

fully executed

RCA 23-131-6/26

ORDINANCE NO. 117-23

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH UPTOWN THIRTEEN FIVE, LLC AND THE MEDINA CITY DEVELOPMENT CORPORATION FOR CERTAIN INFRASTRUCTURE IMPROVEMENTS TO BE MADE BY THE CITY AND THE DEVELOPER, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to execute a Memorandum of Understanding between the City of Medina, Uptown Thirteen Five, LLC and the Medina City Development Corporation pertaining to certain infrastructure improvements to be made by the City and the Developer, listed in Exhibit B.
- SEC. 2:** That Ordinance No. 73-23, passed April 10, 2023, is hereby repealed.
- SEC. 3:** That a copy of the Memorandum of Understanding is marked Exhibit A, attached hereto and incorporated herein, and is subject to the Law Director's final approval.
- SEC. 4:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason that this is only a name change of the LLC, and so the project can begin as soon as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: July 10, 2023 **SIGNED:** James A. Shields
President of Council Pro-Tem

ATTEST: Kathy Patton **APPROVED:** July 11, 2023
Clerk of Council

SIGNED: Dennis Hanwell
Mayor

Kathy Patton

117-23
July 10, 2023

MEMORANDUM OF UNDERSTANDING

ORD. 187-23
Exh. 1A

This Memorandum of Understanding (hereinafter "MOU") is entered into as of the 10th day of July, 2023, at Medina, Ohio, by and among the **City of Medina**, an Ohio Municipal Corporation with an address of 132 North Elmwood Avenue, Medina, Ohio 44256 (hereinafter "City"), **Medina City Development Corporation**, an Ohio Non-Profit Corporation, with an address of 132 North Elmwood Avenue, Medina, Ohio 44256 (hereinafter "MCDC"), and **Uptown Thirteen Five, LLC**, an Ohio Limited Liability Company, with an address of 4015 Medina Road, Suite 200, Medina OH 44256 (hereinafter "Company").

RECITALS

Whereas, MCDC is the owner of certain real property located on West Liberty Street in the City of Medina Ohio, more particularly described on Exhibit A (hereinafter "Property"), attached hereto and made a part hereof; and,

Whereas, MCDC wishes to redevelop the Property into a community-driven, mixed-use development for the benefit the City; and,

Whereas, MCDC is in negotiations with Company whereby Company will construct, use, and occupy the Property as a first-class mixed use commercial and residential development (the "Project") pursuant to a fifty (50) year ground lease with MCDC (hereinafter "Lease") and,

Whereas, MCDC and Company wish to obtain certain assurances and commitments from the City which are conditions precedent to consummation of the Lease, but such assurances and commitments do not become effective until the Lease is in effect; and,

Whereas, the parties hereto wish to set forth those assurances and commitments in this MOU.

NOW, THEREFORE, for the consideration flowing among the parties and in consideration of the mutual promises set forth below that are conditioned upon the Lease being consummated, the City, MCDC and Company make the following assurances and commitments:

1. Parking: The City represents that, as of the date of this Agreement, there are more than four hundred (400) public parking spaces within a one block radius of the Property including the Medina City parking facility to the north of the Property (hereinafter "Parking Deck") and in Medina City surface parking lots. The City commits that, to the extent the Parking Deck and the Medina City surface parking lots continue to exist during the term of the Lease, these public parking spaces will remain available to commercial and residential sub-tenants of Company during the term of the Lease, on a first-come, first-served basis. Furthermore, during the term of the Lease, residential sub-tenants of Company shall be eligible to purchase parking permits pursuant to Medina Codified Ordinance 351.15 which will allow them to park in any City "municipal off-street parking facility" without risk of violating the restricted time-limits.

2. Public Infrastructure and Improvements: Subject to appropriation of funds by the City's Council and within ten percent (10%) of the amount of the project cost estimates in Exhibit B, attached hereto and made a part hereof, the City agrees to:

a. Pay the cost of a four (4)-foot wide new sidewalk and a curb along the public drive between the Property and the parcel located immediately to the east, which public drive will connect West Liberty Street to the Parking Deck. The curb will be structurally tied to the sidewalk. The sidewalk of four (4)-inch thick concrete will be poured as part of a wider sidewalk that will service both the Liberty View Project and the Parking Deck. The sidewalk will be provided as part of the construction of the Project by Company. All costs in excess of the four (4)-foot wide portion of the sidewalk and curb will be borne by Company. Company shall provide a copy of an

invoice from its contractor for the cost of the sidewalk for the purpose of reimbursement to Company for the City's cost of the four (4)-foot wide sidewalk

b. Provide the public driveway from Liberty Street to the Parking Deck at its cost;

c. Pay the cost of:

(1) A curb to be poured integral with the new sidewalk located to the south of the Leased Property along West Liberty Street as part of the construction of the Liberty View Project by Company. Company shall provide a copy of an invoice from its contractor for the cost of the curb for the purpose of reimbursement to Company for the City's cost of the curb.

