

ORDINANCE NO. 180-2022

**TITLE: ENTER INTO AGREEMENT
MAGIC MARKETPLACE LLC**

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION
OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND
D.R. MAGIC MARKETPLACE, LLC CONCERNING THE REDEVELOPMENT
OF CERTAIN REAL PROPERTY LOCATED IN THE CITY, AND DECLARING
AN EMERGENCY.**

WHEREAS, D.R. Magic Marketplace, LLC, an Ohio limited liability company (the “Developer”), desires to redevelop certain real property located in the City and currently owned by the City, and identified as Parcel Nos. 0107874, 0107817, and 0107873 in the Summit County Records, and more commonly known as 459 W. Tuscarawas Avenue, 467 W. Tuscarawas Avenue, and 94 Wooster Road N, Barberton, Ohio 44203 (the “Project Site”); and

WHEREAS, the Developer intends to develop the Project Site into a mixed-use development consisting of eight (8) one-bedroom apartments and one (1) two-bedroom apartment on the second floor and four (4) one-bedroom apartments on the first floor of the buildings located at the Project Site, and will further construct at least 6,148 square feet of office and retail space throughout the balance of the Project Site (the “Project”); and

WHEREAS, the Developer has requested that the City provide the Developer certain assistance to encourage the redevelopment of the Project Site and the creation of housing and employment opportunities within the City; and

WHEREAS, the City and the Developer desire to enter into a Development Agreement to provide for (i) the sale of the Project Site from the City to the Developer, (ii) the redevelopment of the Project Site and the undertaking of the Project by the Developer, (iii) the grant of certain funds from the City towards the Project, (iv) the grant by the City of a tax increment financing exemption pursuant to Section 5709.41 of the Ohio Revised Code, and the use of service payments pursuant to Section 5709.42 and 5709.43 of the Ohio Revised Code to fund portions of the Project, and (v) certain other obligations of the Developer and the City in furtherance of the Project; and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of this Council to authorize the Mayor to execute a Development Agreement with the Developer pursuant to the terms set forth in the Development Agreement attached hereto as Exhibit A and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED by City Council for the City of Barberton, Summit County, Ohio, that:

SECTION 1. The Development Agreement by and between the City and the Developer, pursuant to and consistent with the terms set forth in Exhibit A, attached hereto and incorporated herein, is hereby approved and the Mayor is hereby authorized to execute the same. Such approval and authorization shall include all agreements and other documents attached to, incorporated into, set forth in and contemplated by the Development Agreement (“Ancillary Agreements”). The Mayor is further authorized to execute the Development Agreement and the Ancillary Agreements with any changes therein and amendments thereto not inconsistent with this Resolution and materially adverse to the City and which shall be approved by the Mayor, as evidenced conclusively by his execution of that Development Agreement.

SECTION 2. This Council further hereby authorizes and directs the Mayor, the

Law Director and the Finance Director, or other appropriate officials of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Resolution and the transactions referenced or contemplated in this Resolution.

SECTION 3. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Resolution were taken, and that all deliberations of this Council and of any committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

SECTION 4. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Resolution provides for the immediate and orderly redevelopment of the Project Site through the undertaking of the Project by the Developer without any undue delay; and provided it receives the approval of two-thirds of the members of Council, shall be in full force and effect from and after its passage and approval by the Mayor, or otherwise take effect and be in full force from and after the earliest period allowed by law.

Passed December 19, 2022

Clerk of Council

President of Council

Approved _____ 2022

Mayor