

**Community Benefits Agreement by and between
Ackermann Enterprises, Inc., therein referred to as the
“Developer”, and the Madisonville Community Council
representing the City of Cincinnati Neighborhood
commonly known as Madisonville, Ohio 45227**

Whereas, Our Madisonville is a “diverse community with a deep sense of pride and appreciation for its rich history. The people of Madisonville recognize complex and abiding social, cultural, faith-based, and familial connections. Successful development and community restoration will succeed when the past is recognized, and the future is embraced.” (Quality of Life Plan from 2012) We are a community worth preserving;

Whereas, Our Madisonville has historically and continuously been targeted with redlining (1940’s up to recent court settlements), displacement of entire sections of Madisonville (Dunbar for Redbank Expressway, and Eastwood Village for I-71 creation and expansion), and gentrification through increased housing prices and corresponding property tax increases forcing residents to leave the community they love;

Whereas, Our Madisonville is not to be viewed as an opportunity for any developer to gentrify or destabilize generational wealth of all Our Madisonville families;

Whereas, there is a serious concern that former staff and board members from the Madisonville Community Urban Redevelopment Corporation (MCURC) have used their positions to receive personal financial gain based on the completion of the multiple project phases of Madison and Whetsel;

Whereas, MCURC, per the terms of their own development agreement with the Developer, has been compensated for this development through the sale of property and continued lease payments all while not holding this same Developer accountable to said development agreement;

Whereas, MCURC board members have claimed that MCURC has a “community benefits agreement” with the Developer, only to be discovered that it is in fact a development agreement tied to financial compensation for MCURC and not the community as a whole (Exhibit A, Paragraph 8c and Paragraph 13);

Whereas, echoing the words of the Peaslee Neighborhood Center Equitable Development Rubric, our goal is to make Our Madisonville, and the City of Cincinnati, “a more equitable and inclusive place to live; so we must invest in affordable housing, good job opportunities, great public amenities, civic

engagement, public health, fair distribution of resources, and community connection”(Exhibit G);

Whereas, the City of Cincinnati is short 40,000 units of affordable housing and any developer is beholden to the community in which it builds to provide residents with stable, well maintained, affordable, and accessible housing;

Whereas, the planned amenities are not for Our Madisonville as a whole but for only the new residents of the development and the profitability of the Developer, which creates divisiveness in the heart of the business district and is not in line with the Quality of Life Plan (Exhibit H, “Our Goals & Strategies”);

Whereas, per the MCURC/Ackermann Development Agreement, parking requirements have not been satisfied: “Non-structured surface parking (which shall include public parking on and off-street) to meet the greater of zoning code minimums or approximately 1.5 spaces/residential unit and reasonably appropriate market ratios for commercial space.” (Exhibit A, pg. 52);

Whereas, the Developer came into Our Madisonville and preyed upon the subsidies made available by the Census Tract 55 low income residents based on the census data from the past 50 years;

Whereas, it should be understood that the benefits given to the Developer in the form of tax abatements, zoning changes, variance requests, subsidies, TIF dollars, low-interest loans, should be met in return to Our Madisonville with benefits of a term length that matches the public subsidy received by the Developer;

Whereas, to date, with as much transparency as the City has afforded to this CBA Working Group, it is understood that the Developer has received or has been pledged the following: four blocks of prime Madisonville business district real estate for \$0, \$18 million in New Market Tax Credits from Cincinnati Development Fund of federal tax-payer funds, \$5 million in District TIF funds given by City Council, a low 1.5% interest rate loan of \$3.7 million from the City of Cincinnati, a 30-year tax abatement Project TIF through the Port Authority that allows the developer to pay off their construction loans in lieu of payment of property taxes, an additional \$750,000 loan from the Capital Appropriation Ordinance that is listed as potentially forgivable, and as well as the potential for other unspecified public funding that has not been confirmed;

Whereas, Developer has subsidized building its own development office space, utilizing public funds and property which has impacted the economic development for this neighborhood;

Whereas, Developer has fallen short on the project goals set forth by the development agreement between MCURC and Developer and has not delivered on the community expectations tied Quality of Life Place (affordable housing/parking garage/parking lots/retail/grocery options) from the time the development bid process was initiated in 2015 (Exhibit A);

Whereas, per an insensitive, tasteless, callous, disrespectful email from the Developer, our neighborhood is not nor should ever be referred to as a game; the community is both angered and disappointed in your lack of community commitment.

Therefore, we present this Community Benefits Agreement (CBA) to the Developer, the City of Cincinnati, and Our Madisonville to address the concerns listed above and throughout this document.

