdlife for most of the year, including nesting Green Herons, foraging Bald Eagles and Osprey, a variety of ducks, kingfishers, and migrating warblers. Several species nest along the edge of the lake where they are at grave risk of entanglement and death from abandoned fishing gear. Lead sinkers which are left behind are a danger to wildlife as well.

- Fish in Lower Lake are common carp, goldfish, and green sunfish. The dominant common carp were imported in the mid-1880s as a food fish. A market for them never developed because consumers did not like them, and in ponds throughout the US they have outcompeted native fish. Conservationists in many states are removing carp to restore lakes and ponds to ecological health. Carp are bottom feeders, and create and maintain a heavily silted lake. If people do catch and eat carp, it is unknown whether they are safe to consume as they have not been tested.
- Replacement of common carp with native fish is not a sustainable goal in a shallow, silty man-made pond.
- With fishing permitted visits to the park will increase and parking will be an issue. The neighbors have not been involved in any decision-making to permit or not permit fishing.
- We recommend reinstalling the “no fishing” signs that were on site as recently as 2019, and collaboratively prohibit fishing on both sides of Lower Lake for the sake of both human and wildlife health and safety.

John Barber and Peggy Spaeth, Cleveland Heights
March 2021



Lower Lake

Director Joe McCrae is a member of the Doan Brook Parkland Management Committee. See below his comments:

Fishing has been a prohibited activity per the Parkland Management Plan for many years. Our concerns and the concerns of some residents (such as the Friends of Lower Laker resident group) include but are not limited to the following:

- Shaker side of the lakefront is wider with a more natural layout (including built docks) that lend themselves to fishing. The CH side is more narrow, and does not have good access for fishing. The existing native vegetation will be trampled.
- There will be a significant increase in litter that will be harmful to the environment and dangerous to walkers, kids, and pets (hooks, etc). ODNR will not have a daily presence to police this issue. The city does not have the resources to police this issue.
- There is very limited parking. Once the lake is stocked, there will be a significant increase in people coming to the lake to fish, but no place for them to park on the north side. Parking on North Park is not really safe from a traffic standpoint.
- There has been no public process (due to the pandemic) to discuss this significant change that may impact residents on both sides of the lake.

Hope this helps. Staff does not object to stocking the lake with fish for the environmental benefits. But fishing brings about other issues that must be considered and addressed in a way that is safe for the environment and safe for residents that also want to enjoy Lower Lake.

Thanks

Joe

To: Cleveland Heights City Council

From: Susanna Niermann O'Neil, City Manager

Re: The Housing Department/Novak Report

Date: March 3, 2021

The Novak report, prepared by an outside consultant (The Novak Consulting group), contains a review of the Housing Department and includes recommendations to make best use of the Department. The final report was received on July 21, 2020. The report is attached to this memo.

The Housing staff is dedicated, intelligent and hardworking however due to staffing issues with COVID and quarantine protocols and other disruptions the 6-month to 12-month completion date for the 18 recommendations is not realistic.

However, some of the recommendations (10) have been implemented and/are in progress. The following gives the category followed by the # of the recommendation. The 8 that still must be addressed are at the end of this memo. The progress is underlined :

Technology Enhancements and Process Improvements:

- # 7 Create a Citizen Serve Implementation committee to assist with process improvement and troubleshooting: Citizen Serve is in progress as the software program to facilitate online reports and transactions. It still needs time before it is fully functioning but progress is being made
- #8 Provide inspectors with computers and telephones: Inspectors in the field now have I pads so they can record inspections/notes and send them back to the office. In office computers are available.

Department Structure:

- #9 Reclassify the Chief Housing Inspector as an Assistant Director: The Chief Housing Inspector position has been eliminated and the position of Assistant Director is being advertised.
- #10 Continue using Safebuilt to conduct POS inspections and fill a vacant housing position: Safebuilt continues to process POS inspections and the vacant position will be filled. At that time ,we will evaluate whether or not Safebuilt will continue with POS.

- #11 Fill the vacant Rehabilitation Specialist position: This job description is posted
- #12 Reallocate duties assigned to Office Assistants as Citizen Serve implementation proceeds: Initial discussions were held with Adm staff at an earlier date, their feedback is still relevant and will be implemented.

