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City of Cincinnati Performance Audit of Council Actions

November 2023



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1. Executive Summary

The City of Cincinnati (“the City” or “the Client”) contracted with Crowe LLP (“Crowe” or “we”) to conduct a performance audit (“audit”) of council actions. The audit was conducted in accordance with Generally Accepted Government Auditing Standards (“GAGAS”) issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusion based on our audit objectives. Crowe was contracted to perform our audit as part of a larger effort by the City to restore the trust and confidence of its citizens after three members of city council were indicted and convicted on separate corruption charges in 2020.

As will be discussed in subsequent sections, in 2012, the city council unanimously passed “Plan Cincinnati”, the city’s first comprehensive plan since 1980. Plan Cincinnati is a city-wide comprehensive plan with the goal of improving neighborhoods and creating infrastructure and public transportation to strengthen all parts of the city. The vision of the plan is “thriving re-urbanization” and focuses on a drive to create and sustain a thriving urban community. Much of the plan involves developing new infrastructure and updating currently existing infrastructure via ordinances that support specific development projects. However, abuse can often occur with these development initiatives, as government officials may exercise their discretionary powers to increase the value of their own properties or succumb to bribery by investors and developers who might offer money or personal services.¹ This was the case with the city of Cincinnati.

As a result of the previously mentioned indictments, the city created an Economic Development Reform Panel (“the Panel”), which provided recommendations and areas of reform to the city in their report issued July 29, 2021. Recognizing the potential for corruption in the development process, one of the recommendations made by the panel called for a “forensic audit” to be conducted over the development ordinances passed during the 2018 to 2020 period. A “forensic audit” is not a defined engagement under GAGAS; therefore, Crowe provided a performance audit under GAGAS that included certain forensic accounting procedures as described in Section 3 of the report. Council approved the recommendation by funding ordinance No. 216-2021.

Results in Brief

Our audit revealed the following:

The sampled ordinances and voting records supporting these development projects complied with City policies in all significant respects. However, the following recommendations were noted:

- The sampled ordinances and voting records supporting these development projects did not clearly depict why a council member did not vote on a given ordinance. Specifically, it was not clear if the council member recused themselves from the vote, abstained from the vote, or were physically absent during the vote.
- All of the sampled ordinances passed by council bypassed the required three-readings rule either by designation as an emergency ordinance or by a council vote to suspend the remaining readings, limiting the amount of time available for public opinion and discourse.
- City policies and procedures are missing definitions, monetary thresholds, clear lines of authority and responsibility, or are absent all together.

No conflicts of interest were identified between council members and the entity under consideration for all 227 development ordinances passed in all significant respects. However, the following recommendations were noted:

- No correlation was identified between how a council member voted and the type of ordinance in question. Of the 2,164 votes casted for the 227 ordinances, only 79 objections were recorded.

¹<https://globalanticorruptionblog.com/2016/07/15/building-booms-and-bribes-the-corruption-risks-of-urban-development/>

Further, the council members voted yes at a frequency of 95% or higher, without consideration for absences.

- The scope and duration of how the city defines “city business” could be expanded to resemble cities that are known for having strict “pay to play” restrictions on campaign contributions from developers.

We believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on our audit objectives, see ***Sections 3 through 5 of this report for our audit objectives, procedures performed and conclusions.***

2. Background

Crowe conducted research on the City's history, governance structure, recent legislation passed related our review, and the contents of the Economic Development Reform Panel. The information in this section is intended for informational purposes only and not subject to our performance audit procedures.

Governance Structure²

City Government

The city government of Cincinnati blends elements of a strong-mayor and council-manager systems. While the Mayor serves as the City's Chief Executive Officer and the City Council serves as the city's primary legislative body, a City Manager, whom the Mayor appoints and the City Council approves, serves as the City's Chief Administrative Officer.

Mayor

The Mayor serves as the City's Chief Executive Officer and is responsible for delivering the annual State of the city address, proposing the budget estimate, and appointing the Vice Mayor and the chairs of council committees. The Mayor also presides over council meetings, proposes legislation for discussion, and holds the power to appoint or remove committee heads. The Mayor also represents the City on the state, national, and international levels.

City Manager

The City Manager is the City's Chief Administrative Officer. He or she is appointed by the Mayor and approved by the City Council. The responsibilities of the City Manager include overseeing the city's day-to-day operations, carrying out the legislative initiatives of the mayor and city council, and assisting in the planning and implementation of the city's budget.

City Council

The Cincinnati City Council is the city's primary legislative body. It is responsible for adopting the City budget, approving mayoral appointees, levying taxes, and making or amending City laws, policies, and ordinances. The Cincinnati City Council is made up of nine members, each of whom is elected at large. The terms are staggered, so five council members are elected during a mayoral election year and four council members are elected two years after. During the 2018-2020 term, there were twelve members who served. A list of council members and the years served during the 2018-2020 term can be found in Attachment B of the appendix.

Boards and Commissions

Policy is set in the City by the Mayor and the City Council. They are aided by various Boards and Commissions, such as the Planning Commission, that provide recommendations to the council. The Mayor appoints the chairs for all of the committee and commissions that provide recommendations to the council.

²https://ballotpedia.org/Cincinnati,_Ohio

Economic Development

According to the city website³, the mission of Economic Development is to facilitate strategic development to improve the lives of residents, increase business investments and revitalize neighborhoods. The Planning Commission is dedicated to planning and mapping the city and any land outside the city, and making changes in the city's land, including additions, extensions, and zoning changes. The Budget and Finance Committee is responsible for making recommendations to council related to financial matters.

Economic Development Reform Panel

As previously stated, three council members were indicted and subsequently charged on separate corruption cases for accepting bribes in exchange for council votes on specific development projects during the 2018-2020 council term.

One council member was charged on three counts of wire fraud and two counts of bribery for accepting \$15,000 in bribes.

Another was charged on a 10-count indictment for bribery, extortion, money laundering, and fraud, totaling \$55,000 in bribes.

The third was charged with six counts of wire fraud, bribery, and attempted extortion totaling \$40,000

As a result, the city passed Ordinance No. 384-2020 to establish the Economic Development Reform Panel⁴. The panel consisted of nine members, including academic leaders, business leaders, and members with experience managing ethical issues. The panel's recommendations were related to establishing standards of behaviors, restricting certain behaviors, informing the public of these standards, and requiring training for key individuals to implement these standards.

According to the "Economic Development Reform Panel Recommendations and Report"⁵, recommendations from the panel fall into five categories:

1. Development Process
2. Training
3. Confidential Whistleblower Hotline
4. Campaign Contribution Regulations and Increasing Transparency & Disclosure
5. Code of Conduct

The recommendations for each of the categories are summarized below

Development Process:

Establish a Code of Conduct for city council that elected officials should sign before they are officially seated as council members

Require members of boards and commissions to report any attempts to influence the outcome of a legislative matter

Notify applicants of development projects of the ethics training requirements to solicit these projects

Require the applicant to acknowledge receipt of the training information

Training:

Increase training for elected officials

Add refresher training for city employees at least annually

³<https://choosecincy.com/>

⁴<https://www.cincinnati-oh.gov/council/economic-development-reform-panel/>

⁵<https://www.cincinnati-oh.gov/sites/council/assets/File/EDRP%20Final%20Recommendations%20and%20Report.pdf>

Add training for both new and experienced developers and their staff

Confidential Whistleblower Hotline:

Encourage a wider scope of topics, beyond fraud, waste, and abuse, to be reported through the hotline

Promote the existence of the hotline through the City Manager's Office

Add language to the Code of Conduct to clarify employees' ability to use the hotline without fear of retaliation

Campaign Contribution Regulations and Increasing Transparency & Disclosure:

Restrict developers from making campaign contributions during the period from when the matter (ordinance) is introduced to the Clerk of Council to the final action by the Council and the Mayor

Create a standard definition of "developer"

Publish campaign finance reports publicly to the city website.

Create and maintain an active developer list

Code of Conduct:

Establish and maintain a Code of Conduct policy for elected officials, their staff, and city administration and its employees, appointees, and developers

Vary the content of the Code of Conduct policy based on the agency

Include language in the Code of Conduct for elected officials restricting their involvement in development projects and interactions with developers

Creating a code of conduct for developers that includes language reminding them of their duties and restrictions for doing business with the city and their duty to report if they are aware of any violations

As stated previously, the city also passed Ordinance No. 216-2021, which appropriated funds to contract for the performance of a forensic audit of the ordinances passed from January 1, 2018, and December 31, 2020. The Economic Develop Reform Panel recommended that the City Council publicly released the results of the forensic audit. Additionally, the Panel recommended that the Council and Mayor should determine if additional work is necessary.

