

**ORDINANCE NO. 30, 2018**

**AN ORDINANCE TO AUTHORIZE THE RELEASE AND TERMINATION OF RESTRICTIONS TITLED "PART I OF THE CONTRACT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT" AND DECLARING AN EMERGENCY.**

WHEREAS, the Village owned the Property, described in Exhibit A, prior to July, 1971 and at the time the restrictions, as described in Exhibit B, were recorded; and

WHEREAS, in December, 2013 and August, 2016, the Village transferred the property to the St. Bernard Community Improvement Corporation; and

WHEREAS, the Village's explicit obligation with respect to Property are binding on the Village until May 1<sup>st</sup>, 2021; and

WHEREAS, the Village agrees that the release, as indicated in Exhibit B, is in the best interest of the residents of the Village and necessary for the economic development of the Village; now therefore

**BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, STATE OF OHIO, TWO-THIRDS OF THE MEMBERS THEREOF CONCURRING:**

**Section 1.** That in conformity with its policy to promote the health, safety, morals and general welfare of its residents and in pursuance of the Agreement and Plan between the Village of St. Bernard and the St. Bernard Community Improvement Corporation, the Village of St. Bernard hereby ratifies and adopts the terms contained in the "The Release and Termination of Restrictions", attached as Exhibit B, and authorizes the Mayor of the Village to execute and deliver the document to the Community Improvement Corporation for recording in the records of Hamilton County Recorder.

**Section 2.** That this Ordinance shall be and is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reason for the emergency is to ratify and adopt the terms contained in the "The Release and Termination of Restrictions", attached as Exhibit B, and authorize the Mayor of the Village to execute and deliver the document to the Community Improvement Corporation. Therefore, this Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided if approved by no more than the majority of the members of Council and in that event, law sets the emergency provisions herein at naught.

Passed this 13<sup>th</sup> day of September, 2018.



\_\_\_\_\_  
President of Council

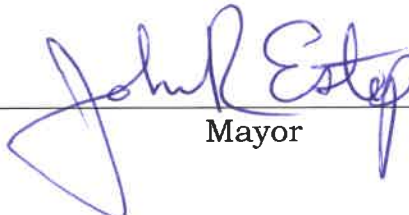
ATTEST:



\_\_\_\_\_  
Clerk of Council


 ORIGINAL

Approved this 13<sup>th</sup> day of September, 2018.

  
\_\_\_\_\_  
Mayor

I, M. SUE KATHMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 30, 2018, was made by posting true copies of the same in the most public places designated by Council: St. Bernard Square Bus Stop; Vine Street and Washington Avenue; Bertus Street Park; Greenlee Avenue and Johnson Alley; Park on Heger Drive; each for a period of fifteen (15) days or more commencing 9-13, 2018.

ATTEST: M. Sue Kathman DATE 9.13.18  
Clerk of Council

Approved as to form  Date 9.13.18  
Director of Law

**EXHIBIT "A"**

Parcel 1:

Situated in the Village of St. Bernard, Hamilton County, State of Ohio, and being more particularly described as follows:

Commencing at a point in the northeast corner of Lot #3 of Barton Brewer and Folz's Subdivision as in Plat Book 3, Page 116, Hamilton County, Ohio Recorder's Office, said point also being in the west line of Vine Street; thence South 12° 20' West, along the west line of Vine Street (and the southerly projection thereof) for a distance of 183.39 feet; thence South 0° 45' West along the west line of Vine Street, (as proposed to be widened) 17.69 feet to a point; thence North 89° 15' West, 178.72 feet to the real place of beginning on the south line of proposed Ross Lane; thence South 0° 45' West, 380 feet; thence North 89° 15' West, 15 feet; thence South 0° 45' West, 198.34 feet; thence North 89° 15' West, 101 feet to a point in the new east right of way line of Andrew Avenue; thence North 0° 45' East, 436.34 feet; thence North 89° 15' West 10 feet; thence North 0° 45' East, 42 feet; thence North 89° 15' West 24 feet; thence North 0° 45' East, 100 feet; thence South 89° 15' East, 150 feet to the place of beginning. The last six calls being along the east line of Andrew Avenue and the east and south lines of Ross Lane as shown on Plat of Dedication of these streets. Containing 67,933 square feet, together with all rights and benefits in and to the parking area as set forth in the contract identified herein below, on the land described therein as Block 2, Parcel 3B, and together with but subject to all other terms, provisions, covenants, conditions and restrictions set forth in the Contract. Said Contract is title "Contract for Sale of Land for Private Redevelopment", dated September 17, 1970 and amended June 1, 1971 and recorded in Document No. F-28624, Hamilton County Recorder's Office, Mortgage Book 3810, Page 566.