Management Practices:

- #15 Engage in regular performance review/check ins with staff:
Reviews to be conducted in April 2021
- #16 Conduct regular Department meetings: Due to covid restrictions full staff meetings are not being held. This will of course be reinstated when protocols are lifted.
- #17 Require appropriate training and certifications for all Housing Inspectors:
Staff will be having Customer service training and also a review of certifications is being held.
- #18 Eliminate the bonus program for systematic inspections:
This program has been eliminated.

The following 8 recommendations (8) will be addressed later in the year:

- #1 – Develop a formal housing strategy with clear program goals and objectives:
The Envisio report for 2020 can be used as the basis for additional strategies.
Currently the Housing training Manual states: “The Housing Inspection Department’s mission(goal) is to perform fair, standardized, comprehensive inspections of Cleveland Heights properties in order to preserve the housing stock, promote higher property values, eliminate health and safety hazard, and make the City a more desirable community.”
- #2 Conduct a comprehensive Review of the City’s Housing Code :
To be addressed at a later date when a complete study of the City Code is implemented.
- #3 Adopt a proactive code enforcement strategy: To be determined

- #4 Enhance the Department's Guidebook and develop a comprehensive code enforcement manual: The current Department manual is over 100 pages in content and can be reviewed later this year. Code enforcement manual see #3.
- #5 Expand tenant education regarding the use of escrow, if landlords fail to address violations: To be addressed
- #6 Utilize civil procedures to enforce violations where appropriate: To be addressed
- #13 Create a Community Liaison position: To be considered once other positions are filled.
- #14 Establish performance measures and track workload performance using Citizenserve: Possible once the system is complete.

On Thursday, February 25, I met with the Housing Department staff (socially distanced) to discuss elements of the Novak report and also the expectations of 2021. All are aware of their responsibilities regarding inspections and work product. Going forward I asked for input/suggestions, including any changes in the physical plant that might provide a more productive work space.

Thank you for your consideration and patience, as they say in the vernacular, "The lights are on and everybody is home," doing their very best.

Proposed: 03/15/2021

ORDINANCE NO. 25-2021 (AS), *Third Reading*

By Council Vice President Seren

An Ordinance amending various Sections of Chapter 749, "Fair Practices" of the Codified Ordinances of the City of Cleveland Heights to include Source of Income as a prohibited, discriminatory rationale for the purposes of fair housing practices.

WHEREAS, the proposed changes to Chapter 749 will increase housing access and stability in Cleveland Heights, and

WHEREAS, the economic effect of the COVID-19 pandemic has highlighted the need for increased rental and other financial assistance due to unemployment and underemployment, and

WHEREAS, the Council has determined that improving housing access and stability for people with a diversity of sources of income is in the best interest of the City, its residents, and the general goal of fair practices and the protection of civil rights.

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

SECTION 1. Section 749.03(n) of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

(n) The terms 'Discriminate,' 'Discriminating,' or 'Discrimination,' mean any act, policy, or practice that, regardless of intent, has or had the effect of subjecting any individual to different treatment as a result of that individual's Age, race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, or Gender Identity or Expression, Source of Income, or the nonconsensual dissemination of that individual's private sexual images, except as otherwise set forth in this Chapter, and except that Age may be the basis of different treatment concerning Housing Practices (see Section 749.07) and/or Education Practices (see Section 749.14).

SECTION 2. Section 749.03(ii) of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

(ii) "Source of Income" means income derived from wages, social security, supplemental security income, all forms of federal, state or local assistance payments or subsidies, child support, spousal support, and publicly or privately provided assistance which can be verified and substantiated, including but not limited to housing vouchers, emergency rental assistance, disability benefits, and military or veterans benefits.

SECTION 3. Section 749.03 of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to add subsection (jj) to read as follows:

(jj) "Unlawful Discriminatory Practice" means an act prohibited by this Chapter, and includes "Unlawful Discriminatory Housing Practices," "Unlawful Discriminatory Employment

Practices," "Unlawful Discriminatory Education Practices," and "Unlawful Discriminatory Public Accommodation Practices," as set forth in this Chapter.