3. Scope and Procedures

The city engaged Crowe to conduct an audit of the 227 development project ordinances passed between January 1, 2018, and December 31, 2020. Specifically, these ordinances:

1. Granted a tax exemption to support a specific development project;
2. Appropriated funds for a grant or loan to support a specific development project;
3. Appropriated funds for a grant or loan to, or to secure services from, a specific organization; or
4. Authorized the sale of City-owned real estate to support a specific development project

The objectives of the audit were to evaluate whether the city's:

1. Ordinances and voting records supporting development projects were in compliance with city policies and City's municipal code, including potential signs of improper acts, significant fraud, waste, or abuse (See Section 4 of the Report);
2. Votes to appropriate funds for grants and loans to a specific organization, support a specific development project, or for sales of city-owned real estate to support a specific development project were absent of conflicts of interest ("COI") as defined by the city's COI policy (See Section 4 of the Report); and
3. Policies, procedures, and internal controls applicable to the voting process and legislative matters align with the Committee of Sponsoring Organizations (COSO) Internal Control Framework and are consistent with those of the two selected peer entities (City of New York and City of Los Angeles).

As part of the performance of our audit procedures, we identified certain items to improve programs and operations of the processes covered under this audit. These recommendations are provided in Section 6 of this report. A high-level summary of the tasks conducted to perform this audit follows:

- Held weekly meetings with our projects main point of contact ("POC"), the Chief Counsel of Ethics & Good Governance ("EGG") Office in the city's Law Department;
- Met with city officials at City Hall, including the Assistant City Manager to discuss preliminary recommendations;
- Made inquiries of city officials on topics related to city business dealings, ordinances, recusals, and more;
- Performed testing on the ordinances sampled to determine whether they were passed in accordance with the "Code of Ordinances" outlined in the city municipal code;
- Compared the information provided by city council members in their annual financial disclosures to the individuals or entities listed in the ordinances to determine whether any conflicts of interest existed;
- Analyzed the voting trends for each council member based on the type of ordinance under review; and
- Assessed internal controls over, but not limited to, the following types of activities:
 - Suspension of three readings
 - Council member recusals
 - City business dealings
 - Conflicts of interest
 - Other activities as defined in the city's policies and procedures
- Performed the following forensic accounting procedures to meet the objectives set forth by the Client, including:

- Obtained background checks on council members
- Identified related parties between city council members, their associates, and campaign donors with developers engaging the City.
- Interviewed city officials and employees with the intent to uncover potentially fraudulent conduct or identify risk of fraud to the city
- Reviewed whistleblower complaints received by the Office of Ethics and Good Governance
- A draft report was issued to the City for feedback in December of 2022. That draft followed AICPA consulting standards due to constraints created by the ongoing litigation for the indicted Councilmembers. Based on the City's feedback, the procedures were expanded and this performance audit report was issued following Government Auditing Standards to meet the objectives of the City.

4. Ordinance Assessment

The ordinance Assessment section of this report covers two audit objectives:

1. Ordinances and voting records supporting development projects were in compliance with city policies and City’s municipal code, including potential signs of improper acts, significant fraud, waste, or abuse.
2. Votes to appropriate funds for grants and loans to a specific organization, support a specific development project, or for sales of city-owned real estate to support a specific development project were absent of conflicts of interest (“COI”) as defined by the city’s COI policy.

To accomplish these objectives, Crowe performed procedures including the following:

- **Ordinance Compliance:** Determined whether ordinances were passed in compliance with the procedures outlined in the City Municipal Code.
- **Financial Disclosure Testing:** Compared council member’s annual financial disclosures to the entities engaging in city business via development ordinances to determine whether any potential conflicts of interest existed.
- **Voting Trend Analysis:** Analyzed voting trends of council members to determine whether any voting trends existed based on the specific council member or ordinance type under consideration.

Ordinance Background information

An ordinance is a law enacted by a local governmental authority, such as a city council, that pertains to issues that the state government permits local governments to regulate⁶. In general, ordinances are permanent legislation and are only amended by passing a new ordinance. The scope of ordinances approved by the Cincinnati’s council includes amendments to the city code, budget approvals, sale of city property, zoning changes, tax incentives, and other legislative matters.

For the city of Cincinnati, each ordinance first outlines its purpose and provides background to the project or subject of the ordinance. The ordinance also includes any applicable state or local legislation that gives council the power to pass the ordinance and explains why the ordinance is in the best interest in the city. Finally, if the ordinance is designated as an emergency, the ordinance must state the reason for the emergency. 80% of the ordinances in the sample are with limited liability companies (“LLCs”) and 71% are businesses local to Cincinnati. An example of an ordinance passed by the City is included as Attachment G.

Ordinance Types

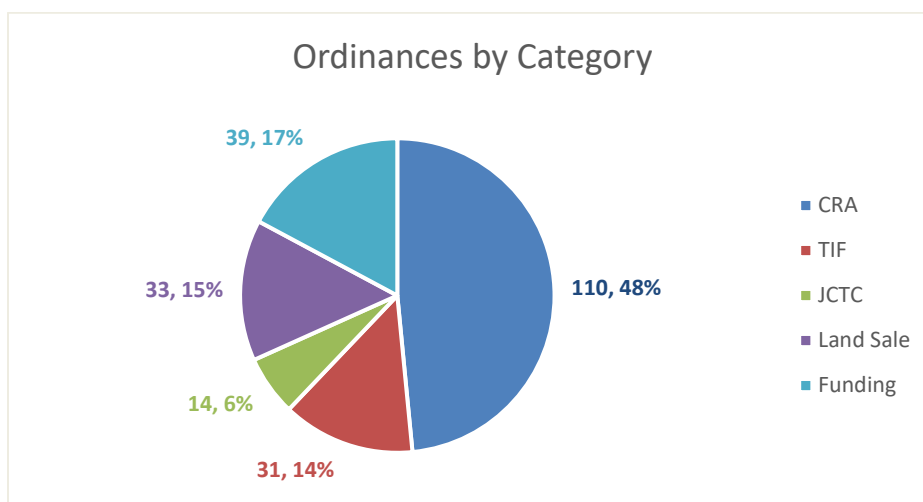
From 2018 to 2020, 227 ordinances were passed by council for development projects or in support of development projects. These ordinances fall into the following five categories:

1. **Community Reinvestment Area Tax Abatement (“CRA”):** Developers can submit an application to the Department of Community and Economic Development to receive a partial property tax abatement when the new or renovated facilities results in jobs created for commercial, industrial, or mixed-use facilities.
2. **Tax Increment Financing (“TIF”):** Developers can submit an application to the Department of Community and Economic Development to offset a portion of the cost of a large-scale investment requiring substantial public improvements.
3. **Job Creation Tax Credit (“JCTC”):** Developers can submit an application to the Department of Community and Economic Development for a tax credit if the developer is considering expanding in or moving to Cincinnati.

⁶<https://www.law.cornell.edu/wex/ordinance>

4. **Land Sale:** Developers can submit an application to the City Planning Commission to request the sale or purchase of land.
5. **Funding:** For new or existing development projects, these types of ordinances are, for example, to appropriate funding for new capital projects, transfer funds between capital projects, and transfer unappropriated general funds to other governmental accounts.

The 227 ordinances in Crowe’s population were distributed among these five categories as follows:



Procedures Performed

Ordinance Compliance

Based on the AICPA’s sampling guidance, Crowe selected a sample of 36 ordinances out of the 227 passed by the City during the January 2018 to December 2020 period. Crowe performed procedures to determine whether the ordinances were passed in accordance with the requirements stated in the City Charter, Municipal Code, and the applicable City policies and procedures.

The amount sampled for each ordinance category was determined by the weight each type had within the overall ordinance population, as depicted in the table below.

Ordinance Type	Ordinances in Population	% to Population	# of Samples Selected
CRA	110	48%	18
TIF	31	14%	5
JCTC	14	6%	2
Land Sale	33	15%	5
Funding	39	17%	6
Total	227	100%	36

The Cincinnati Code of Ordinances outlines Council procedures for drafting and approving ordinances in Section 9 of the Rules of Council, “Ordinances and Resolutions”⁷. Using this, Crowe identified attributes related to the approval of ordinances. Crowe performed the following procedures over the sampled ordinances:

1. Determined whether the ordinance contained one subject line.
2. Determined whether the ordinance was read three times on three different days unless the required amount of council members dispensed with the rule (suspension of three readings or emergency ordinance).
3. Determined whether the ordinance was transmitted to the Mayor’s office and placed on the Council calendar for a vote no later than the second regular meeting of Council after approval by Committee.
4. Determined whether the ordinance received a majority vote of its members.

Ordinance Compliance: Suspension of Three Readings

As part of Crowe’s Ordinance Compliance assessment, we noted that all 36 ordinances included in our sample were passed on the first day the matter was presented to council, bypassing the three separate readings requirement. Four ordinances had the second and third readings waived by Council but were not considered emergency ordinances. The remaining ordinances in our sample were designated as emergency ordinances, which are not required to be read on three separate days. Additional information on these ordinances, as well as the justification behind each emergency ordinance, is provided below. The emergency ordinance justifications can be generally broken down into the following categories:

Revitalization: The reasoning for this emergency designation was for the immediate need to allow remodeling or construction to begin for the revitalization of the city and to benefit the city’s economic welfare at the earliest possible time.

Economic Benefit: The reasoning for this emergency designation was the need to execute the agreement as soon as possible, creating a significant economic benefit and enhancement to the city at the earliest possible time.