Article I. Development Parking for Phase I, Phase II, and Phase III

Section 1.01 The Developer must provide 440 on-site, surface parking spaces for tenants per the 2016 agreement with the City of Cincinnati (Exhibit C, pg. 4) (Exhibit D, pg. 4); tenants should not take up any street or community parking. The Developer should provide all parking on premises.

Section 1.02 The Developer must provide 4 spaces of parking for every 1000 sq. ft. of office space rentable. The parking spaces to meet the above requirement will be provided on premises.

Section 1.03 The Developer must provide 6 spaces of parking for every 1000 sq. ft. of retail space rentable. The parking spaces to meet the above requirement will be provided on premises.

Section 1.04 Should the Developer enter into a lease with the Public Library of Cincinnati and Hamilton County, the Developer must provide 32 spaces for the library, based on parking calculation as provided to the City of Cincinnati by the developer (2016) (Exhibit F).

Section 1.05 The Developer must provide the ADA parking minimum requirement of one (1) ADA accessible car space and one (1) ADA accessible van space on premises in Phase I, Phase II, and Phase III lots, respectively, per City Code.

Article II. Community Parking Lots

Section 2.01 The Developer shall relinquish any and all options on the lots at Madison Center North Lot (27 parking spaces), Sierra West Lot (33 parking spaces), and Sierra Northeast Lot (44 parking spaces) (Exhibit E).

- (a) Site work will be completed by the Developer on the Madison Center North Lot using monies previously earmarked for the demolition and parking (Exhibit B, pg. 22-29).
- (b) Site work will be completed by the Developer on the Sierra Northeast Lot using monies previously earmarked for the demolition and parking. (Exhibit B, pg. 22-29).

Section 2.02 In a separate agreement with the City of Cincinnati, these parking lots will be owned and maintained by Madisonville Community Oversight Board (MCOB).

Section 2.03 Revenue from these three public parking lots will be allocated back into the community for public engagement, Business District beautification initiatives, and community space needs.

Section 2.04 Separate from designated parking lots above:

- (a) Construction crew parking may not occupy any public parking spaces in the 4-block corridor.
- (b) The Developer shall provide one (1) designated Ride Share drop point (at Madison Center).
- (c) The Developer shall provide one (1) designated retail deliveries drop point on each block of development.
- (d) The Developer shall provide one (1) designated restaurant deliveries drop point on each block of development.

Article III. Apartment Complex Swimming Pool

***Understand that any exclusive pool on this site is a slap in the face to the community that has worked tirelessly to be an inclusive mecca for all citizens of Our Madisonville. Given Developer's extreme hardship to build this development without the use of government subsidies, land grants, forgivable loans, Project and District TIF, and multiple tax credits, the Developer would build togetherness as a community to partner with the CRC and provide memberships to all of your tenants in the spirit of true community. However, should you insist upon an inappropriate use of City land for the placement of a PRIVATE POOL in the middle of the Madisonville Business District the following needs to be applied:**

Section 3.01 The Developer shall fully contain any pool within the development, as a pool in the middle of the business district creates divisiveness within the community, as well as creating a large-scale safety issue.

Section 3.02 The pool amenity shall not be accessible without the following safety and security measures in place. The Developer shall provide:

- (a) An 8 ft. fence in cooperation with the City of Cincinnati Zoning Department.
- (b) A fence that shall not be transparent in nature.
- (c) An alarmed panel on the gated access to the pool area, accessible only by the tenants.
- (d) A pool with ADA access features to safely enter and exit the pool itself.

Article IV. Pet Facilities

Section 4.01 The Developer shall re-create pet stipulations and restrictions based on size and weight, and not on “breed restriction”.

Section 4.02 The Developer shall create a planned pet area on premise.

Section 4.03 The Developer shall create signage notifications on where to take pets for a stroll, i.e., do not leave waste in the neighbor’s yard!

Section 4.04 The Developer shall supply pet stations with trash receptacles at all property exits on Phase I, Phase II, and Phase III.

Section 4.05 The Developer shall create tie-in dog stands at various spots on Phase I, Phase II, and Phase III.

Article V. Public Funds

Section 5.01 No additional TIF funds to be used by the Developer to meet the parking requirement as outlined in Article I of this CBA as per the existing development agreement with MCURC dated 2016 (Exhibit A).

Section 5.02 The Developer shall not use TIF dollars for the 30 ft. plaza space on Phase III. During the original proposals for this plaza, the Developer repeatedly stated that this plaza was "their gift to the community." As it is a gift, it should be fully funded by the Developer, including funds set aside for continued maintenance for the plaza.

- (a) Programming will be managed by MCURC in partnership with Artsville and the MCC Arts & Rec Committee.
- (b) Funding for continued maintenance will be provided by SID (see Article IX of this CBA).