Auditor's Parcel No. 582-0006-0079, 0080, 0081, 0124, 0125, 0126, 0139, 0140, 0142, 0218, 0224, 0225 and 0226 Consolidated

Said Block 2, Parcel 3B is described as follows, to wit:

Situate in the Village of St. Bernard, Hamilton County, State of Ohio, and being more particularly described as follows:

Beginning at a point in the northeast corner of Lot #3 of Barton Brewer and Folz's Subdivision, said point also being in the west line of Vine Street; thence South 12° 20' West, along the west line of Vine Street (and southerly projection thereof), a distance of 183.39 feet; thence South 0° 45' West, along the west line of Vine Street 17.69 feet to the real place of beginning; thence continuing along the west line of Vine Street, South 0° 45' West, 610.35 feet; thence North 89° 15' West 193.72 feet; thence North 0° 45' East 230.35 feet; thence South 89° 15' West 15 feet; thence North 0° 45' East 380 feet; thence South 89° 15' East 178.72 feet to the place of beginning. Containing 112.533 square feet.

Auditor's Parcel No. 582-0006-0079-00

Parcel 2:

Situate in Sections 16 and 17, Town 3, Fractional Range 2, City of St. Bernard, Hamilton County, Ohio and being the same premises as conveyed to said city in Deed Book 3654, Page 180 (582-6-76), Deed Book 3715, Page 999 (582-6-77), Deed Book \_\_\_\_, Page \_\_\_\_ (582-6-78), Deed Book 3544, Page 261 (582-6-83), Deed Book 3635, Page 840 (582-6-127), Deed Book 3645, Page 336 (582-6-128), Deed Book 3654, Page 34 (582-6-129), Deed Book 3666, Page 188 (582-6-130), Deed Book 3717, Page 167 (582-6-131), Deed Book 3697, Page 912 (582-6-132), Deed Book 3667, Page 580 (582-6-133), Deed Book 3657, Page 149 (582-6-134), Deed Book

3739, Page 428 (582-6-135), Deed Book 3733, Page 992 (582-6-136 & 582-6-137), Deed Book 3635, Page 265 (582-6-138), Deed Book \_\_\_\_, Page \_\_\_\_ (582-6-141), Deed Book 3736, Page 298 (582-6-189), Deed Book 3666, Page 170 (582-6-199), Deed Book 3790, Page 258 (582-6-27, 582-6-219 & 582-6-220), Deed Book 3794, Page 803 (582-6-222 & 582-6-223), Deed Book 3786, Page 809 (582-7-245) and including part of Lots A, 12 and 13 of Barton Brewster and Folz's Subdivision as recorded in Plat Book 3, Page 116 and also including Lots A, B and part of Lots 1 & 4 of Alfred Phillips Subdivision as recorded in Plat Book 1, Page 241 (all records of the Hamilton County, Ohio Recorder's Office) and also being more particularly described as follows:

Beginning at a set nail at the intersection of the north line of Ross Lane, varies in width, with the west line of Vine Street, currently 60 feet in width, as shown on a dedication plat as recorded in Plat Book 168, Pages 48-49;

Thence along said west line of Vine Street, South 01°05'00" West, 166.69 feet to a set nail and South 00°45'00" West, 475.61 feet to a set nail at the northeast corner of lands conveyed to the City of St. Bernard in Deed Book 3664, Page 262;

Thence with the north line of said lands, and also with the north line of lands conveyed to The Southern Ohio Savings Association in Deed Book 4169, Page 451, North 89°15'00" West, 173.72 feet to a set nail;

