

## LETTER OF INTENT

**THIS LETTER OF INTENT** is made and entered into as of Sept. 15, 2022 by and between **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, a Kentucky consolidated local government, acting by and through DEPARTMENT OF PUBLIC HEALTH AND WELLNESS, with an office located at 444 S. Fifth St., Suite 600, Louisville, Kentucky 40202 ("Metro") and **THE LOUISVILLE ASSOCIATION FOR COMMUNITY ECONOMICS, INC.**, ("LACE"), a Kentucky non-profit corporation, with its principal office at P.O. Box 1501, Louisville, KY 40201 and **LOUISVILLE COMMUNITY GROCERY, L.C.A.** ("LCG"), a Kentucky Limited Cooperative Association, with its principal office at P.O. Box 1501, Louisville, KY 40201 (LACE and LCG, collectively, are the "Developers").

### WITNESSETH:

**WHEREAS**, Metro seeks to support efforts to create a vibrant, local food system which meets the needs of all community members; and,

**WHEREAS**, Louisville/Jefferson County Metro Council ("Metro Council") approved a bond in the amount of **THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000.00)** to support the development and operation of a grocery in an area underserved by existing operations, to promote job creation and community health, with the final plan for use of the appropriation to be presented to Metro Council for review and approval; and,

**WHEREAS**, Metro opened a Request for Proposal ("RFP") on March 10, 2022, soliciting proposals for a Community Grocery Capital Project (the "Project"); and,

**WHEREAS**, Developers submitted a response to the RFP, which proposed to create the Louisville Community Grocery ("LCG"); and,

**WHEREAS**, Developers have been recommended by an evaluation committee to negotiate terms and conditions of the Project in conformance with the terms of the RFP and the RFP Response setting forth the specific rights and obligations of the parties relating to the development of the Project; and,

**WHEREAS**, this Letter of Intent ("LOI") confirms the parties' agreement in principle to the proposed project approach, the budget outline, location, and their commitment to negotiate a Development Agreement, serves as each party's good faith effort to proceed with the project, and will be presented to Louisville Metro Council for review and approval prior to the commencement of negotiations for a Development Agreement;

**NOW, THEREFORE**, the parties mutually agree as follows:

**1. Project Subject to Metro Council Approval.** The disbursement of the Metro funds for the Project (herein "Metro Funds") is subject to approval by the Louisville/Jefferson County Metro Council ("Metro Council") of the plans for use of Metro funds. If approved, a specific and detailed Development Agreement shall be executed within three (3) months of the date of approval. Metro anticipates that the first reading of the proposal before Metro Council will take place on September 22, 2022.

2. **Site Identification.** Developers have identified the site as being located on the eastern half of the property commonly known as the 400 block of Finzer Street, Louisville, Kentucky, 40203 (“Site”), and more particularly described in the Quitclaim Deed to LACE, as Grantee, dated May 31, 2022, and recorded in Deed Book 12371, Page 86, in the Office of the Clerk of Jefferson County, Kentucky (“Site Deed”).

3. **Land Grant Agreement with the Community Foundation of Louisville.** A copy of the Site Deed is attached hereto as Exhibit A and includes a Land Grant Agreement between the Community Foundation of Louisville (the “Foundation”) and LACE setting forth the conditions for the transfer for the property. Among the conditions is a requirement that LACE break ground on the commercial development within 24 months of the execution of the Land Grant Agreement (April 5, 2024) unless an extension is granted by the Foundation.

4. **Environmental Testing and Remediation.** Metro reserves the right to perform any environmental testing, at Developer’s expense, to determine whether hazardous materials are present in, on or under the Site, and, also at Developer’s expense, to conduct any remedial measures or management of the hazardous material disclosed by the environmental testing as may be required by the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet or other, local, state or federal agency. Notwithstanding the foregoing, any and all testing, remedial measures and management shall be conducted in accordance with the Property Management Plan dated July 20, 2022 and the Notice of Concurrence dated August 3, 2022 from the Kentucky Energy and Environment Cabinet, Department of Environmental Protection.

5. **Key Deadlines.** Developers understand that time is of the essence with regard to the deadlines set forth below. Unless otherwise mutually agreed in writing, the following key deadlines must be met, subject to force majeure, including supply chain delays that Developer, after exercising due diligence, cannot resolve through alternative sources, and other delays outside the control of Developers, but not including any other COVID-19-related delays:

- a. **Three months after Metro Council Approval of LOI:** Metro, LACE and LCG execute a Development Agreement.
- b. **May 31, 2023:**
  - i) Complete site layout/design and construction bid for Metro approval.
  - ii) Identify, make application for, or receive preliminary commitments for non-Metro funding and submit report for Metro approval.
- c. **December 31, 2023:**
  - i) Release RFP for design services, evaluate bids and secure architect.
  - ii) Secure construction bids and permits.
  - iii) Submit proof of financing, including amount and source of funds in updated proforma for Metro approval.
- d. **April 5, 2024:** Break ground on site.
- e. **October 5, 2024:** Grand Opening.