Section 5.03 The Developer shall provide a full accounting of all publicly financed dollars spent on every phase of this development (Phase I, Phase II, and Phase III) quarterly to the MCOB.

Article VI. Marketing

Section 6.01 All existing and future design names for this project to be reviewed by MCOB to ensure that the development refrains from using slurs or offensive references to neighborhood history.

Article VII. Affordable Housing

Section 7.01 The developer shall provide 20% across all unit types in each Phase for reduced income units at 40% of the Census Tract 55 median household income (as of 2016 US Census information) until 11:59 PM December 31st of 2040.

(a) Phase I

<u>Unit</u>	<u>% of Reduced Income Units</u>	<u>Number of Units</u>
Studio - 32	20	6
One Bedroom - 52	20	10
Two Bedroom - 20	20	4

(b) Phase II

<u>Unit</u>	<u>% of Reduced Income Units</u>	<u>Number of Units</u>
Studio - 69	20	14
One Bedroom - 41	20	5
Two Bedroom - 6	20	1

(c) Phase III

<u>Unit</u>	<u>% of Reduced Income Units</u>	<u>Number of Units</u>
Studio - 56	20	11
One Bedroom - 38	20	7
Two Bedroom - 0	20	0

Section 7.02 The Developer shall be transparent by publishing all pricing and providing 60-day notice to the MCOB and publishing of all rental increases.

Article VIII. Small Business

Section 8.01 New Retail – The Developer, in partnership with their chosen leasing agent, is to offer commerce opportunity within the neighborhood and serve as an amenity to existing and new residential, to the extent the market demands or directs. The retail may include, but not limited to, convenience retail (daily needs, barber shops, hair salons, deli, small grocery, pharmacy, etc.), specialty retail (clothing stores, bike shops, art supplies, etc.), restaurants, and neighborhood office (graphic designers, accountants, etc.), to the extent the market demands or directs. Retail leasing team should use good faith efforts to recruit small and minority-owned businesses to the project.

Section 8.02 Restaurant and retail spaces should not compete with existing businesses already within the Madisonville Business District (MBD) and the Bramble Business Corridor (BBC) (i.e., no more coffeeshops), and not actively recruit or pursue tenants with current leases within the MBD or BBC.

- (a) Developer or any agent representing Developer is prohibited from buying out existing leases or forcing the termination of existing leases to recruit existing tenants listed in MBD or BBC.
- (b) Developer or any agent representing Developer is prohibited from buying out existing leases or forcing the termination of existing leases to monopolize property in the listed in MBD or BBC.
- (c) Developer or any agent representing Developer is prohibited from proactively soliciting the sale of existing privately-owned property not currently listed for sale to monopolize business district property ownership.

Section 8.03 In order to encourage visitors to the MBD to support local businesses, including restaurants, Developer shall not lease space to or contract with any national chain fast food stores (including franchisees), or drive-thru establishments, or vendors, e.g. McDonald's or Burger King, to locate in or establish any operations at the Madison and Whetsel site. For market longevity, the area should have a balanced mix of regional and local tenants.

Section 8.04 The Developer shall provide free wireless internet access throughout Phase I, Phase II, and Phase III to visitors and small local businesses based or located therein.

Section 8.05 Throughout the duration of this Community Benefits Agreement, the Developer in partnership with their leasing agent shall ensure that each employer shall employ at least fifty-one percent (51%) of its employees from the Targeted Job Applicants; and each employer shall make this requirement part of any contract or agreement with any third party that will operate a business at or provide services for Phase I, Phase II, and Phase III.

Section 8.06 Future hiring of the Developer is subject to provisions set forth in Sections 8.05 through 8.07 as long as their primary commercial space is within Phase I, Phase II, or Phase III of development.

Section 8.07 Targeted Job Applicants shall be hired in the following order of priority. It is agreed to by the Parties that should a Targeted Job Applicant be hired and subsequently move out of Madisonville, that such Target Job Applicant shall still count towards the aforementioned fifty-one percent (51%) requirement for a period of up to one (1) year from the date of such Target Job Applicant's move.

- (a) **First Priority:** Residents of the following geographic areas: all of Madisonville (45227) and Madison Place who are underemployed, Unemployed, or individuals from the Targeted Population.
- (b) **Second Priority:** Residents of the following geographic areas: Kennedy Heights, Pleasant Ridge and Oakley, who are Underemployed, Unemployed, or individuals from the Targeted Population.
- (c) **Third Priority:** All other residents of the City of Cincinnati.