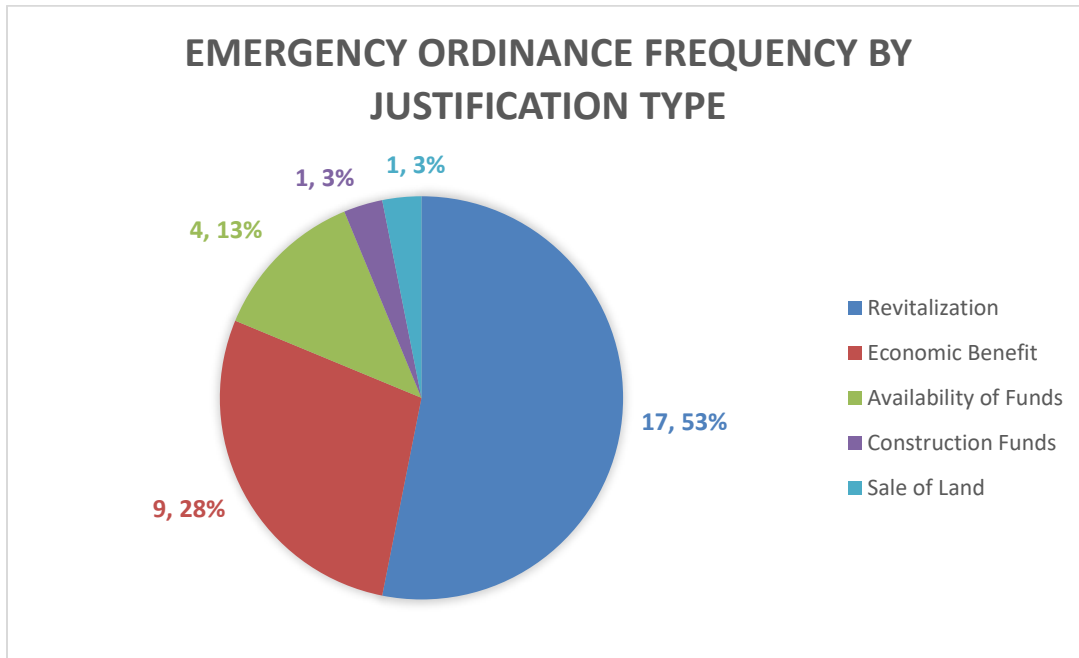
Availability of Funds: The reasoning for this emergency designation was to ensure that all necessary funding was in place prior to carrying out the City’s Fiscal Budget for the upcoming year. These ordinances were all passed in late June, and the City’s fiscal year begins on July 1.

Construction Schedule: The reasoning for this emergency designation was to enable construction to begin to keep the project on schedule and for the economic welfare.

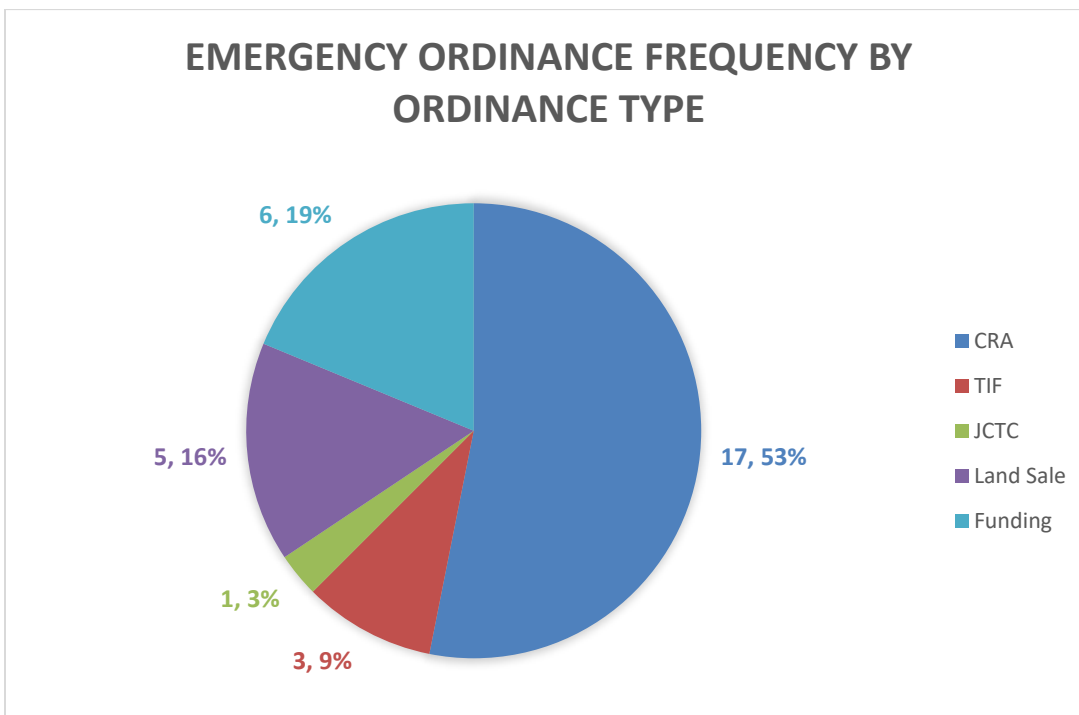
Sale of Land: The reasoning for this emergency designation was to enable the transaction (the sale of land) to move forward as soon as possible.

The frequency of the emergency ordinance justifications within our sample can be seen in the chart below.

⁷https://library.municode.com/oh/cincinnati/codes/code_of_ordinances?nodeId=RUREINBOCO_RUCO_ORDINANCES_RESOLUTIONS



The emergency ordinances can be further categorized by the ordinance type, as identified previously.



CRA has the largest number of emergency ordinances associated to it.

Financial Disclosure Testing

Annually, city of Cincinnati council members and candidates for council are required to file a financial disclosure statement⁸ with the Ohio Ethics Commission (“OEC”). A financial disclosure statement requires a filer to disclose information regarding their personal financial interests and fiduciary relationships for the preceding calendar year. This disclosure statement includes the following items:

- Sources of Income
- Sources of Gifts
- Information about Spouses and Dependent Children
- Names of Businesses
- Real Estate in Ohio
- Creditors and Debtors over \$1,000
- Investments over \$1,000
- Offices/Fiduciary Relationships
- Sources of Meals
- Travel Expenses

The council member or candidate for council is responsible for filing the form with the state annually in May. Council members who do not submit their disclosure before the deadline are charged \$10 per day late, up to \$250 maximum. Additionally, those who do not file the required statement can be charged with a fourth-degree misdemeanor, and those who file a false statement can be charged with a first-degree misdemeanor.

Crowe received the financial disclosure statements filed with the OEC for each council member that served during the 2018-2020 period. Crowe consolidated the information included on the financial disclosure statements to determine whether a city council member had a potential conflict of interest with any of the entities that had a contractual, business, or financial relationship with the city, via the 227 development ordinances under review.

Voting Trend Analysis

Crowe reviewed and analyzed the voting outcomes for the 227 development ordinances in scope during the January 2018 to December 2020 period. Each council member could vote affirmative (“yes”), objection (“no”), abstain from voting, or be physically absent during the vote. The public voting record published online by the City uses Y (yes), N (no), or A (absent) to document each council member’s vote⁹. As will be discussed in subsequent sections, an absent vote indicates that the council member is not physically present in the room; however, the absent vote does not distinguish between a council member being physically absent, abstaining, or recusing themselves from a vote. Crowe’s analysis considered the following:

Results of Votes by Council Member

Results of Votes by Ordinance Type

Results of Votes by Council Member and Ordinance Type

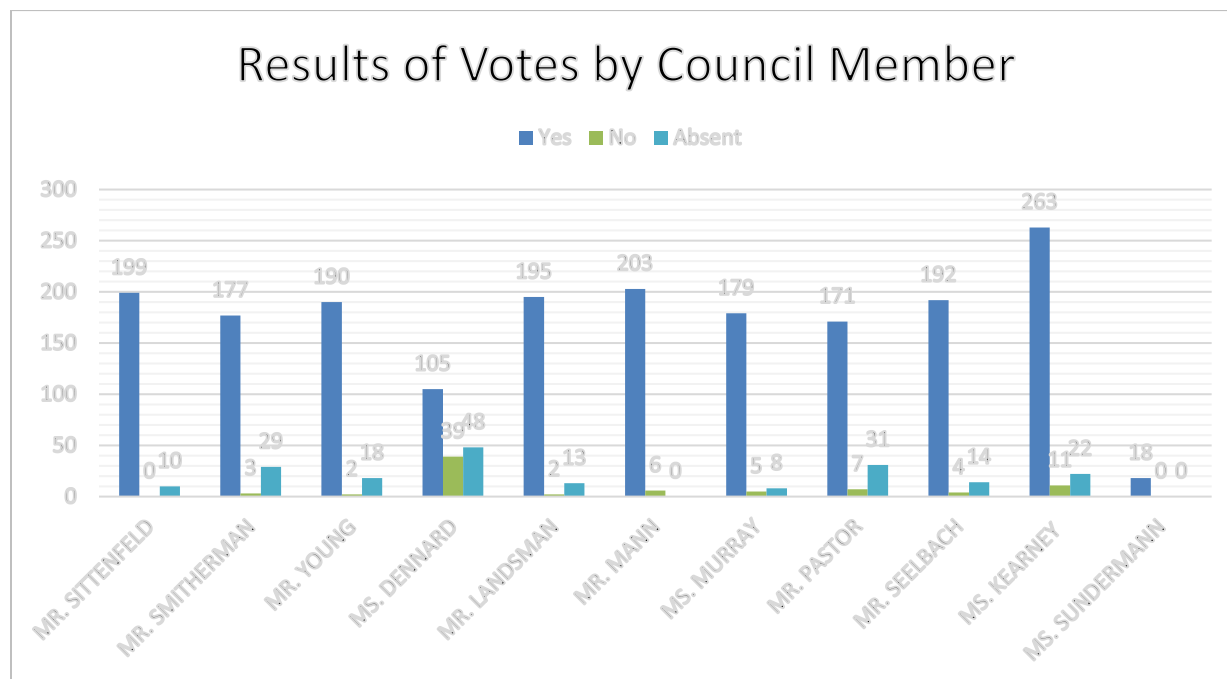
Results of Votes by Council Members

Crowe examined the voting trends of each council member. The table below includes the results of our voting trend analysis for the total votes by member. As shown in the chart below, Ms. Dennard has the