SECTION 4. Section 749.07 of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

749.07 UNLAWFUL DISCRIMINATORY HOUSING PRACTICES.

It shall be an Unlawful Discriminatory Housing Practice and a violation of this Chapter:

* * *

(c) For any Person or Real Estate Agent or Lending Institution, with respect to any prohibited act specified in this Chapter, to publish or circulate or cause to be published or circulated, any notice, statement, listing or advertisement, or to announce a policy or to make any record in connection with the prospective sale, lease, sublease, rental or financing of any Housing which indicates reliance, determination or decision based on race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, ~~or~~ Gender Identity or Expression, or Source of Income.

(d) For any Person or Real Estate Agent or Lending Institution to assist in, compel, or coerce the doing of any act declared to be an Unlawful Discriminatory Housing Practice under this Chapter, or to obstruct or prevent enforcement or compliance with provisions of this Chapter, or to attempt directly or indirectly to commit any act declared by this Chapter to be an Unlawful Discriminatory Housing Practice.

(e) For any Person or Real Estate Agent or Lending Institution:

(1) To induce or attempt to induce the sale, transfer of interest, or listing for sale of any Housing by making representations regarding the existing or potential proximity of real property owned, used, or occupied by any individual of any particular race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, ~~or~~ Gender Identity or Expression, or Source of Income by direct or indirect methods.

(2) To make any representation to a prospective purchaser or lessee that any Housing in a particular block, neighborhood or area may undergo, is undergoing, or has undergone a change with respect to the race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, ~~or~~ Gender Identity or Expression, or Source of Income of the individuals that live in such a block, neighborhood, or area.

(3) To induce or attempt to induce the sale or listing for sale of any Housing by representing that the presence or anticipated presence of individuals of any particular race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, ~~or~~ Gender Identity or Expression, or Source of Income in the area will or may result in:

A. The lowering of property values.

B. A change in the race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, ~~or~~ Gender Identity or Expression, or Source of Income status of the individuals in the block, neighborhood, or area in which the property is located.

C. An increase in criminal or anti-social behavior in the area.

D. A decline in quality of the schools serving the area.

(f) For any Person or Real Estate Agent or Lending Institution to cause or attempt to cause or coerce retaliation against any individual because such individual has lawfully opposed any act or failure to act that is a violation of this Chapter or has, in good faith, filed a Complaint, testified, participated, or assisted in any way in any proceeding under this Chapter.

(g) To Discriminate against any individual by denying such individual access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or Renting Housing, or Discriminate against an individual in the terms or conditions of such access, membership or participation.

(h) To do any other thing or engage in conduct which would otherwise make unavailable equal Housing opportunities.

(i) Nothing herein contained shall prohibit any Person subject to the terms of this Chapter from answering, in a truthful manner, any questions directed to him or her from any prospective purchaser or renter concerning the race, color, religion, Sex, Familial Status, national origin, Disability, ~~or~~ Sexual Orientation, or Source of Income of individuals then Renting or living on a given street or neighborhood.

SECTION 5. Section 749.08 of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

749.08 POSTING OF HOUSING NOTICES.

All Real Estate Agents shall post, in a conspicuous location in a portion of their place of business identified as the reception room, main room, or that room normally used by them for negotiating the terms of a sale or lease of Housing, and all Persons who operate a Covered Multi-Family Dwelling shall post at all times in a conspicuous location in either the main entry area or in that portion of their Housing business normally used by them for negotiating the rental of a Housing unit therein, a notice which contains the following language, printed on a light-colored background, in not less than fourteen (14) point type:

It is a violation of the Fair Practices Law of the City of Cleveland Heights for any real estate agent, or for any person owning or managing a multi-unit apartment dwelling to:

(a) Deny housing to any person because of race, color, religion, sex, familial status, national origin, disability, sexual orientation, ~~or~~ gender identity or expression, or Source of Income.

(b) Discriminate against any person because of that person's race, color, religion, sex, familial status, national origin, disability, sexual orientation, ~~or~~ gender identity or expression, or Source of Income with respect to the terms, conditions, or privileges of housing accommodations or in the furnishing of facilities or services in connection therewith.