(2) The sidewalk (with curb) will be provided as part of the construction of the Liberty View Project by Company. All costs for the sidewalk will be borne by Company.

d. Install, at its cost, a water main and hydrant from Liberty Street to the Parking Deck into which Company will be permitted to connect at the north end of the Leased Property, but Company shall pay the standard City charges for the tap-in, meter and permit therefor.

e. Install and maintain, at its cost, a community dumpster, pad, and enclosure located adjacent to the Parking Deck to serve Company's commercial and residential sub-tenants of the Project and to serve the commercial businesses that may be located on Permanent Parcel Nos. 028-19A-21-080, 028-19A-21-081, and 028-19A-21-082; the City will provide for the disposal of waste from the dumpster and the costs thereof will be divided equally among the various users of the dumpster and billed accordingly by the City; and the City agrees to jointly develop the specifications therefor with Architectural Design Studios of Medina, Ohio;

f. Pay the cost to relocate the primary power lines currently located along Liberty Street to the alleyway west of the Public Square and north of East Washington Street and to obtain any necessary easements therefor at its cost; and

g. Provide Company with a temporary staging area for the Project on the south side of Liberty Street across from the Property (the exact size and location of which shall be reasonable as determined by the City) for construction vehicles, equipment and material to facilitate Company's construction of the Project; Company shall be responsible for: (i) any damages to the staging area as a result of Company's and its contractors' use of the staging area and the cost of repair thereof; (ii) security of the staging area; and (iii) shall indemnify and hold harmless the City from any and all claims for damages to persons or property as a result of Company's use of the staging area.

The parties agree to coordinate among their respective engineers and architects regarding the timing for completion of the items set forth in this Paragraph 2 that will be most appropriate and cost effective.

3. The terms of this MOU may not be modified except in writing signed by all of the parties hereto.

4. This MOU shall be binding on and shall inure to the benefit of the parties, their successors, and assigns.

5. The provisions of this MOU are severable, and in the event that any provision is declared invalid, this MOU shall be interpreted as if such invalid provision were not contained herein.

6. The rights and obligations of the parties hereunder and the interpretation of this MOU shall be governed by the laws of the State of Ohio. All disputes arising under this MOU

shall be resolved in the courts of Medina County, Ohio. The parties hereby consent to submit themselves to the jurisdiction of such courts.


7. The parties agree to bear their own respective legal costs.

8. This MOU may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original.

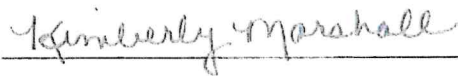
(The balance of this page is intentionally left blank; signature page to follow.)

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding at Medina, Ohio, the day and year first above written.


City of Medina
An Ohio Municipal Corporation

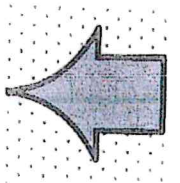
By: 
Dennis Hanwell, its Mayor July 11, 2023

Medina City Development Corporation
An Ohio Non-Profit Corporation


By: 
Name: Kimberly Marshall
Title: President

Uptown Thirteen Five, LLC
An Ohio Limited Liability Company

By: 
Michael R. Rose, Member



Approved as to legal form and correctness:


Gregory A. Huber, Director of Law
City of Medina

STATE OF OHIO)
) ss:
MEDINA COUNTY)

BEFORE ME, a Notary Public in and for the State and County aforesaid, personally appeared the above-named City of Medina, an Ohio municipal corporation, by Dennis Hanwell, its Mayor, who executed the foregoing instrument in my presence and acknowledged the same as the voluntary act of said City and his voluntary act individually and as such officer. This is an acknowledgement. No oath or affirmation was administered to the signer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 11th day of July, 2023, at Medina, Ohio.