⁸<https://ethics.ohio.gov/fds/index.html>

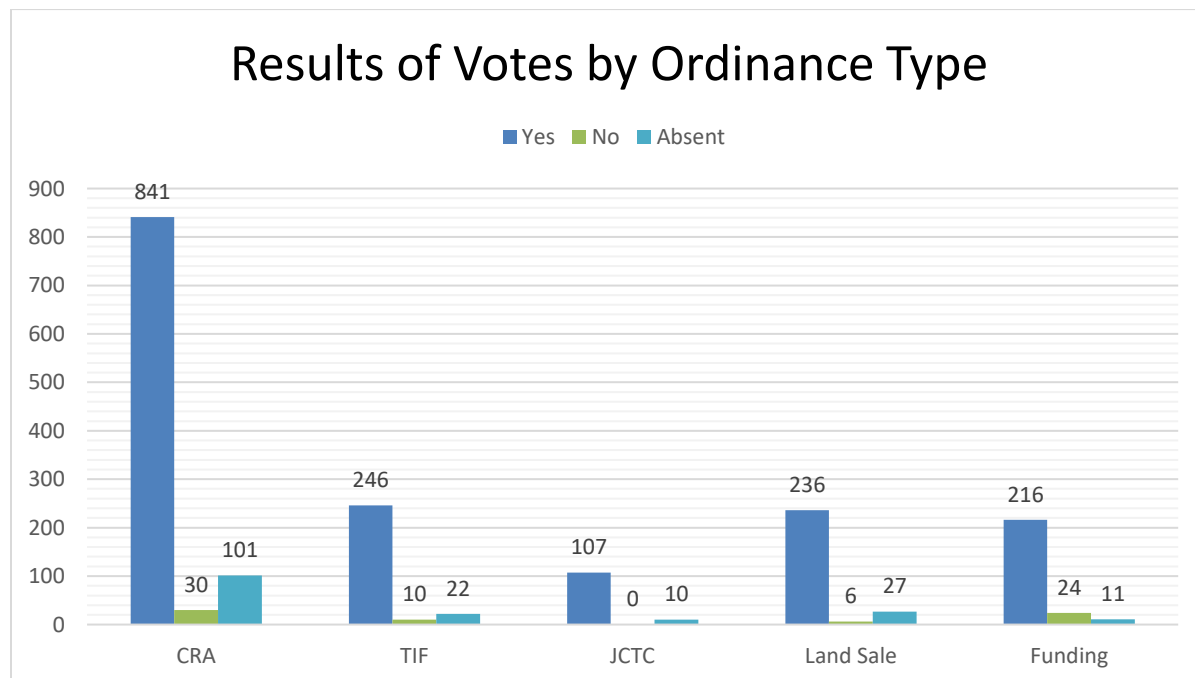
⁹https://cityegov2.cincinnati.oh.gov/Webtop/ws/council/public/documents/Record?rpp=10&upp=0&w=NATIVE%28%27DOC_DESCR IPT+ph+words+%27%27community+reinvestment+area%27%27%27%29&m=17&order=native%28%27calendar_Date%27Descend%27%29

lowest approval rating of 54.69%. The approval rating for all other council members is above 80%, and 6 of the 11 council members have approval ratings over 90%.



Results of Votes by Ordinance Type

As with the council members, the majority of votes were Yes for every type of ordinance. One type of ordinance, JCTC, had no objections. The Funding ordinances are the only ordinance type to have more objections than absences, with 24 objections and 11 absences. Ordinances related to Funding have the most objections relative to their weight in the population. This reflects that council may have the most debate or disagreement about where to appropriate funds.



Results of Votes by Council Member and Ordinance Type

Please note that Ms. Kearney and Ms. Sundermann were appointed to council after November 2020 and did not vote on any TIF ordinances.

Total Votes – Yes

Total Votes – Yes	CRA	TIF	JCTC	Land Sale	Funding	Total
Member	Yes	Yes	Yes	Yes	Yes	Yes
MR. SITTENFELD	103	29	11	28	28	199
MR. SMITHERMAN	91	28	11	25	22	177
MR. YOUNG	94	28	13	29	26	190
MS. DENNARD	43	14	10	15	23	105
MR. LANDSMAN	101	28	10	28	28	195
MR. MANN	108	31	13	29	22	203
MS. MURRAY	93	31	12	26	17	179
MR. PASTOR	88	27	12	25	19	171
MR. SEELBACH	100	30	13	25	24	192
MS. KEARNEY	10	N/A	1	3	3	17
MS. SUNDERMANN	10	N/A	1	3	4	18
Totals	841	246	107	236	216	1646

As shown in the results by council member and ordinance type, the majority of council members voted Yes on every ordinance. The lowest number of Yes votes is for JCTC, which is most likely because it has the lowest number in our sample, 14 out of 227.

Total Votes – No

Total Votes – No	CRA	TIF	JCTC	Land Sale	Funding	Total
Member	No	No	No	No	No	No
MR. SITTENFELD	1	0	0	0	0	1
MR. SMITHERMAN	0	0	0	0	3	3
MR. YOUNG	0	1	0	0	1	2
MS. DENNARD	26	9	0	4	0	39
MR. LANDSMAN	2	0	0	0	0	2
MR. MANN	0	0	0	0	6	6
MS. MURRAY	0	0	0	0	5	5
MR. PASTOR	0	0	0	1	6	7
MR. SEELBACH	1	0	0	1	2	4

Total Votes – No	CRA	TIF	JCTC	Land Sale	Funding	Total
MS. KEARNEY	0	N/A	0	0	1	1
MS. SUNDERMANN	0	N/A	0	0	0	0
Totals	30	10	0	6	24	70

As shown in the chart, Ms. Dennard had the largest number of objections compared to other council members, especially for CRA ordinances. Seven council members had at least one objection to the Funding category and 4 of those 7 (Mr. Smitherman, Mr. Mann, Mr. Murray, and Ms. Kearney) had no objections in any other category.

Total Votes – Absent

Total Votes – Absent	CRA	TIF	JCTC	Land Sale	Funding	Total
Member	Absent	Absent	Absent	Absent	Absent	Absent
MR. SITTENFELD	4	2	2	2	0	10
MR. SMITHERMAN	17	2	2	5	3	29
MR. YOUNG	14	2	0	1	1	18
MS. DENNARD	29	8	2	8	1	48
MR. LANDSMAN	5	3	3	2	0	13
MR. MANN	0	0	0	0	0	0
MS. MURRAY	5	0	0	1	2	8
MR. PASTOR	20	4	1	4	2	31
MR. SEELBACH	7	1	0	4	2	14
MS. KEARNEY	0	N/A	0	0	0	0
MS. SUNDERMANN	0	N/A	0	0	0	0
Totals	101	22	10	27	11	171

Compared to the number of objections, the number of absences is larger for each category except for Funding and for every council member as well. Additional information on Crowe’s voting trend analysis can be found in the Appendix.

Conclusions

For Objective #1, Crowe noted that Council is drafting and approving ordinances in compliance with the City Charter, Municipal Code, and applicable policies and procedures in all significant respects. As a result, no exceptions were noted. However, please see recommendations in section 6 related to this objective.

For Objective #2 – Votes to appropriate funds for grants and loans to a specific organization, support a specific development project, or for sales of city-owned real estate to support a specific development project were absent of conflicts of interest (“COI”) as defined by the city’s COI policy in all significant respects. However, please see recommendations in section 6 related to this objective.

5. Internal Controls Assessment

The Internal Controls Assessment section of this report covers the following audit objective:

3. Policies, procedures, and internal controls applicable to the voting process and legislative matters align with the Committee of Sponsoring Organizations (COSO) Internal Control Framework and are consistent with those of the two selected peer entities (City of New York and City of Los Angeles).