SECTION 6. 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 7. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 04/05/2021

ORDINANCE NO. 34-2021 (PSH), *Second
Reading*

By Council Member Seren

An Ordinance enacting new Chapter 765 of the Cleveland Heights Codified Ordinances, pertaining to third-party food delivery services; establishing a limit on the commission that third parties can charge to restaurants located in the City of Cleveland Heights to 15% of the purchase price on delivery or pick-up orders while restaurants are unable to provide unrestricted dine-in service; prohibiting a reduction in compensation for delivery drivers as a result of this limit; and declaring an emergency.

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, caused by the SARS-CoV-2virus, a new strain of coronavirus not previously identified in humans that spreads easily from person to person through respiratory droplets; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak of COVID-19 a public health emergency of international concern; and

WHEREAS, on January 31, 2020, Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 9, 2020, Governor Mike DeWine signed an Executive Order declaring a State of Emergency for Ohio in relation to COVID-19; and

WHEREAS, effective March 15, 2020, the Governor and the Ohio Department of Health issued an order limiting restaurants to providing only carry-out service; and

WHEREAS, on March 16, 2020 this Council, through Resolution 022-2020, proclaimed an Emergency in Cleveland Heights based on the COVID-19 pandemic; and

WHEREAS on April 30, 2020, the Ohio Department of Health issued an Order allowing restaurant businesses to reopen but requiring compliance with social distancing and safety measures that reduce dine-in capacity; and

WHEREAS, during the COVID-19 pandemic it is critical that restaurants stay open because they are performing essential functions, along with grocery stores and other food services, providing the public with access to food, and the social distancing measures required to mitigate the spread of COVID-19 mean that delivery and take-out options from restaurants are critical to the public's access to food; and

ORDINANCE 34-2021 (PSH)

WHEREAS, the COVID-19 pandemic has had significant impact on the local economy impacting the restaurant, food service, and other related industries resulting in economic hardship due to loss of income, layoffs, and reduced work hours for a significant percentage of the workforce; and

WHEREAS, reducing dine-in capacity for restaurants places a severe financial strain on many restaurants, which already operate on slim margins, particularly those that are small, independently owned, or minority-owned, adding to pre-existing economic pressures in the industry; and

WHEREAS, many consumers are eager to support local restaurants and use third-party applications and websites to place orders with those restaurants, for take-out and delivery, and these orders may include commission fees of 30% or more of the purchase price; and

WHEREAS, many restaurants have limited bargaining power to negotiate lower commission fees with third-party platforms due to high demand and few alternatives for online order and delivery services and as a result, face dire financial circumstances during the pandemic as take-out and delivery are the main options for keeping their businesses in operation; and

WHEREAS, capping the commission fee charged by third-party delivery services at 15% of the purchase price on delivery or pick-up orders so long as restaurants are unable to provide unrestricted dine-in service will accomplish the legitimate public purpose of easing the financial burden on struggling restaurants during the public health emergency, while promoting the availability of prepared food via delivery service, and will not unduly burden third-party applications and websites.

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

SECTION 1. That the Codified Ordinances of Cleveland Heights, Ohio, are supplemented by enacting new Chapter 765, Third-party Food Delivery Services, as follows:

Chapter 765 Third-party Food Delivery Services

Section 765.01 Definitions

For purposes of this chapter, the following terms shall mean:

- (a) “Commission” means a fee paid to a third-party food delivery service for performing a transaction or a service.
- (b) “Eating and drinking establishment” means a restaurant, bar, tavern, cabaret, fast-food business, nightclub, pub, dining room, dinner theater, or similar use.
- (c) “Person” means an organization, corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust, or other commercial or legal entity.

ORDINANCE 34-2021 (PSH)

- (d) "Purchase price" means the menu price of an online order, minus any applicable coupon or promotional discount provided to the customer by the eating and drinking establishment. Such price excludes taxes, gratuities, and any other fees that make up the total cost to the consumer of an online order.
- (e) "Third-party food delivery service" means any person who is engaged in operating a website, mobile application, or other internet service business that offers or arranges for the sale and/or delivery of food and beverages prepared by eating and drinking establishments.