Section 8.08 Failure to Meet Requirements. In the event an employer fails to meet the hiring requirements set forth in Section 8.07 during any six (6) month period, the MCOB may require such employer to provide reasons it has not met the applicable requirement and the MCOB may determine whether such reasons are adequate so as to not pursue any remedy set forth herein or otherwise available. Such employer's failure to pursue a remedy shall not constitute a waiver of any right of the MCOB. If the reason provided by such employer is determined to be inadequate by the MCOB, such employer shall develop as quickly as practical (but in any event within two (2) weeks of such employer's failure to achieve the requirements set forth in Section 8.07 for any six (6) month period) and provide to the MCOB for review, a corrective action plan (the "Hiring Corrective Action Plan") which outlines the steps such employer will take during the six (6) months following such employer's failure to achieve the requirements set forth in Section 8.07 to remedy such failures. If such employer fails to provide timely a Hiring Corrective Action Plan or fails to take the steps set forth in such Hiring Corrective Action Plan in a timely manner, the MCOB can seek the following remedies, in addition to any other remedy at law or in equity:

- (a) cause such employer to engage in a Hiring Corrective Action Plan developed by the MCOB; and/or
- (b) if such Employer fails to complete such Hiring Corrective Action Plan for a year, either the MCOB or each organization of the MCOB may seek any additional remedy available at court or in equity, including specific performance.

Article IX. Community

Section 9.01 Community Plaza – Public Plaza: (a) The Developer shall provide \$20,000.00 annually for public plaza fund for maintenance and programming; (b) in lieu of not providing maintenance and programming for the public plaza, the Developer shall agree to the creation of the SID. Should SID not be approved by the City of Cincinnati, the Developer shall be responsible, annually, for the dollar amount listed in this section.

Section 9.02 The Developer shall provide Community Space Lease (5000 sq. ft. of white box space, utilities, lighting, and applicable fixtures, as well as include restrooms as required by City Code) in Phase III.

- (a) Developer shall enter into a full service gross lease agreement with the MCOB, or its designee, which shall provide the MCOB with the exclusive use and occupancy of the Community Space for a period of ninety-nine (99) years after completion of the Phase III for an annual rent of one dollar (\$1) per year, payable annually or the entire amount in advance at the option of the MCOB.
- (b) The lease shall contain terms and conditions satisfactory to the MCOB and Developer.
- (c) The MCOB shall have reasonable access to the Community Space prior to the Phase III opens to inspect and ensure construction has commenced and that the space is ready for occupancy when Phase III opens.
- (d) The MCOB in its sole good faith discretion shall designate community space usage through consensus (usage to be determined within 12 months of signed agreement of all parties).

Section 9.03 The Developer shall provide a \$15/sq. ft. tenant allowance for the MCOB to develop and build-out the Community Space.

- (a) In addition, within ten (10) days of receipt of any invoice from the MCOB, the Developer shall reimburse the MCOB for all reasonable fees and out-of-pocket expenses incurred by the MCOB during construction of Phase III and development of the Community Space.
- (b) The MCOB shall make all diligent efforts, in good faith, to ensure that the build-out Community Space construction is completed in the same timeframe

as Phase III and that the Community Space is ready for occupancy when Phase III opens.

Section 9.04 The developer shall donate annually fifty thousand dollars (\$50,000) for five (5) years, commencing upon the signed agreement of all parties, to the MCC scholarship fund to be awarded to Our Madisonville senior high school students seeking a degree in higher education or technical vocation.

Section 9.05 ADA Compliance. The Madison and Whetsel project shall be ADA compliant, including the Community Space, provided, however, that it shall be the responsibility of the MCOB to ensure ADA compliance, to the extent feasible, within the Community.

Article X. Construction Time

Section 10.01 The Developer shall adhere to following Construction Start times of

- (a) 9:30 AM Monday thru Friday.
- (b) 9:00 AM Saturday and Sunday.

Section 10.02 The Developer shall adhere to following Construction End time of

- (a) Mon-Sunday 4:30pm.

Article XI. Implementation of Community Benefits Agreement

Section 11.01 Implementation through Relevant Contracts. Where this Community Benefits Agreement requires an entity to impose responsibilities on another party, such entity shall ensure that any relevant contracts:

- (a) impose such responsibilities on the other party;
- (b) require such party to impose such responsibilities on subcontractors or other parties involved in Phase I, Phase II, Phase III through the contract in question; and
- (c) state with regard to such responsibilities imposed on any such parties that the MCOB and its organizations are intended third party beneficiaries with enforcement rights.

Section 11.02 Any entity that imposes an obligation required by this Community Benefits Agreement on another entity shall, in event of failure by that other entity to comply with such obligation, enforce that obligation against the other entity or terminate the contractual relationship in question.

Section 11.03 In the event of a legislative action or judicial decree shall invalidate any section of this Community Benefits Agreement, said action or decree shall not nullify the balance of this Community Benefits Agreement.

President
Madisonville Community Council

Date

President & CEO
Ackermann Enterprises, Inc.

Date