6. **Metro's Security Interest and Subordination Agreement.** Upon execution of the Development Agreement, Developers will execute a mortgage in favor of Metro in an amount \$3,500,000.00, to secure complete construction and will be released upon Grand Opening. Prior to execution of Metro's mortgage, Developers will execute and record a Subordination Agreement from the Foundation, subordinating its interest under the Land Grant Agreement to Metro's Security Interest, and otherwise in form and substance reasonably acceptable to the Foundation.

7. **Use of Metro Bond Funds.** Metro Bond Funds can be used only for: construction (hard costs, site work and soft costs (including but not limited to architectural, design, legal, and other consultation fees, designs, drawings, plans and permits related to construction), fixtures, and equipment. Pre-construction items that are necessary toward the completion of the construction/build-out may also be considered appropriate up to a maximum amount of Ten Percent (10%) of the total Metro Bond Funds. IRS requirements for use of tax-exempt bond requires a) a useful life that matches the issuance; and b) a public purpose.

8. **Disbursement of Metro Bond Funds.** Metro Bond Funds shall be disbursed as follows: Developers shall submit a draw request to Metro, signed by Developers' general contractor and approved by Developers, and accompanied by such supporting documentation as may be required by Metro. Metro shall have thirty (30) days after the receipt of each draw request to pay the amount requested.

9. **Community Input.** Developers shall include input from persons in the community and social service development organizations which serve the community where the grocery is to be located in their plans for the Project.

10. **Reporting.** Developers agree to provide Metro regular reports, no less than every other month, detailing its activities with respect to the Project and its progress towards meeting the Key Deadlines. Reporting requirements will include, but not be limited to, financial reporting, demonstration of community engagement, construction plans and progress, vendor selections and compliance with community requirements.

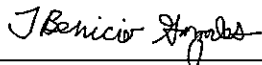
11. **Statement of Intent.** The parties acknowledge and agree that this LOI is a statement of the parties' mutual intent to work diligently to prepare a Development Agreement in conformity to this LOI. This document, in and of itself, does not represent an enforceable legal contract, and notwithstanding any provision to the contrary contained in this letter of intent, does not constitute a complete statement of either party as to the transaction contemplated herein, and does not impose on either party an enforceable duty or obligation to negotiate towards or conclude any such agreement or commitment.

12. **Termination.** Either party may terminate this LOI by giving the other party written notice of its termination, indicating the party's intent to cease negotiations towards a Development Agreement. This LOI will automatically terminate without notice to either party if a Development Agreement is not signed within three (3) months of the date of Metro Council approval as set forth in Paragraph 1, above, unless otherwise agreed by the parties in writing.

**13. Binding Obligation.** THIS LETTER OF INTENT DOES NOT CONSTITUTE OR CREATE, AND SHALL NOT BE DEEMED TO CONSTITUTE OR CREATE, ANY LEGALLY BINDING OR ENFORCEABLE OBLIGATION ON THE PART OF EITHER PARTY TO THIS LETTER OF INTENT. NO SUCH OBLIGATION SHALL BE CREATED, EXCEPT BY THE EXECUTION AND DELIVERY OF THE DEVELOPMENT AGREEMENT CONTAINING SUCH TERMS AND CONDITIONS OF THE PROPOSED TRANSACTION AS SHALL BE AGREED UPON BY THE PARTIES, AND THEN ONLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH AGREEMENT.

**IN TESTIMONY WHEREOF**, witness the signatures of the authorized representatives of the parties hereto as of the day and year first written above.

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT,**  
by and through DEPARTMENT OF PUBLIC HEALTH AND WELLNESS

By:   
T. Benecio Gonzales, Director  
Center for Health Equity

Dated: September 15, 2022

**THE LOUISVILLE ASSOCIATION FOR COMMUNITY ECONOMICS, INC.**

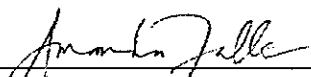
By:   
Tiffany Michelle Brown  
Co-Executive Director

Dated: Sep 15, 2022

By:   
Joseph O. A. Bowens  
Co-Executive Director

Dated: 09/15/2022

**LOUISVILLE COMMUNITY GROCERY, L.C.A.**

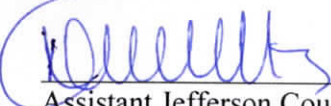
By:   
Amanda Fuller  
President

Dated: Sep 15, 2022

**Approved as to form:**

Michael J. O'Connell  
Jefferson County Attorney

By:



Assistant Jefferson County Attorney  
First Trust Centre  
200 S. Fifth Street, Suite 300N  
Louisville, KY 40202  
(502) 574-6333