Section 765.02 Limit on Commissions

- (a) No third-party food delivery service shall charge an eating and drinking establishment a commission per online delivery or pick-up order for the use of its service that totals more than fifteen percent (15%) of the purchase price of the online order.
- (b) If a third-party food delivery service charges an eating and drinking establishment a commission that exceeds fifteen percent (15%) of the purchase price of a placed online order, the eating and drinking establishment shall provide written notice to the third-party food delivery service requesting a refund of the amount of commission paid in excess of the allowable fifteen percent (15%) within seven (7) business days. No third-party food delivery service shall fail to issue a refund within seven (7) business days of receipt of the notice.
- (c) An eating and drinking establishment may agree to pay a third-party food delivery service a fee that exceeds the limits established in Section 765.02 (a) and (b) to obtain optional products or services, including advertising, marketing, or access to customer subscription programs, in addition to delivery or pickup service.

Section 765.03 Compensation

No third-party food delivery service shall reduce the compensation rates paid to any delivery service driver or garnish gratuities paid to any driver as a result of the provisions in this chapter.

Section 765.04 Effective dates

This chapter shall be in effect only from the effective date of this ordinance until ninety (90) days after eating and drinking establishments are permitted to operate with no restrictions.

Section 765.05 Severability

The provisions of this chapter shall be deemed to be severable; and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not impair any of the remaining provisions.

Section 765.99 Penalties

ORDINANCE 34-2021 (PSH)

- (a) A third-party food delivery service that violates any provision of this chapter is guilty of a misdemeanor of the first degree.
- (b) Strict liability is intended to be imposed as the culpable mental state for a violation of this chapter.
- (c) In accordance with Section 501.11 of the Codified Ordinances of Cleveland Heights, Ohio, organizational criminal liability is intended to be imposed for violations of this chapter.

SECTION 2.

This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and welfare of the inhabitants of the City of Cleveland Heights, such emergency being the need to provide economic relief to restaurants in Cleveland Heights, which are providing an essential service to residents, at the earliest possible time. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of Council

AMY HIMMELEIN
Clerk of Council



CLEVELAND HEIGHTS

To: Susanna Niermann O'Neil, City Manager
From: Karen Knittel, Assistant Planning Director
Date: April 13, 2021
Re: HOME Contract and HRRC Contract Legislation

There are two HOME Investment Partnership Act pieces of legislation. One is to permit the City of Cleveland Heights to sign a new \$400,943 HOME contract with Cuyahoga County with a 24 month performance period and the second is to permit the City to enter into a new contract with Home Repair Resource Center to administer our HOME Down Payment Assistance Program.

HOME provides funding for low- and moderate-income (LMI) households for housing needs. The funds come from the Department of Housing and Urban Development and flow to us through the Cuyahoga County Housing Consortium. Cuyahoga County is designated the lead agency for this Consortium whose members include Cuyahoga County and the CDBG Entitlement Communities of Euclid, Lakewood, Parma, and Cleveland Heights. As the lead agency, Cuyahoga County manages the HUD reporting and allocates our funds to us through a contract.

This contract will allow Cleveland Heights to create any HOME-eligible housing program. Currently, the HOME funds are used for two programs: the Single-Family Rehabilitation program and Down Payment Assistance. The Single-Family Rehabilitation program offers assistance through the Deferred Loan Program and the No Interest Loan Program. The Deferred Loan Program assists LMI seniors and disabled households with loans for whole-house rehabilitation and loan payments are deferred until the homeowner no longer resides in the house. The No Interest Loan Program is a whole-house rehabilitation loan program for LMI households who are not disabled or seniors and requires that monthly payments are made on the loan. These loan programs are administered by the City's Housing Preservation Office.

The second program HOME funds is our Down Payment Assistance program. This program assists qualified LMI households to purchase a home in Cleveland Heights by providing up to \$10,000 of down payment assistance. The homeowner is required to contribute a minimum of 3.5% of the sales price and complete pre-purchase and home maintenance counseling services prior to receiving the funds. The City contracts with Home Repair Resource Center to administer this program, as HRRC is our local HUD Housing Counseling Agency. Our current contract with HRRC for Down Payment Assistance has expired. The attached legislation is requesting a new contract for up to \$44,000 to continue our Down Payment Assistance program.