To accomplish this objective, Crowe performed procedures including interviews with City management, reviewing written policies and procedures, and comparing the city's processes and the controls of peer cities to the COSO Internal Control Framework.

Procedures Performed

Council Member Recusals

Crowe reviewed the following policies and procedures related to council member recusals provided by the City:

Administrative Regulation 68 Conflict of Interest

CMC ("Cincinnati Municipal Code") Council Code of Conduct

CMC City Planning Commission Rules

City Planning Commission

Crowe noted that Section 4G "Voting"¹⁰ of the "City Planning Commission Rules" outlined a recusal policy for the City Planning Commission. The policy states that members of the City Planning Commission that have a personal or financial interest in any council matter must notify the Chair at least 24 hours in advance of the meeting. The Commission member must also physically remove themselves from the meeting during the time that the matter is being discussed.

City Council Members

Strong internal controls would require that council members recuse themselves from a vote when they have a conflict of interest in any legislative matter, whether personal, financial, or otherwise. Crowe noted that the city does not maintain a policy that guides council members through the recusal process when a conflict of interest is identified during a legislative matter. In conjunction with this, Crowe noted that the city does not disclose why a council member did not vote on a legislative matter. Specifically, the city publishes the votes of each council member for every ordinance brought before council. As discussed in Section 4, the City's records will reflect that a council member voted Yes ("Y"), No ("N"), or were absent ("A")¹¹. The city does not provide details as to whether the council member was physically absent during that session, whether they abstained from the matter, or whether they recused themselves from the vote due to a conflict of interest. Crowe recommends the creation of a policy that guides council members through the recusal process when a conflict of interest is identified during a legislative matter. The recommendation is discussed further in Section 6 of this report.

City Business Conflict of Interest

Management informed Crowe that the relationship between individuals involved in city business, such as developers (real estate companies), and council members often poses a conflict of interest, or the appearance of a conflict, as developers will provide money to council members through campaign contributions, who could in turn pass legislation via ordinances benefitting the same developers. Crowe examined current city policies and procedures, researched developer restrictions or bans in other cities,

¹⁰https://library.municode.com/oh/cincinnati/codes/code_of_ordinances?nodeId=RUREINBOCO_CIPLCORU_S4ME

¹¹https://citygov2.cincinnati.oh.gov/Webtop/ws/council/public/documents/Record?rpp=10&upp=0&w=NATIVE%28%27DOC_DESC RIPT+ph+words+%27%27community+reinvestment+area%27%27%27%29&m=25&order=native%28%27calendar_Date%2FDesce nd%27%29

and reviewed industry best practices to help the city mitigate these potential conflicts of interest. Crowe reviewed the following policies:

- CMC Chapter 117 Campaign Finance Disclosure
- CMC Chapter 119 Campaign Contribution Prohibition
- Cincinnati City Manager's Procedures Rules and Regulations
- LA Developer Contribution Ban goes into Effect¹²
- LA Laws Campaigns City CFO¹³
- NYC Candidate Services – Doing Business¹⁴
- NYC 2021 Penalty Guidelines¹⁵
- NYC Campaign Finance Board Rules¹⁶
- NYC Campaign Finance Board Audit Process¹⁷

Crowe also compared Cincinnati's policies to two other cities, New York City and Los Angeles. Crowe selected these cities because they are two well-known cities that have robust restrictions on developers doing business with the city. In this section Crowe will compare Cincinnati's practices regarding city business, campaign contributions, and enforcement, to those of New York City and Los Angeles.

1. Defining City Business

Crowe first compared how each of the cities define "City Business". Crowe noted that of the three cities, New York had the most comprehensive definition of City Business, including contracts, zoning, lobbyists, and more.

a. Cincinnati

Cincinnati Code of Ordinances – Title I Chapter 119 – Campaign Contribution Prohibition

"City business" is defined as:

- Development incentives potentially valued at \$100,000 or more annually, including loans and tax incentives.
- City property sales with a value of \$200,000 or greater.
- Zoning changes.

Cincinnati defines a "financially interested individual" as:

An applicant, their spouse, and any dependent children if the applicant is an individual.

If the applicant is an entity, which includes a limited liability company, corporation, partnership, trust, or unincorporated association:

- The entity itself
- Any owners of 20% or more of the entity and their spouse and dependent children
- Any directors and principal officers and their spouses

b. Los Angeles

Los Angeles Municipal Code Section 49.5.6 – Conflicts of Interests

¹²<https://ethics.lacity.org/news/developer-contribution-ban-goes-into-effect/>

¹³<https://ethics.lacity.org/wp-content/uploads/Laws-Campaigns-City-CFO.pdf>

¹⁴<https://www.nyccfb.info/candidate-services/doing-business-faqs/>

¹⁵<https://www.nyccfb.info/law/penalty-guidelines/>

¹⁶https://www.nyccfb.info/pdf/candidate_services/Handbook_2021.pdf

¹⁷<https://www.nyccfb.info/candidate-services/post-election/audit-process/>

Los Angeles defines “when City-related business or City action affects an individual’s personal financial interests” as when one or more of the following is held by, required, or sought by the individual:

Sale of real or personal property;

Performance of services pursuant to a contract;

A grant, loan, or forgiveness or payment of indebtedness;

An application for a license, certification, permit, franchise, change of zone, variance, credential, or other benefit or relief; or

For a development project, when the project is a significant planning entitlement, which is one of the following:

- Density Bonus, On Menu;
- Density Bonus, Off Menu;
- Development Agreement;
- General Plan Amendment;
- Height District Change;
- Major Development Projects;
- Oil Drilling District Establishment;
- Sign District Establishment;
- Site Plan Review;
- Specific Plan Establishment;
- Tentative Tract Map;
- Transfer of Floor Area Rights;
- Transit Oriented Communities Affordable Housing Incentive;
- Vesting Tentative Tract;
- Vesting Zone Change;
- Zone Change; and
- Zone Variance where Area Planning Commission or Citywide Planning Commission is the initial decision maker.

This regulation applies to the following individuals:

The individual

Their spouse or registered domestic partner

A business entity where the individual or their spouse or domestic partner holds an interest of 5% or greater.

c. New York

Section 3-702(18) of the New York City Municipal Code

“Business dealings with the City” is defined as:

One or more contracts with a single person or entity for procurement, services, or construction within the previous 12 months with the City of New York, an agency, or an entity affiliated with the City including:

- Any contract valued at \$100,000 or more;
- Any construction contract valued at \$500,000 or more;
- Any contract related to underwriting the City’s debt;
- Any agency or entity affiliated with the City and the retention of bond counsel, disclosure counsel or underwriter’s counsel;

An acquisition or disposition of real property with the City, any agency or entity affiliated with the City;

Any application sought for approval or for a zoning amendment;

One or more concessions or one or more franchises with a single person or entity with the City, or any agency or entity affiliated with the City entered in the previous 12 months with an estimated value of \$100,000;

One or more grants made to a single person or entity that were in effect or commenced with the City, or any agency or entity affiliated with the City in the previous 12 months;

Any economic development with the City or any agency or entity affiliated with the City;

Any contract for the investment pension funds; and

A lobbyist covered during all periods.

Section 3-211

A lobbyist is someone who is restricted under business dealings with New York City. This section defines lobbyist as “every person or organization retained, employed or designated by any client to engage in lobbying”.

Sections 3-213(c) and 3-213(d)

Individuals defined in the lobbyist's annual statement of registration are also restricted for business dealings with New York City. These sections define those individuals as:

The spouse or domestic partner of the lobbyist;

Any officer or employee of the lobbyist who engages in lobbying activities or who is employed in an organization's division that engages in lobbying activities and their spouse or domestic partner

2. City Campaign Contributions Limits

After examining how each defined City business, Crowe then compared the different campaign restrictions each City placed on developers. Crowe noted that Los Angeles had the most severe restrictions, as they had a complete ban on certain types of developers (as defined below) and a limit on others, whereas New York City has a \$250 limit for all developers.

a. Cincinnati

Cincinnati Code of Ordinances – Title I Chapter 119 – Campaign Contribution Prohibition

According to the Cincinnati Code of Ordinances, Chapter 119 “Prohibition on the Solicitation or Acceptance of Campaign Contributions from Persons with a Financial Interest in City Business”, campaigns are prohibited from accepting contributions from individuals on the “Temporary Prohibition List”. This list is published online by the City Administration through the Office of Ethics and Good Government (“Office of Ethics”). Individuals remain on the Temporary Prohibition List while their city business is pending review. After this period the entity would be able to contribute to council member campaigns without the restrictions referenced above.

Article XIII of the Cincinnati Charter

Crowe noted that Article XIII of the Cincinnati Charter – Campaign Finances, Section 1 “Limits on Contributions”, states that “an individual may not contribute more than \$1,100 to any one candidate for council” in the period between Council elections. This period is defined as the “period beginning on the thirty-second day after the municipal general election of council members and ending on the thirty-first day after the next municipal general election of members of Council”. The election date is “every four years on the first Tuesday after the first Monday in November” according to the Cincinnati Charter Article IX.

