

City of Cincinnati

CHM

EESW

An Ordinance No. 373

- 2023

AUTHORIZING the City Manager to execute a Lease Agreement with Broadway Square II, LLC pursuant to which the City will lease for a term of up to five years a portion of City-owned property located at 1205-1209 Broadway in Over-the-Rhine.

WHEREAS, the City of Cincinnati owns certain real property located at 1205-1209 Broadway in Over-the-Rhine ("Property"), which Property is under the management of the Cincinnati Recreation Commission ("CRC"); and

WHEREAS, Broadway Square II, LLC, an Ohio limited liability company, an affiliate or subsidiary of the Model Group ("Lessee"), owns or otherwise controls certain real property abutting the Property located at 1201-1203 Broadway, and the City currently leases a portion of the Property to Lessee for use as an outdoor restaurant patio pursuant to a lease that expired on November 29, 2022, which lease has continued on a month-to-month basis since that time, as more particularly described and depicted in the Lease Agreement attached to this ordinance as Attachment A and incorporated herein by reference ("Leased Premises"); and

WHEREAS, the City Manager, in consultation with CRC, has determined that (i) the Leased Premises is not needed for recreation or any other municipal purpose for the duration of the lease, and (ii) leasing the Leased Premises to Lessee is not adverse to the City's retained interest in the Leased Premises or the Property; and

WHEREAS, the City's Real Estate Services Division has determined by a professional appraisal that the fair market rental value of the Leased Premises is approximately \$1,175 per year, which Lessee has agreed to pay; and

WHEREAS, pursuant to Section 331-5, Cincinnati Municipal Code, Council may authorize the lease of City-owned property without competitive bidding in those cases in which it determines that it is in the best interest of the City and leasing the Leased Premises to Lessee is in the best interest of the City because (i) the City desires to lease the Leased Premises to Lessee to because the City desires to lease the Leased Premises to Lessee to enhance Lessee's Broadway Square development project, for the benefit of the City and its residents, and (ii) as a practical matter, no one other than an adjoining property owner would have any interest in leasing the Leased Premises for use as an outdoor restaurant patio and assuming responsibility for the maintenance and repair thereof; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the lease of the Leased Premises at its meeting on November 17, 2017, and Lessee has been in continuous possession of the Leased Premises pursuant to the terms of the prior lease since that time, therefore, the new lease does not constitute a change in use of City property; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a Lease Agreement with Broadway Square II, LLC, an Ohio limited liability company (“Lessee”), in substantially the form attached as Attachment A to this ordinance and incorporated herein by reference, pursuant to which the City of Cincinnati will lease for a term of up to five years a portion of real property located at 1205-1209 Broadway in Over-the-Rhine, as more particularly described and depicted in the Lease Agreement (“Leased Premises”).

Section 2. That the Leased Premises is not needed for recreation or any other municipal purpose for the duration of the lease.

Section 3. That leasing the Leased Premises to Lessee is not adverse to the City’s retained interest in the Leased Premises.

Section 4. That eliminating competitive bidding in connection with the City’s lease of the Leased Premises is in the best interest of the City because (i) the City desires to lease the Leased Premises to Lessee to enhance Lessee’s Broadway Square development project, for the benefit of the City and its residents, and (ii) as a practical matter, no one other than an adjoining property owner would have any interest in leasing the Leased Premises for use as an outdoor restaurant patio and assuming responsibility for the maintenance and repair thereof.

Section 5. That the fair market value of the lease, as determined by a professional appraisal by the City’s Real Estate Services Division, is approximately \$1,175 per year, which Lessee has agreed to pay.

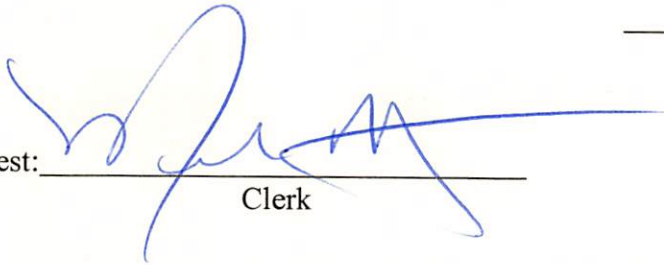
Section 6. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions and intent of this ordinance and the Lease Agreement, including executing any and all ancillary documents associated with the Lease Agreement, such

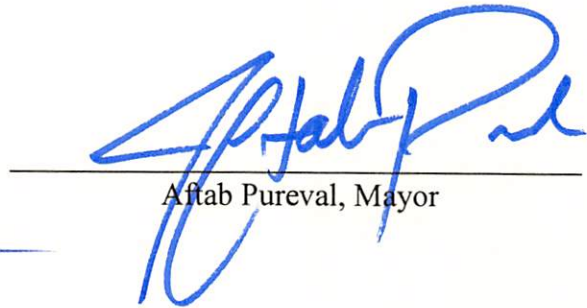
as amendments or supplements to the Lease Agreement deemed by the City Manager to be in the vital and best interests of the City.

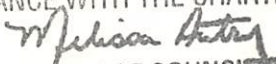
Section 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: November 9, 2023

Attest:


Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 373-2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 11/21/2023

CLERK OF COUNCIL