Proposed: 04/19/2021

RESOLUTION NO. -2021 (PD)

By Council Member

A Resolution authorizing the City Manager to enter into an agreement with Cuyahoga County for funding through the HOME Program for the City's affordable housing programs through April 30, 2023; and declaring an emergency.

WHEREAS, the U.S. Department of Housing and Urban Development ("HUD") has issued regulations, set forth in 24 CFR Part 92, allowing units of general local government to enter into mutual cooperation agreements to form consortiums for the purpose of obtaining funding from the affordable housing development program created by the Act under the Home Investment Partnership Program (the "HOME Program" or "Program"); and

WHEREAS, Cuyahoga County and the communities of City of Cleveland Heights, Euclid, Lakewood, and Parma, Ohio (collectively, the "Member Jurisdictions") have formed the Cuyahoga Housing Consortium (the "Consortium") pursuant to the Act; and

WHEREAS, for the purposes of the Consortium, Cuyahoga County is authorized by the Member Jurisdictions to act in a representative capacity for all member units of general local government (in such capacity the "Lead Entity") and assumes overall responsibility for the Consortium's HOME Program compliance with the requirements of the Act; and

WHEREAS, this Council has previously authorized the City Manager to enter into an agreement with Cuyahoga County for funding through the HOME Program for the City's HOME funded programs; and

WHEREAS, this Council has determined that it would be in the City's best interests to enter into a new HOME contract with a term from May 1, 2021 to April 30, 2023.

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

SECTION 1. The City Manager be, and she is hereby, authorized to execute an agreement with Cuyahoga County for Four Hundred Thousand Nine Hundred Forty-Three Dollars (\$400,943.00) of HOME Program funds for the City's affordable housing programs that include the homeowner rehabilitation loan programs and the down payment assistance program with a contract period through April 30, 2023 and to execute any other documents related to or necessary for the programs. The agreement and all related documents shall be approved as to form by and subject to the final approval of the Director of Law.

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

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to enter into the above-referenced agreement at the earliest time possible so that qualifying residents may receive the benefits of such affordable housing programs, including the down payment assistance and single-family rehabilitation loans. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 04/19/2021

RESOLUTION NO. -2021 (PD)

By Council Member

A Resolution authorizing the City Manager to enter into an agreement with the Home Repair Resource Center, a non-profit corporation, for the use of HOME Funds to administer its down payment assistance loan program; providing compensation therefor; and declaring an emergency.

WHEREAS, the City previously entered into an agreement with the Home Repair Resource Center (“HRRC”) to administer down payment assistance loan program wherein Cleveland Heights residents who met certain criteria would receive up to a ten thousand dollar (\$10,000) loan consisting of HOME funds issued by U.S. Department of Housing and Urban Development (“HUD”) via Cuyahoga County; and

WHEREAS, this Council has determined that it would be in the City’s best interest to continue the down payment assistance program for its citizens with HRRC’s administration and under the City’s oversight.

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

SECTION 1. The City Manager be, and she is hereby, authorized to enter into an agreement with the Home Repair Resource Center (“HRRC”) to administer the City’s Down Payment Assistance Program with City oversight. The program shall provide up to Forty-Four Thousand Dollars (\$44,000) of HOME funds issued by U.S. Department of Housing and Urban Development (“HUD”) via Cuyahoga County.

SECTION 2. The services to be performed by HRRC shall be as set forth in the Statement of Work attached hereto as Exhibit A and incorporated herein. The term of the agreement shall commence effective April 5, 2021 and terminate on December 31, 2021. All documents shall be approved as to form by and subject to the final approval of the Director of Law.

SECTION 3. Notice of the passage of this Resolution shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to allow the City's Down Payment Assistance Program to continue without interruption. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of Council

AMY HIMMELEIN
Clerk of Council

EXHIBIT A
STATEMENT OF WORK

HOME REPAIR RESOURCE CENTER

Home Repair Resource Center (“HRRC”), formerly known as FHC Housing Corporation, is a non-profit organization chartered in 1971 located at 2520 Noble Road, Cleveland Heights, Ohio. Its mission is to strengthen and promote the housing stock of Cleveland Heights through education, financial assistance, counseling and community involvement, in order to support the economic, social, and racial diversity of the community. HRRC’s programs recognize the special needs of low and moderate-income homeowners and provide incentives to encourage and facilitate their participation.