Thence with the west line of said The Southern Ohio Savings Association lands, South 00°45'00" West, 80.23 feet to a set nail in the north line of McClelland Avenue, currently 50 feet in width, as shown on aforesaid dedication plat;

Thence along the north line of said McClelland Avenue, North 88°23'30" West, 25.50 feet to a set nail and along an arc deflecting to the right, having a central angle of 05°00'38", a radius of 108.86 feet and a length of 9.52 feet. The chord of said arc bears North 85°53'08" West, 9.52 feet to a set nail at the southeast corner of lands conveyed to The Delta Association in Deed Book 7258, Page 1220;

Thence with the east line of said Delta Association lands, and with an east line of lands conveyed to St. Bernard Community Improvement Corporation in Official Record 12484, Page 109, North 00°45'00" East, 314.79 feet to a set cross notch;

Thence continuing with lines of said St. Bernard Community Improvements Corporation lands, the following eight (8) courses and distances:

- 1) South 89°15'00" East, 15.00 feet to a set nail;
- 2) North 00°45'00" East, 380.00 feet to a set nail in the aforesaid south line of Ross Lane;
- 3) Along the south line of said Ross Lane, North 89°15'00" West, 150.00 feet to a set nail;
- 4) With an east line of said Ross Lane, South 00°45'00" West, 100.00 feet to a point witnessed by an existing 5/8" iron pin lying 0.3 feet north and 0.1 feet west;
- 5) With a north line of said Ross Lane, South 89°15'00" East, 24.00 feet to a set cross notch;
- 6) With an east line of said Ross Lane and also with an east line of Andrew Avenue, varies in width, as shown on aforesaid dedication plat, South 00°45'00" West, 42.00 feet to a point witnessed by an existing 5/8" iron pin lying 0.1 feet north and 0.7 feet east;
- 7) With a north line of said Andrew Avenue, South 89°15'00" East, 10.00 feet to a set cross notch;
- 8) With an east line of said Andrew Avenue, South 00°45'00" West, 436.34 feet to a set cross notch at the northwest corner of aforesaid The Delta Association lands;

Thence with the west line of said The Delta Association lands, South 09°34'06" East, 28.11 feet to a set pin (all pins set are 5/8" iron rebar, 30" in length, capped "McGill Smith Punshon") at the southeast corner of said Andrew Avenue;

Thence with the lines of said dedicated Andrew Avenue; the following three (3) courses and distances;

- 1) South 80°25'54" West, 15.03 feet to a set nail;
- 2) North 88°23'30" West, 12.12 feet to a set nail;
- 3) North 01°32'00" East, 492.81 feet to a set nail in the north line of Ross Avenue, currently 50 feet in width, and a south line of aforesaid Ross Lane. Said nail also being in the north line of aforesaid Section 16 and south line of aforesaid Section 17;

Thence along said right-of-way and section lines, North 88°28'00" West, 45.00 feet to a set pin at the southeast corner of lands conveyed to LAL Properties, LLC in Official Record 10956, Page 1168;

Thence along the east line of said LAL Properties, LLC and with the west line of said Ross Lane, North 01°32'00" East, 144.09 feet to the southwest corner of lands conveyed to United States Postal Service in Deed Book 6888, Page 775 as witnessed by an existing 5/8" iron pin with "G.J. Berding" cap lying 0.4 feet north and 0.2 feet east;

Thence with the north line of said Ross Lane, with the south line of said United States Postal Service lands and with a south line of lands conveyed to the City of St. Bernard in Deed Book 3544, Page 261, South 88°55'00" East, 368.85 feet to the point of beginning.

Containing 3.4005 acres of land.

Subject to all legal highways, easements and restrictions of record.

The above description was prepared from a consolidation plat prepared by McGill Smith Punshon, Inc. dated June 02, 2016 under the direction of Richard D. Nichols, P.S., Ohio Registration No. 7929. The bearings in the above description are based on dedication plat as recorded in Plat Book 168, Pages 48-49, records of the Hamilton County, Ohio Recorder's Office.

