

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between _____ whose mailing address is _____ (hereinafter “Owner”); and the City of Cincinnati, a municipal corporation, whose address is 801 Plum Street, Room 214, Cincinnati, Ohio 45202 (hereinafter the “City”). Owner and the City are referred to collectively herein as the “Parties.”

WHEREAS, the City has asserted various claims against the former owner of the real properties commonly known as 1210-1218 Rutledge Avenue, Cincinnati, Ohio 45205 Parcel ID: 179-0077-0084-00 (hereinafter the “Property”), which were filed before the Court of Common Pleas for Hamilton County, Ohio, *City of Cincinnati v. X-Large Investments, LLC*, Case Number A1904930 (hereinafter the “Nuisance Case”);

WHEREAS, through litigation in the Nuisance Case, the Property was declared a public nuisance pursuant to R.C. 3767.41 and Prodigy Properties, LLC was appointed as receiver to abate the nuisance at the Property.

WHEREAS, the Owner plans to purchase the Property via a receiver’s sale from Prodigy Properties, LLC in approximately March 2021;

WHEREAS, the City needs to ensure that the new owner of the Property will complete the rehabilitation work at the Property and return it to a habitable state;

WHEREAS, the Parties wish to resolve all potential claims that might have been asserted against each other arising from the transactions or occurrences that are the subject matter of the Nuisance Case; and,

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Owner shall rehabilitate the Property and restore it to complete compliance with the requirements of Cincinnati Municipal Code Title XI, the Cincinnati Building Code, by December 31, 2021, or another date agreed to in writing by the Parties. To demonstrate such compliance, the Owner shall obtain a Certificate of Occupancy pursuant to CMC 1101-37 from the Department of Buildings and Inspections (the “Building Department”) for the entire Property.
2. The Owner understands and agrees that the Owner will have to obtain permits from the City for repairs at the Property as required by Cincinnati Municipal Code Section 1101-17.
3. The Owner understands that the Property is currently ordered vacant, and a Vacated Building Maintenance License or Vacated Building Maintenance License waiver is currently required for the property. The Owner agrees to obtain either a Vacated Building

Maintenance License or Vacated Building Maintenance License waiver from the Building Department within thirty (30) days after purchasing the Property.

4. The Owner agrees that it shall begin rehabilitation work on the Property within thirty (30) days of purchasing the Property. Owner agrees that it shall remain *reasonably diligent* in rehabilitating the Property. “Reasonably diligent” shall mean that the Owner, or the Owner’s agents, are actively working on the Property during a majority of ordinary business hours until the Property is in compliance with the requirements of Paragraph 1 of this Agreement. Unless another date is agreed to by the parties, the Property should be habitable under the Cincinnati Building Code on or before January 2022.
5. The Owner shall permit the City to conduct follow-up inspections of the Property to confirm that the Owner is rehabilitating the Property in a reasonably diligent manner to comply with this Agreement and to ultimately confirm compliance this Agreement. The City shall provide reasonable advanced notice, which in any event shall not be less than seven (7) days, to the Owner in advance of an inspection to determine compliance with this Agreement.
6. If the City determines that the Owner has not been reasonably diligent in rehabilitating the Property to bring it into compliance with Paragraph 1 of this Agreement, the City shall provide written notice to the Owner of this determination. The Owner shall have ten (10) days to cure this default by either resuming rehabilitation of the Property or showing that it has been reasonably diligent in working towards compliance with this Agreement.
7. Owner agrees not to sell or transfer the Property until Owner complies with the requirements of Paragraph 1 of this Agreement. If Owner wishes to sell or transfer the Property before complying with Paragraph 1 of this Agreement, Owner must obtain written approval from the City. The City will not approve of a sale to a buyer with a history of property maintenance code enforcement noncompliance. The City will not unreasonably withhold approval of a prospective buyer. If Owner violates the terms of this Paragraph, Owner agrees to pay the City a \$25,000.00 fine.
8. If Owner complies with the requirements of Paragraphs 1-7 of the Agreement, the City agrees not to name the Owner in the Nuisance Case and not to institute other litigation against the Owner concerning the current building code violations at the Property
9. If Owner fails to comply with any of the requirements of Paragraphs 1-7, the Owner shall agree to the appointment of a receiver as provided in Ohio Revised Code Section 3767.41. The Owner shall pay the court costs for any civil action necessary to begin or enforce the receivership. The City shall be entitled to pursue the appointment of a Receiver upon default by Owner. The City shall notify Owner if it intends to pursue the appointment of a Receiver under this Paragraph because of Owner’s default, and Owner shall have ten (10) days to cure its default under this Agreement.
10. The appointed receiver shall have all of the duties and rights specified under Ohio Revised Code Section 3767.41 and Ohio Revised Code Chapter 2705.