HRRC will provide down payment assistance loans to Cleveland Heights homebuyers whose annual income does not exceed 80% of the Area Median Income adjusted for family size, as issued from year to year by the U.S. Department of Housing and Urban Development (“HUD”). Loans may be issued up to \$10,000 for single family units. (A single family unit means a one- to four-family residence.) The loan is a deferred zero (0%) interest second mortgage. The loan will be repaid immediately at the time of resale, transfer, or if the property becomes absentee-owned. All program income (re-paid loans) will be returned to the City of Cleveland Heights HOME program.

In addition to direct loans to eligible homebuyers, HRRC will invoice the City for housing counseling services and personnel costs associated with the administration of the down payment assistance program. Reimbursement for Housing Counseling Services shall be \$500 per completed loan up to a maximum of \$3,000. Reimbursement for down payment assistance program administration shall be up to \$500 per completed loan up to a maximum of \$3,000. The total funds issued to HRRC shall not exceed \$44,000. The program shall commence on April 5, 2021 and continue until all funds are depleted or until December 31, 2021, whichever occurs first.

All HOME regulations shall be followed. HRRC shall report to the City of Cleveland Heights Planning and Development Department in the manner requested by its Director.

MEMO

To: Susanna Niermann O'Neil, City Manager

From: Brian Iorio, CDBG Coordinator

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

RE: CDBG Strategic Impact Opportunity (SIO) 2021 Legislation

Two (2) pieces of legislation have been submitted for Council's consideration for approval in order to authorize the City Manager to contract with two (2) of the City's CDBG partners. These two (2) pieces of legislation have been proposed as an emergency in order to allow their programs to move forward as soon as possible. Both of these programs were approved by Council as a part of the 2021 Annual Action Plan on March 1, 2021.

Family Connections' Parent Café Program

Family Connections' Parent Café Program is in its third year of operation as a Strategic Impact Opportunity (SIO) project. Family Connections describes their program as:

A Parent Cafe is a gathering of parents, for parents and by parents. It is a parent education experience designed to create opportunities for parents to connect, share and learn from each other. It provides a safe space and appreciates that all parents have something to offer and have what they need to be successful parents. Parent Cafes are driven by the knowledge that parents, can, must and do tap into their wisdom and resources in order to strengthen their own families. It is guided by trained Parent Table Hosts. Parents gather in small groups and explore questions that really matter to them. Through these meaningful conversations, parents are working to build five Protective Factors that will benefit their family. The Five Protective Factors have been shown through research to prevent child abuse and neglect. Thirteen of our staff are trained to provide the Parent Cafe model. We propose offering two cafes. Each is four 2-hour sessions offered weekly.

Start Right CDC Good Neighbor Program

Start Right CDC's Good Neighbor Program is a new program approved for 2021. The program is a housing purchase/rehabilitation program that will benefit a low- and moderate-income family. Proceeds from the sale or rent of the home will be returned to the City and reserved for additional purchase/rehabilitation projects. Start Right CDC describes their program as:

Through its Good Neighbor Program, Start Right CDC will work to safely and fully rehabilitate a minimum of one home in the Caledonia Park Opportunity Zone, and either sell the property to an LMI buyer or hold the property and rent it to an LMI tenant. The goal of the program is to improve housing conditions and property values in this target neighborhood. Start Right CDC has rehabilitated 3 homes in the Caledonia Neighborhood since 2012. This project will expand our housing activities to directly impact LMI residents and, potentially LMI tenants.

Additional details regarding either of these activities have been provided in the respective Statements of Work accompanying the legislation. Please feel free to contact me for any questions, comments or concerns.

Proposed: 04/19/2021

RESOLUTION NO.-2021 (PD)

By Council Member

A Resolution authorizing the City Manager to enter into an agreement with Family Connections of Northeast Ohio a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Parent Café Program; providing compensation therefor; and declaring an emergency.

WHEREAS, Family Connections of Northeast Ohio is a non-profit corporation with the mission to strengthen families and promote the healthy development of children by providing parent education, parent support and activities for families with children from birth to age ten; and

WHEREAS, Family Connections of Northeast Ohio has established a Parent Cafe Program to provide support to parents and youth; and

WHEREAS, it would be in the best interest of the City and its residents to provide partial funding to assist such programming; and

WHEREAS, there are monies available for such purpose from Year 46 Community Development Block Grant Funds through the Strategic Impact Opportunity Funds.