Sherry A. Crow
NOTARY PUBLIC

SHERRY A. CROW
Notary Public
State of Ohio, Medina County
My Commission Expires 5-27-24

STATE OF OHIO)
) ss:
MEDINA COUNTY)

BEFORE ME, a Notary Public in and for the State and County aforesaid, personally appeared the above-named Medina City Development Corporation, an Ohio Non-Profit Corporation, by Kimberly Marshall, its President, who executed the foregoing instrument in my presence and acknowledged the same as the voluntary act of said Non-Profit Corporation and his/her voluntary act individually and as such President. This is an acknowledgement. No oath or affirmation was administered to the signer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 14th day of August, 2023, at Medina, Ohio.

Sherry A. Crow
NOTARY PUBLIC

SHERRY A. CROW
Notary Public
State of Ohio, Medina County
My Commission Expires 5-27-24

STATE OF OHIO)
) ss:
MEDINA COUNTY)

BEFORE ME, a Notary Public in and for the State and County aforesaid, personally appeared the above-named Uptown Thirteen Five, LLC, an Ohio Limited Liability Company, by and through Michael R. Rose, its Member, who executed the foregoing instrument in my presence and acknowledged the same as the voluntary act of said Company and his voluntary act individually and as such Member. This is an acknowledgement. No oath or affirmation was administered to the signer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 15th day of August, 2023, at Medina, Ohio.

Lisa Haid
NOTARY PUBLIC



EXHIBIT A



Cunningham & Associates, Inc.

Civil Engineering & Surveying
203 W. Liberty St., Medina, Oh 44256
Phone: (330) 725-5980 * Fax (330) 725-8019

Legal Description for MCL 9399
Project No. 15-133
October 20, 2022

Situated in the City of Medina, County of Medina, State of Ohio and being known the whole of Medina City Lot 9399, as shown by plat as recorded in Document Number: 2022Pl.0000L9 of Medina County Recorder's Records, containing 0.4450 Acres of land, more or less but subject to all legal highways and all covenants and agreements of record.

This legal description was prepared based on a survey by and/or under the supervision of Douglas S. Jewel P.S. # S-8007 by Cunningham & Associates, Inc. in September 2022.

NEW PARCEL NO. 07A-19A-21-39S
SURVEY REF. A - A
APPROVED BY MA
MEDINA CO. MAP OFFICE

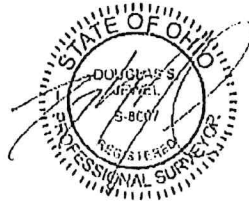


EXHIBIT B

MOU Item	Item	Who Builds?	Who Pays?	Budget Estimate	City Share of Cost	Company Cost
A	Sidewalk along the east side of the building, running from W. Liberty Street to the Parking Deck	Company	City and Company Share Costs	\$14,400	\$4,100	\$10,300
	-1,710 SF of 4-inch concrete sidewalk					
	City pays for 4-foot wide sidewalk; Company pays for any additional width of sidewalk					
B	Public driveway from W. Liberty St. to Parking Deck with curb. Curb to be structurally tied to adjacent sidewalk to the east.	City	City	\$50,100	\$50,100	\$0
	-467 SY of 8-inch concrete pavement with base & integral curbs, both sides					
	-290 LF of 4-inch curb drain					
c.1	Curb along the W. Liberty frontage of the property	Company	City	\$3,500	\$3,500	\$0
	-155 LF of curb					
c.2	Sidewalk along the W. Liberty frontage of the property	Company	Company	\$17,600	\$0	\$17,600
	- 2,100 SF of 4-inch concrete sidewalk					
d	Water line from W. Liberty to north end of property, includes fire hydrant	City	City	\$37,400	\$37,400	\$0
	-8-inch gate valve					
	-172 LF of 8 inch dia. PVC water line					
	-1 fire hydrant					
	Company to pay for meter, tap and permit					
e	Common Dumpster Enclosure, with concrete pad and bollards	City	City	\$42,700	\$42,700	\$0
	-67 SY of 8 inch concrete pavement					
	-74 LF of 18 inch by 36 inch trench footing					
	-7 EA bollards with concrete footings*					
	-2 EA 11 ft wide by 6 ft high galvanized frame gates*					
	-1 EA Man door/gate					
	-533 SF of 8 inch split face masonry block*					
-Wood slats on the doors						
* Estimate for these items prepared by Campbell on 8/23/22						
f	City to contract with Ohio Edison to relocate primary power lines	Ohio Edison	City	\$83,186	\$83,186	\$0
	-Estimate prepared by Ohio Edison					
			TOTAL	\$248,886	\$220,986	\$27,900