Auditor's Parcel No. 582-0006-0264-00

## EXHIBIT "B"

### RELEASE AND TERMINATION OF RESTRICTIONS

This RELEASE AND TERMINATION OF RESTRICTIONS (this "**Release**") is effective as of \_\_\_\_\_, 2018 (the "**Effective Date**"), and is executed and delivered by and between **THE VILLAGE OF ST. BERNARD**, an Ohio municipal corporation (f/k/a The City of St. Bernard) ("**Village**") and **THE ST. BERNARD COMMUNITY IMPROVEMENT CORPORATION**, an Ohio non-profit corporation (as successor-in-interest to The St. Bernard Development Co., Inc.) ("**CIC**").

### RECITALS

A. The Village owned the Property prior to July, 1971 and at the time the Restrictions (defined below) were recorded.

B. In July, 1971, pursuant to that certain deed recorded in Deed Book 3799, Page 660 in the Hamilton County, Ohio Recorder's Office (the "**Recorder's Office**"), the Village transferred the Property to the St. Bernard Development Co., an Ohio corporation (the "**Development Co.**").

C. In April, 1986, pursuant to that certain deed recorded in Deed Book 4338, Page 1925 in the Recorder's Office, the Development Co. transferred the Property to St. Bernard Square Limited Partnership, an Ohio limited partnership ("**Square**").

D. In May, 2011, pursuant to that certain deed recorded in Official Record 11721, Page 1135 in the Recorder's Office, Square transferred the Property to the Village.

E. In December, 2013 and August, 2016, pursuant to those certain deeds recorded in Official Record 12484 Page 109 and Official Record 13227, Page 309, respectively, in the Recorder's Office (collectively, the "**CIC Vesting Deeds**"), the Village transferred the Property to CIC; CIC is currently the fee simple owner of the Property. CIC has not conveyed any portion of the Property to any other party.

F. As used in these recitals and this Release, "**Property**" means those certain parcels of property known as Hamilton County Parcel ID Number: 582-0006-0079-00 and 582-0006-0264-00 and located at 4911 Vine Street, St. Bernard, Ohio and containing approximately 4.9605 acres and described in the CIC Vesting Deeds.

F. The Property is subject to certain restrictions called the "Part I of Contract for Sale of Land For Private Development" (the "**Restrictions**") by and between the Village and CIC's predecessor-in-interest as set forth in that certain instrument recorded in Official Record Book 3810, Page 566 in the Recorder's Office, which instrument is attached as "**Exhibit A**" hereto (the "**Agreement**").

G. CIC and the Village have agreed to release the Property of the Restrictions and terminate the Agreement pursuant to the terms and conditions of this Release.

### **RELEASE AND TERMINATION**

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. **Recitals; Exhibits.** The recitals set forth above are incorporated herein by reference as if fully set out and shall have full force and legal effect. The exhibit attached hereto is fully incorporated herein by reference without re-imposing the same.

2. **Release; Termination.** Effective as of the Effective Date, the Restrictions affecting the Property are hereby released in their entirety and the Agreement is hereby terminated and is of no further force or effect. This release and termination shall run with the land and be for the benefit of the current owner of the Property and all successor owners of the Property. The parties and all successors of each of them shall have no further liability or obligations under the Agreement from and after the Effective Date.

3. **No Further Interest or Commitments.** The Village states that as of the Effective Date it has no further interest in the Property pursuant to the Agreement except to the extent required by federal, state or local laws and any easements, covenants, conditions, restrictions and other instruments of record in the Official Records in the County in which the Property is located. .

4. **General.** The parties hereto each represent and warrant that the person signing this Release has full power and authority to bind such party and to sign on behalf of such party. This Release shall be governed by the laws of the State of Ohio. In the event of conflict between the Restrictions contained and this Release, this Release shall control.

*[Signatures on following pages]*

SIGNATURE PAGE OF VILLAGE

**VILLAGE:**

**THE VILLAGE OF ST. BERNARD,**  
An Ohio municipal corporation

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF OHIO            )

) SS:

COUNTY OF HAMILTON    )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, as \_\_\_\_\_ of **THE VILLAGE OF ST. BERNARD**, an Ohio municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

Commission Expires: \_\_\_\_\_