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

SECTION 1. The City Manager be, and she is hereby, authorized to enter into an agreement and any related documents with Family Connections of Northeast Ohio, a non-profit corporation, for assistance with its Parent Café Program. The agreement shall provide for funding in the amount of up to Five Thousand Dollars (\$5,000) from Year 46 Community Development Block Grant funds. The services to be performed by Family Connections of Northeast Ohio are set forth in the Statement of Work attached hereto as Exhibit A and incorporated herein. The agreement shall be for a eighteen month period commencing January 1, 2021, and terminating June 30, 2022, and shall be approved as to form by the Director of Law.

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

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to allow the services of the Family Connections of Northeast Ohio to continue without interruption. 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,

RESOLUTION NO. -2021

it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

EXHIBIT A
STATEMENT OF WORK

FAMILY CONNECTIONS

Family Connections has established the Parent Café Program to assist parents, their preschool and elementary students. A Parent Cafe is a parent education experience designed to create opportunities for parents to connect, share and learn from each other in a space that appreciates that all parents have something to offer and have all that they need. Parent Cafes are driven by the knowledge that parents can, must and do tap into their wisdom and resources in order to strengthen their own families. It is guided by trained Parent Hosts. Parents gather in small groups and explore questions that really matter to them. Through these meaningful conversations, parents are working to build five Protective Factors that will benefit their family. These Protective Factors have been shown through research to prevent child abuse and neglect in families. These Protective Factors are: Parental Resilience; Social Connections; Concrete Support in Times of Need; Knowledge of Parenting and Child Development and Social and Emotional Competence of Children.

The program will serve 26 families. CDBG funds will contribute towards personnel and supply expenses. If necessary, programming may take place online.

Proposed: 04/19/2021

RESOLUTION NO. -2021 (PD)

By Council Member

A Resolution authorizing the City Manager to enter into an agreement with Start Right CDC, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Good Neighbor Home Rehab Program; providing compensation therefor; and declaring an emergency.

WHEREAS, Start Right CDC is a non-profit corporation whose mission is to develop programs within their community that will help low and moderate income families in blighted areas; and

WHEREAS, Start Right CDC's goals are to provide hunger relief, educational program opportunities, home purchase opportunities, and community beautification programs; and

WHEREAS, it would be in the City's best interest to provide partial funding for said project; and

WHEREAS, there are monies available for such purpose from Year 46 Community Development Block Grant funds through the Strategic Impact Opportunity funds.

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

SECTION 1. The City Manager be, and she is hereby, authorized to enter into an agreement and any related documents with Start Right CDC, a non-profit corporation, for assistance with its Good Neighbor Home Rehab Program. The agreement shall provide for funding in the amount of up to Forty-Five Thousand Dollars (\$45,000) from Year 46 Community Development Block Grant funds. The services to be performed by Start Right CDC are set forth in the Work Program attached hereto as Exhibit A and incorporated herein. The agreement shall be for a period of eighteen months, commencing January 1, 2021 and terminating June 30, 2022, and shall be subject to the approval as to form by the Director of Law.

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

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to allow Start Right CDC to begin to provide these necessary services. 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

RESOLUTION NO. -2021

force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

EXHIBIT A
STATEMENT OF WORK

START RIGHT CDC – GOOD NEIGHBOR HOME REHAB PROGRAM

Start Right CDC is a non-profit organization whose mission is to develop programs within their community that will help low and moderate income families in blighted areas. Through its Good Neighbor Program, Start Right CDC will work to safely and fully rehabilitate a minimum of one home in the Caledonia Park Opportunity Zone and either sell the property to an LMI buyer or hold the property and rent it to an LMI tenant. The goal of the program is to improve housing conditions and property values in this target neighborhood.

Start Right CDC has rehabilitated 3 homes in the Caledonia Neighborhood since 2012. This project will expand their housing activities to directly impact LMI residents and, potentially LMI tenants.

CDBG funds will assist with capital improvement costs for the project.