

**CLEVELAND PUBLIC LIBRARY**

**Finance Committee**

September 14, 2021

**RESOLUTION AUTHORIZING AMENDMENT TO DEVELOPMENT AGREEMENT  
AND AUTHORIZING RECIPROCAL EASEMENT AND USE AGREEMENT FOR NEW  
MARTIN LUTHER KING, JR. BRANCH**

WHEREAS, On August 29, 2016, this Board authorized the Library to enter into a development agreement (“Development Agreement”) with a developer, UC City Center LLC (“UC3”), for the development and relocation of a new Martin Luther King, Jr. (“MLK”) branch in exchange for the Library’s existing MLK branch. The Library and UC3 entered into the Development Agreement as of August 31, 2016; and

WHEREAS, The plans for the new library development have evolved significantly over the past five years since the Library and UC3 entered into the Development Agreement, including the addition of a multi-story apartment building to be constructed in the airspace above the new library, and as such, the Library and UC3 agree that the Development Agreement must be amended to reflect the current state of the planned development; and

WHEREAS, The Cleveland Public Library and the developer, which now includes in addition to UC3 a related entity, Library Lofts, LLC (collectively, the “Developer”), have negotiated an Amendment to and Restatement of Certain Provisions of Development Agreement (the “Amendment”), which is on file with the Secretary of this Board; and

WHEREAS, The Amendment contains the following pertinent terms:

- 1) The Library will transfer ownership of the parking lot behind the current MLK branch on February 1, 2022 if, among other things, the Developer has completed construction of temporary parking for the Library; met all critical project milestones; is not otherwise in material breach of the Development Agreement; and has granted the Library a first priority mortgage on the land on which the new MLK branch will be built; and
- 2) The Library’s obligation to commence construction of the new MLK branch will be conditioned upon the Developer’s completion of agreed-upon critical milestones and other requirements; and
- 3) The Developer and the Library have agreed to a division of work and cost allocation matrix for construction of shared building components,

including the substructure and superstructure, with a process for allocating shared costs for work prior to the start of construction of the substructure and superstructure so that such costs will be shared to the extent each party is benefitted by the work; and

- 4) In lieu of providing a letter of credit, the Developer will deposit with the Library cash in the amount of Five Million Two Hundred Thousand Dollars (\$5,200,000) as payment for the existing MLK branch and air rights over the new MLK branch, which amount will be adjusted according to the cost allocation, for the construction work to be performed by each party on behalf of the other; and
- 5) The Library and Developer will compensate one another in the event that one party makes a material design change that causes the other party to incur more than \$5,000 after construction of the substructure or superstructure begins; and
- 6) As security to the Library for the completion of the substructure and superstructure by the Developer, in addition to the mortgage on the new library land, the Developer will cause 540 Investment Company Limited Partnership to issue a completion guaranty for the substructure and superstructure, and the Developer will deposit the funds required to pay for the substructure and superstructure in an account that can only be drawn upon to pay for the substructure and superstructure; and
- 7) The Developer will construct a temporary parking lot for use by the Library directly across Stokes Boulevard from the current MLK branch, which will include a lighted, striped crosswalk to and from the temporary parking and the current MLK branch; and
- 8) The Developer and Library agree that the design and use of the Fenway parking lot as an outdoor plaza for use by CPL and its patrons is subject to the mutual agreement of the parties, and at the Library's request, the Developer will enter into a joint planning process with the Library with respect to the design, development, and use of the space, which will include the negotiation of a price to be paid to the Developer for the cost of constructing the garage parking spaces needed for the Developer to exercise its option to purchase the Fenway parking lot; and
- 9) The Library and the Developer will execute a Reciprocal Easement and Use Agreement in the form on file with the Secretary of the Board, which among other things, will govern the operation and maintenance of the shared spaces between the new MLK branch and the apartment tower as well as the rights and obligations of their respective owners; now therefore be it

## **EXHIBIT 12**

RESOLVED, The Board of Trustees hereby approves the Amendment to and Restatement of Certain Provisions of Development Agreement, and authorizes the Executive Director, CEO or his designee to execute the same in substantially the same form as is on file with the Secretary of the Board with UC City Center LLC and Library Lofts, LLC for the construction of a new MLK branch, all as set forth in the Amendment and described in this Resolution, and to enter into and execute and deliver such other documents, agreements, deeds, and instruments as may be necessary or appropriate in order to effectuate the purposes of this Resolution and the requirements of the Amendment, including the Reciprocal Easement and Use Agreement, subject to the approval of the Director of Legal Affairs.