The candidate is required to file a report of contributions received from others with the Cincinnati Elections Commission (“CEC”) and the Hamilton County Board of Elections. If the candidate accepted a contribution above the \$1,100 limit from one individual during this period, the penalty is a civil fine to the campaign three times the amount of the excess contribution. Failure to file a report is equal to a civil fine of \$100 for each

day after the deadline that the report is not submitted. The Cincinnati Elections Commission is responsible for investigating violations of the campaign finance rules.

b. Los Angeles

Los Angeles Municipal Code § 49.7.37 – Developer Contribution Restrictions

Los Angeles has implemented a ban or limit on campaign money that can be accepted from a restricted list of developers. As of the 2022 elections, Los Angeles has implemented a 12-month ban on campaign contributions to the Mayor, City Attorney, City Council, or a City Committee, from a restricted list of developers, which is now codified in Los Angeles Municipal Code § 49.7.37.

An entity becomes restricted from the time it submits an application to engage in a significant planning entitlement to a year after the letter of determination is issued on that City business. If the letter of determination is not issued, these restrictions end on the date that the final decision is made on an application.

The ban applies to the following types of individuals of a restricted entity:

A restricted developer's board chair, president, chief executive officer, chief financial officer, chief operating officer of a person, and any individual who serves in the functional equivalent of one or more of these positions;

A person who holds an ownership interest of 20 percent or more in a restricted developer; and

An individual authorized to represent a restricted developer before the Planning Department concerning the significant planning entitlement.

c. New York City

For City council members in New York City, there is a \$250 dollar limit on campaign contributions that can be accepted from those that are a part of the city's "Doing Business Database", also referred to as the restricted list. Developers will be listed on the Doing Business Database for one year or longer, depending on the business activity. The Mayor's Office has the following timelines for each business activity:

Contract, Concession and Economic Development Agreement Holders: They are in the database for the term of the transaction, plus an additional year.

Franchise and Grant Holders: They are in the database from when the transaction starts or is renewed, plus an additional year.

Pension Investment Contracts: They are in the database either from the presentation of an investment opportunity or submission of a proposal, whichever is first, until one year after the end of the contract.

Line Item and Discretionary Appropriations: They are in the database from the date the budget is adopted until one year after the end of the contract.

Contract Proposers: They are in the database for one year after the proposal date or date the solicitation was publicly advertised, whichever is later.

Franchise and Concession Proposers: They are in the database until one year after the proposal submission date.

3. Enforcement

Finally, Crowe examined the methods that each city used to verify that campaigns were in compliance with the policies and procedures mentioned above, and the consequences for those who were found to have violations. Crowe noted that New York and Cincinnati the most comprehensive campaign review policy, as they conducted audits and reviews of campaigns finances, whereas Los Angeles investigated whistleblower complaints.

a. Cincinnati

Under Chapter 117 of the City Municipal Code, each candidate who runs for office is required to submit campaign finance reports both pre- and post-election. According to the Chief Counsel, these forms are also filed with the City of Cincinnati Law Department. The Law Department conducts a review of these finances and reaches out to the candidate or council member to resolve any discrepancies. Once the Law Department's review is finished, the financial disclosures are reviewed by the Cincinnati Elections Commission ("Elections Commission"). The campaign finance reports are also publicly disclosed. If the CEC or any individual from the public reports a conflict, the Elections Commission will hold a hearing to determine if the individual is in violation of campaign contribution laws.

According to Chapter 119 of the Cincinnati Municipal Code, if a violation is found, it is considered to be a Class C-1 Civil Offense, and the Elections Commission is authorized to impose a civil fine on the candidate in violation. The Elections Commission will refer the fines to the appropriate City agency for collection.

b. Los Angeles

Los Angeles Municipal Code § 49.7.39 – Enforcement

For developers, an applicant, owner, or principal that violates the ban is unable to submit an application for a year after they are determined to be in violation by the Ethics Commission. Additionally, any individual who violates the ban is guilty of a misdemeanor, and anyone who aides an individual in violating the ban is liable. If an individual is convicted of a misdemeanor, they cannot act as a City lobbyist or as a City contractor for four years after the conviction under the Los Angeles Municipal Code § 49.7.39.

c. New York City

NYC 2021 Penalty Guidelines

Audits of campaign funds are completed by the Campaign Finance Board. The Board notifies the candidate, spender, representative, or other applicable individual in writing of the violation and recommended penalties. The noticed party is required to sign by the due date. After the response, the Board will issue the penalty using the Penalty Guidelines. For City council members, the penalty for accepting contributions over the \$250 limit (over-the-limit contributions) depends on whether the money was returned.

If the return of the excess amount was after the notification deadline given by the Board, the penalty is either \$125 or 25% of the overage amount, whichever is greater.

If the return of the excess amount was after the notification given by the Board and there was an aggravating factor such as failing to provide documentation related to the overage, failing to return the overage, or willful or reckless noncompliance, then the penalty is either \$250 or 50% the amount of the overage, whichever is greater.

If the overage amount is not returned after notification from the Board, the penalty is the overage amount, plus \$250 or 50% of the amount of the overage, whichever is greater.

Additionally, the Board may issue deviations from the standard recommendations at their discretion, which includes:

No penalty if the campaign's total recommended penalty would be \$500 or less; however, it will be included in the audit finding. For over-the-limit contributions, no penalty will be recommended if the overage amount is returned by the deadline provided by the Board or if the contribution is refunded within 20 days. No violation will also be recommended for a one-time failure to return the overage amount.

Reduced penalty – Penalties will be capped at 15% of the total amount raised. (This does not apply to penalties associated with fraud, misrepresentation or submission of false information, personal use, disregard of laws, and more.)

Increased penalty – A penalty above the limit may be recommended if there it is "willful or a result of reckless disregard for the law".

Conflict of Interest Survey

In 2021 the Cincinnati Office of Ethics and Good Governance created a conflict of interest survey to assist newly elected public officials in identifying potential conflicts of interest. Like the financial disclosure form filed with the State, the conflict of interest survey covers outside employment, board memberships, financial interests, public contracts, fiduciary responsibilities, family members, and miscellaneous concerns. The Office of Ethics and Good Governance reviews the responses provided in the survey, researches any potential issues, and discusses solutions with the public official. In addition, they can assist the public official obtaining an advisory opinion from the Ohio Ethics Commission to help fully resolve any remaining questions. Crowe has provided recommendations for improvement in Section 6 of this report.

Conflict of Interest Background Checks and Developers Named in Ordinances

Background checks were performed on the council members and the related parties listed were compared to the developer company and developer listed contact to identify any additional conflict of interest.

Crowe obtained and relied on publicly available records and subscriber databases to develop background information used throughout the course of our procedures. The Lexis Nexis database was used to obtain reports for the council members serving during 2018-2020. These reports were used to identify addresses (current and prior) of employees, associates, family members and any businesses associated with the council members (i.e., related parties). Through the database searches, Crowe also obtained known addresses for the council members, their related family members, and associated businesses, if any.

Conflict of Interest related to Campaign Contributions and Developers Named in Ordinances

The campaign contributions forms filed by each council member were obtained and the donors listed were compared to the developer company and the developer listed contact to identify any additional conflict of interest.

Crowe identified several donors that contributed to council members campaigns that were named as developers for the ordinances within our scope. The total contributions from the identified developers totaled \$12,709.01 to eight council members. All identified donations occurred over five months prior to the ordinances being passed by the city Council which was in compliance with the City’s policies at the time. The campaign contribution information is published on the city’s website.

Interviews with council members and other City Employees

Interviews were conducted with council members, council staff and other City employees to gain an understanding of the policies and procedures in place at the city. Individuals described their duties and responsibilities for their role in the city. They also discussed some of the changes that have recently occurred due to the three council members being indicted as well as any concerns or suggestions the individuals had to continue improving the city’s policies and procedures. Crowe considered the concerns and suggestions expressed during the interviews as part of the overall recommendations.

The following are the individuals interviewed by Crowe.

Interviewee	Title	Date
Emily Woerner	City Solicitor	March 23, 2023
Markiea Carter	Director of Community and Economic Development	March 24, 2023
Dan Bower	Deputy Director of Community and Economic Development	March 24, 2023
Anthony Cadle	Division Manager at Community and Economic Development	March 24, 2023

Bob Bertsch	Division Manager at Community and Economic Development	March 24, 2023
Roy Hackworth	Division Manager at Community and Economic Development	March 24, 2023
Byron Stallworth	City Planning Commission Chair	March 27, 2023
Jacob Samad	City Planning Commission Member	March 27, 2023
Sheryl Long	City Manager	March 28, 2023
Jan-Michele Kearney	Vice Mayor and City Councilmember	March 24, 2023
Liz Keating	Councilmember	April 11, 2023
Victoria Parks	Councilmember	April 12, 2023

Reviewed of Complaints submitted through the “Ethics, Fraud, Waste and Abuse” Hotline

As part of the changes the city of Cincinnati has implemented, the Office of Ethics and Good Governance created and maintains an “Ethics, Fraud, Waste and Abuse” Hotline which allows employees and citizens to alert the City safely and anonymously of potential problems. Crowe requested and obtained a list of all complaints submitted through the hotline to the Office of Ethics & Good Governance since its creation in April 2022.