11. Any written notice to the City required under this Agreement shall be delivered by Certified U.S. mail to the City at:

City Solicitor's Office
Quality of Life
801 Plum Street, Room 214
Cincinnati, OH 45202.

Any written notice to Owner required under this Agreement shall be delivered by Certified U.S. mail to Owner at:

12. **Non-Admission.** This Agreement is entered into mutually in order to avoid the costs, uncertainty, and vexation of any disputes or litigation so that none of the Parties admit any liability to the other Parties and liability is hereby expressly denied by the Parties. The terms set out in this Agreement are a compromise of disputed claims of which the validity, existence and occurrence is expressly denied by the Parties. Unless otherwise agreed to herein, nothing contained in this Agreement shall constitute any admission of liability with respect to any claimed condition existing at any of the subject properties, the need or requirement to remedy or repair any such condition, or the validity of any claim or notice of violation of the Cincinnati Municipal Code or the Ohio Revised Code. Unless otherwise agreed to herein, nothing contained in this Agreement shall constitute an admission, stipulation or concession by the City as to the legal responsibilities of any titled owner of a property for maintenance and compliance with the Cincinnati Municipal Code, state, or federal law. This Agreement does not absolve Owner from property maintenance or other costs that may accrue at its properties following the date of this Agreement or as agreed to herein.

13. **All Parties Have Reviewed This Agreement.** All Parties will be deemed to have read the Agreement and to have received legal counsel regarding its terms.

14. **Interpretation.** The Agreement will be deemed drafted by all Parties and will not be interpreted in favor of any Party.

15. **Severance.** Should any provision of the Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and the illegal or invalid part, term or provision shall be deemed not to be a part of the Agreement.

16. **Survival.** This Agreement shall survive the cessation or termination of any arrangements contained herein.

- 17. **Governing Law and Interpretation.** This Agreement will be governed by, and will be construed in accordance with, the laws of the State of Ohio, notwithstanding any conflict of law provision to the contrary.
- 18. **Forum to Enforce.** The Parties agree that the sole proper and appropriate forum for jurisdiction of any action, suit, or proceeding based on or arising out of this Agreement is the Hamilton County, Ohio, Court of Common Pleas.
- 19. **Headings.** The Section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
- 20. **Counterparts, Copies and Facsimile.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. Moreover, copies, including those transmitted via facsimile, shall constitute and be deemed an original.
- 21. **Entire Agreement.** This Agreement not only sets forth the entire agreement and settlement of the disputes between the Parties hereto, but fully supersedes any and all prior discussions, agreements or understandings between or among the Parties.

IN WITNESS HEREOF, the Parties have caused their duly authorized representatives to execute this Agreement to be effective immediately.

EACH PARTY HAS CAREFULLY READ THIS AGREEMENT, FULLY UNDERSTANDS THIS AGREEMENT, AND SIGNS IT AS HIS OR ITS OWN FREE ACT.

	City of Cincinnati
By: _____	By: _____
Name: _____	Name: <u>Jonathan Roach</u>

And

By: _____	Its: <u>Assistant City Solicitor</u>
Name: _____	

Date	Date
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Approved as to form: _____
Jonathan Roach
Asst. City Solicitor