During the review, A variety of complaints were noted coming to the City’s attention, which are available to the public via the internet at www.cincinnati-oh.gov/law/ethics/hotline/. The complaints and the City’s actions taken in response to the complaints were reviewed.

Inquiries with the head of the Office of Ethics and Good Governance were held to discuss the steps the City takes when a complaint is submitted. Many of the complaints are not related to ethics, fraud, waste, or abuse and are referred to the proper department or division to investigate further. For example, a complaint relating to alleged crimes in a neighborhood was referred to the Cincinnati Police Department or a complaint about a poor business practice was referred to the Ohio Attorney General Consumer Protection Division. For any complaints the city is unable to resolve, they are escalated to the Ohio Ethics Commission in Columbus, Ohio.

Prior to closing any of the complaints, the Office of Ethics and Good Governance confirms with the City Solicitor that no further procedures are necessary.

Conclusions

For Objectives #3, Policies, procedures, and internal controls applicable to the voting process and legislative matters align with the Committee of Sponsoring Organizations (COSO) Internal Control Framework and are consistent with those of the two selected peer entities (City of New York and City of Los Angeles). in all significant respects. However, please see recommendations in Section 6 related to this objective.

6. Recommendations

As part of the performance of our procedures, we identified certain items to improve programs and operations of the processes covered under this audit. These items were not significant to the audit objectives. We recommend that the city of Cincinnati take the following actions:

1. Council Member Recusals

Create a policy that would aid the city in ensuring their council members understand their responsibilities when it comes to abstention or recusal from voting on ordinances, or any other council matters, when a potential conflict of interest is present. This policy should, at a minimum, describe the following:

- How the recusal should be communicated (written or oral)
- What information should be included in the recusal
- To whom the recusal should be communicated
- When the recusal should be submitted (i.e., at least 24 hours in advance)
- That the council member should physically leave the room during the vote

Create a new position or expand on a current city position to review council member OEC financial disclosure statements before a council-related matter is voted upon. This position would notify the council member if a potential conflict of interest is identified based on their review of the financial disclosure statement.

Distinguish, in the ordinance meeting minutes or in the voting record published on the city's website, whether the council member's "absent" vote is due to recusal, abstention, or a physical absence that day unrelated to a conflict of interest.

2. Suspension of Three Readings

Reduce the frequency that council suspends the three-readings requirement to allow for as much public engagement as possible.

Add specific language in an ordinance or in the documentation supporting an ordinance that would allow the public to fully understand why the three-readings requirements was waived, whether by emergency ordinance or outright by council's affirmative vote. The city should include any potential financial, contractual, or reputational risk that could arise if the ordinance is not passed immediately during council's first reading.

3. City Business Conflicts of Interest

Expand the Scope of "Doing Business": Implementing a ban or limit to campaign contributions for entities doing business with the city could help reduce the risk of a conflict of interest between council members and developers. Crowe recommends that the city adopt a policy similar to New York City, which maintains stringent "pay to play" restrictions on contributions from people doing business with the City.

Expand the "Doing Business" Duration: The current policy established by the city restricts contributions for six months during the legislative review period of the ordinance. After the six months, candidates may accept contributions from these developers, even if the ordinance passes and the developer is removed from the restricted business list. Crowe recommends that the city expand the "doing business" duration from 6 months to 12 months like New York City and Los Angeles.

Document councils' involvement in selecting vendors during line-item discretionary appropriations. Establish additional safeguards to limit councils' ability to attach money to specific firms without providing sufficient justification over vendor selection.

4. Conflict of Interest Survey

Add key terms to the conflict of interest survey to help ensure council members understand each section of the survey. For example, defining “immediate family members” or outlining what is considered a “financial interest” could provide clarity to council members as to what information should be included and what can be omitted.

Hold an annual conflict of interest training for City employees to educate them on the policy and ensure that they understand their responsibilities

5. “Ethics, Fraud, Waste and Abuse” Hotline

- Enhance the documentation around the investigation of complaints, including:
 - The date the investigation started.
 - The duration of the investigation.
 - Who was assigned to investigate the complaint?
 - What steps were taken during the investigation?
 - When/how was the complaint resolved?
 - What was the resolution?

6. Administrative Regulation No. 32 – Financial Disclosure Requirement

Revise Administrative Regulation 32 to clearly define the responsibilities of HR in monitoring compliance with the financial disclosure requirements. The current form states that HR is responsible for monitoring for compliance but does not state the specific tasks or outline the specific activities HR should perform in order to determine if employees are in compliance with the policy. Activities that HR may perform include:

- Reviewing employee’s conflict of interest form.
- Following up with employees and their supervisors if any conflicts are discovered to verify that they were properly addressed.
- Determining penalties for employees who did not properly disclose.
- Discuss which employees are required to file as prescribed by state and local law.
- Discuss document-retention activities performed by Human Resources.

7. Report Disclosures

Crowe has no obligation to perform any services beyond those listed in this contract. If Crowe were to perform additional services, other matters might come to Crowe's attention that would be reported to the City ("Client"). It is understood that Crowe will prepare a report reflecting the findings of the services outlined in the contract for use by the Client. Crowe makes no representations as to the adequacy of these services for Client's purposes. Crowe makes no warranties, expressed or implied, and Crowe specifically disclaims all other expressed and implied warranties, including any implied warranties of merchantability, fitness for a particular purpose, or non-infringement.

Crowe Services and work product are intended for the benefit and use of Client. This engagement was not planned or conducted in contemplation of reliance by any other party or with respect to anyone who receives the deliverables and is not intended to benefit or influence any other party. Therefore, items of possible interest to a third party may not be specifically addressed, or matters may exist that could be assessed differently by a third party. Crowe's report or deliverables will indicate the purpose of the project and will describe the intended use of the reports and deliverables and the intended users of the report and deliverables. The working papers for this engagement are the property of Crowe and constitute confidential information.

Client management is responsible for the results of the services, including findings, conclusions, and recommendations. Client management will be responsible for evaluating the findings, results, the risk rating of the findings, and conclusions arising from services. Client management will be responsible for reporting internal control deficiencies to the appropriate level of Client management as soon as they are identified within the organization.

Attachment A: Policies and Procedures Reviewed

This is a list of policies provided by the City or publicly available that were reviewed during the course of the engagement:

- City of Cincinnati Charter
 - Article II – Legislative Power
 - Article III - Department of Law
- City of Cincinnati Municipal Code
 - CMC Chapter 117 Campaign Finance Disclosures
 - CMC Chapter 119 Campaign Contribution Prohibitions
 - CMC Council Code of Conduct
 - CMC Mayor Code of Conduct
- Administrative Regulations
 - Administrative Regulation 1 Policy Procedures for Use of Admin Regs
 - Administrative Regulation 7 Contract Compliance Board
 - Administrative Regulation 8 Grant Application and Acceptance
 - Administration Regulation 19 Internal Audit Reports and Follow
 - Administrative Regulation 23 Guidelines and Minimum Requirements for Professional and Nonstandard Services
 - Administrative Regulation 24 Small Business Enterprise Participation in Development Agreements
 - Administrative Regulation 32 Financial Disclosure Requirement
 - Administrative Regulation 34 Emergency Acquisitions
 - Administrative Regulation 35 Reports to the City Council, Direct Responses, After-Action Items and FYI Memos
 - Administrative Regulation 68 Conflict of Interest
- Ohio Revised Code
 - Section 102
- Procurement
 - RFP Manual
 - Procurement Manual
 - MAC (Multiple-Award Contracting) Policy
 - Professional Service Subcontractor Approval Policy and Procedures
 - Product, Equipment, and Service Pilots, Trials, Testing, and other Similar City Uses Policy and Procedures
 - Request for Proposal (RFP) Manual for the Metropolitan Sewer District of Greater Cincinnati (MSDGC)
- Other
 - CEC Rules (4-8-21)
 - City Planning Commission Rules
 - Council Rules for Ordinances and Resolutions
 - Self-Assessment Audit Guide
 - Council Code of Conduct 2021-2022
 - City Manager's Procedures Rules and Regulations
 - Economic Development Reform Panel Recommendations and Reports
- New York City
 - New York City Municipal Code
 - Section 3-702(18)

- Section 3-211
 - Sections 3-213(c) and 3-213(d)
 - NYC 2021 Penalty Guidelines
 - NYC Campaign Finance Board Rules
 - NYC Campaign Finance Board Audit Process
- Los Angeles
 - Los Angeles Municipal Code
 - Section 49.7.37
 - Section 49.7.39
 - Section 49.5.6

Attachment B: Council Members Serving From 2018-2020

This is the list of council members that served during the assessment period and the years that they served. Please note that the last three council members listed (Ms. Kearney, Ms. Sundermann, and Ms. Keating) were replacements for the three council members who were indicted.

Council Member	Years Served During 2018-2020 Term
MR. SITTENFELD	2018-2020
MR. SMITHERMAN	2018-2020
MR. YOUNG	2018-2020
MS. DENNARD	2018-2020
MR. LANDSMAN	2018-2020
MR. MANN	2018-2020
MS. MURRAY	2018-2020
MR. PASTOR	2018-2020
MR. SEELBACH	2018-2020
MS. KEARNEY	2020
MS. SUNDERMANN	2020
MS. KEATING ¹⁸	2020

¹⁸Ms. Keating was appointed December 18, 2020 and did not vote on any ordinances before the December 31 end of our period.

Attachment C: Total Votes by Council Member

This graph shows the total votes for each council member by Yes, No and absent. This data is presented as a chart in the report.

Total Votes by Member					
Member	Yes	No	Absent	% Yes	% No
MR. SITTENFELD	199	0	10	95.22%	0.00%
MR. SMITHERMAN	177	3	29	84.69%	1.44%
MR. YOUNG	190	2	18	90.48%	0.95%
MS. DENNARD	105	39	48	54.69%	20.31%
MR. LANDSMAN	195	2	13	92.86%	0.95%
MR. MANN	203	6	0	97.13%	2.87%
MS. MURRAY	179	5	8	93.23%	2.60%
MR. PASTOR	171	7	31	81.82%	3.35%
MR. SEELBACH	192	4	14	91.43%	1.90%
MS. KEARNEY	263	11	22	88.85%	3.72%
MS. SUNDERMANN	18	0	0	100.00%	0.00%
Total Outcomes	1892	79	193		

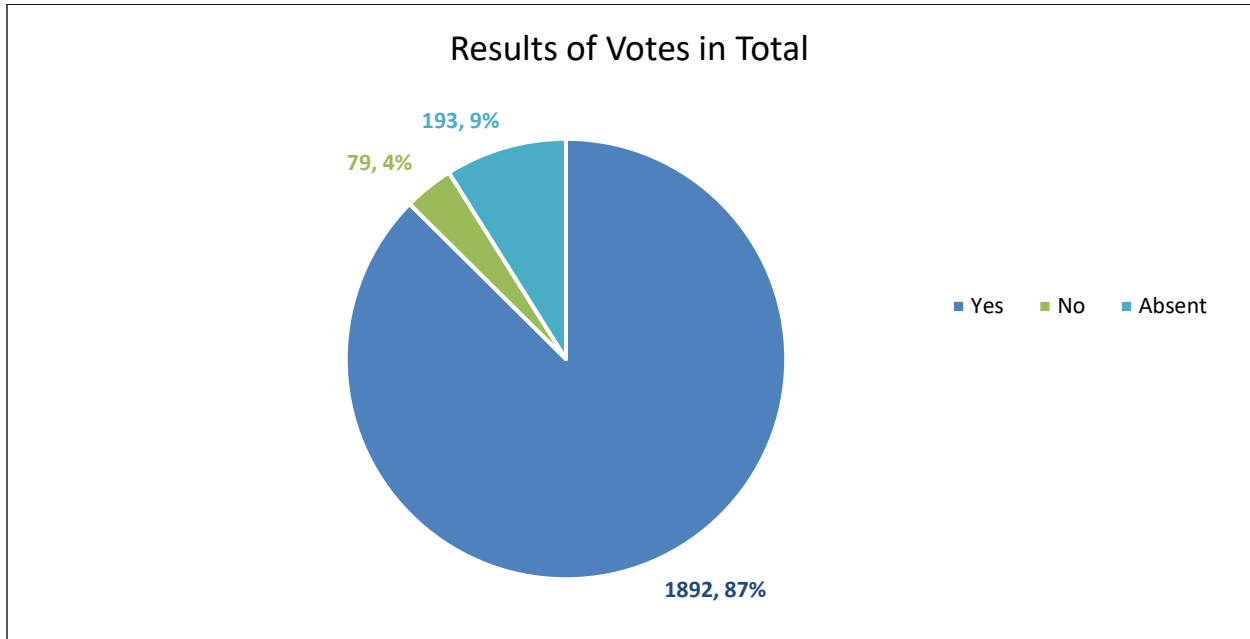
Attachment D: Total Votes by Ordinance Type

This graph shows the total votes by ordinance type. This data is presented as a chart in the report.

Total Votes by Ordinance Type					
Ordinance Type	Yes	No	Absent	% Yes	% No
CRA	841	30	101	86.52%	3.09%
TIF	246	10	22	88.49%	3.60%
JCTC	107	0	10	91.45%	0.00%
Land Sale	236	6	27	87.73%	2.23%
Funding	216	24	11	86.06%	9.56%
Totals	1646	70	171		

Attachment E: Total Votes

Overall, Crowe noted the majority of votes on ordinances were Yes votes. Out of the 2,164 votes documented in the 227 ordinances, 1,892 (87%) resulted in a Yes vote, 193 (9%) were absences, and 79 (4%) were objections, as noted in the chart below.



Attachment F: Percentage of Affirmative Votes by Council Members

Crowe noted that the percentage of absences was greater than the percentage of objections. Crowe removed the objections from the sample to see how that would affect the number of Yes votes made by council members. Without the absences factored in, every council member, with the exception of Ms. Dennard, has a 95% or greater approval rate, and two council members, Ms. Sundermann and Mr. Sittenfeld, have a 100% approval rating. This indicates that a council member is more likely to be absent than to object to the ordinance.

% Affirmative Vote by Councilmember		
Council Member	With Absence	Without Absence
MR. SITTENFELD	95%	100%
MR. SMITHERMAN	85%	98%
MR. YOUNG	90%	99%
MS. DENNARD	55%	73%
MR. LANDSMAN	93%	99%
MR. MANN	97%	97%
MS. MURRAY	93%	97%
MR. PASTOR	82%	96%
MR. SEELBACH	91%	98%
MS. KEARNEY	89%	96%
MS. SUNDERMANN	100%	100%

Attachment G: Copy of Ordinance

EMERGENCY

City of Cincinnati

CHM *PBM*

An Ordinance No. 496 - 2019

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with [REDACTED] thereby authorizing a 13-year tax exemption for 100% of the value of improvements made to real property located at [REDACTED] in the Northside neighborhood of Cincinnati, in connection with the remodeling of approximately 4,981 square feet of residential rental space, consisting of approximately 7 apartment units, and approximately 1,208 square feet of commercial space on the property, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$503,207.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a "Community Reinvestment Area" pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute"); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018 passed by this Council on October 31, 2018 (as amended, the "Commercial Policy Ordinance"), sets forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area; and

WHEREAS, to encourage the development of real property in a more environmentally-friendly manner, the Commercial Policy Ordinance incentivizes: (i) construction and remodeling to Leadership in Energy and Environmental Design ("LEED") standards (as defined by the U.S. Green Building Council); and (ii) construction and remodeling that obtains (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (collectively, "LBC" standards), all pursuant to the Statute; and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, [REDACTED] (the “Owner”) desires to remodel a building located on real property at [REDACTED] located within the corporate boundaries of the City of Cincinnati consisting of approximately 4,981 square feet of residential rental space, across 7 apartment units, and approximately 1,208 square feet of commercial space consistent with LEED or LBC standards (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

WHEREAS, to provide an appropriate development incentive for the Improvements, the City Manager has recommended a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)*, in substantially the form of Attachment A to this ordinance, to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the property is located within the City School District of the City of Cincinnati (the “Cincinnati School District”); and

WHEREAS, the Board of Education of the Cincinnati School District, pursuant to an agreement with the City of Cincinnati entered into on July 2, 1999 (as amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, pursuant to the Board of Education Agreement, the Owner has entered into (or will enter into) an agreement with the Board of Education requiring the Owner to pay the Board of Education amounts equal to 25% of the exempt real property taxes; and

WHEREAS, the Owner has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, half of which funds shall be committed by the third-party organization to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the Northside neighborhood and the other half of such contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis; and

WHEREAS, the Improvements do not involve relocation of part or all of the Owner’s operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per ORC 3735.673; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with [REDACTED] (the “Agreement”), thereby

authorizing a 13-year tax exemption for 100% of the assessed value of improvements to be made to real property located at [REDACTED] in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of approximately 4,981 square feet of residential rental space on the property, consisting of approximately 7 apartment units, and approximately 1,208 square feet of commercial space to be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council) or Living Building Challenge standards (as described in the Agreement and as determined by the International Living Future Institute and the Cascadia Green Building Council, as applicable) at a total remodeling cost of approximately \$503,207.

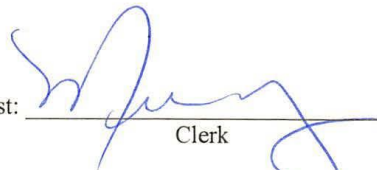
Section 2. That Council authorizes the City Manager:

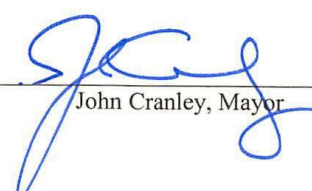
- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the City School District of the City of Cincinnati, in accordance with Ohio Revised Code Section 3735.672; and
- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

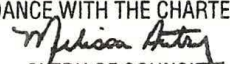
Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the

terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: December 11, 2019

Attest: 
Clerk


John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 496-2019
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 12-24-2019

CLERK OF COUNCIL