

EMERGENCY

City of Cincinnati

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An Ordinance No. 411

- 2024

AUTHORIZING the City Manager to execute a Property Sale, Funding, and Development Agreement with Pleasant Ridge Development Corporation and 6100 Montgomery, LLC, pursuant to which the City will vacate and sell an approximately 0.0118-acre tract of real property designated as public right-of-way, being a portion of Ridge Avenue generally located at the southeast corner of Montgomery Road and Ridge Avenue in the Pleasant Ridge neighborhood of Cincinnati.

WHEREAS, the City owns certain real property designated as public right-of-way, namely, an approximately 0.0118-acre tract of Ridge Avenue in the Pleasant Ridge neighborhood, which property is more particularly depicted and described in the draft Property Sale, Funding, and Development Agreement attached to this ordinance as Attachment A (the "Development Agreement"), which is incorporated herein by reference (the "ROW Property"), and which ROW Property is under the management of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, Pleasant Ridge Development Corporation, an Ohio nonprofit corporation ("PRDC"), is under contract to purchase and acquire title to certain real property located at 6100 Montgomery Avenue, which abuts the ROW Property (the "Abutting Property"), as well as other real property located at 6104 Montgomery Road ("6104 Montgomery") and 3218 Orion Avenue ("3218 Orion"; and together with the Abutting Property and 6104 Montgomery, "Seller's Property"); and

WHEREAS, following the acquisition of Seller's Property by PRDC or its affiliate 6100 Montgomery, LLC (together with PRDC, "Petitioner"), Petitioner will (i) cause the current lessee of 6104 Montgomery, or an affiliate thereof, to take fee title to 6104 Montgomery, (ii) cause the consolidation of the Abutting Property with the ROW Property, and (iii) cause the redevelopment of such consolidated property, and 3218 Orion Ave, all as further detailed in the Development Agreement (collectively, the "Project"); and

WHEREAS, Petitioner has petitioned the City to vacate and sell the ROW Property to Petitioner to facilitate the Project; and

WHEREAS, Geoffrey G. Leder, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that (i) Seller is the owner of all real property abutting the ROW Property, and (ii) that, following the sale and conveyance of the Seller's Property to Petitioner, Petitioner will be the owner of all land abutting the ROW Property; and

WHEREAS, pursuant to Ohio Revised Code Section 723.04, the City may, upon petition, vacate a street or alley if it has determined that there is good cause for the vacation and that the vacation will not be detrimental to the general interest; and

WHEREAS, pursuant to Cincinnati Municipal Code (“CMC”) Section 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City Manager, in consultation with DOTE, has determined that (i) the ROW Property is not needed for transportation purposes or any other municipal purpose, (ii) there is good cause to vacate the ROW Property, and (iii) the vacation of the ROW Property will not be detrimental to the public interest; and

WHEREAS, the City’s Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the ROW Property is \$3,900; however, the City is agreeable to conveying the ROW Property to Petitioner for less than fair market value, namely, for \$1, because the City will receive economic and noneconomic benefits from the Project that equal or exceed the fair market value of the ROW Property because it is anticipated that it will assist Petitioner in facilitating the redevelopment of the assembled property into a productive use and stimulate economic growth in the Pleasant Ridge neighborhood; and

WHEREAS, pursuant to CMC Section 331-5, Council may authorize the sale of City-owned real property without competitive bidding in those cases in which it determines that it is in the best interest of the City, and the City has determined that eliminating competitive bidding in connection with the City’s sale of the ROW Property is appropriate because Petitioner will own all real property abutting the ROW Property at the time the City sells the ROW Property to Petitioner, and, as a practical matter, no one other than an abutting property owner would have any use for it; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; and

WHEREAS, in furtherance of the foregoing public purposes, the City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City’s vacation and sale of the ROW Property at its regularly scheduled meeting on August 18, 2023; 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 do all things necessary to vacate as public right-of-way an approximately 0.018-acre tract of real property designated as a portion of Ridge Avenue. The portion of Ridge Avenue to be vacated as public right-of-way is more particularly described as follows (the “ROW Property”):

Situated in Section 30, Town 4, Fractional Range 2, between the Miamis, Columbia Township, The City of Cincinnati, Hamilton County, Ohio, and part of Ridge Avenue of the Hamilton County Recorder's Office containing 0.0118 acres and being further described as follows:

Beginning at a set cross notch at the southeast intersection of the south right of way of Montgomery Road (70') and the east right of way of said Ridge Avenue (60'), said intersection being a northwest corner of Koesters Properties, LLC, as recorded in Official Record 10474, Page 1532, Parcel Five, said set cross notch being the True Point of Beginning;

thence, from the True Point of Beginning, departing the south right of way of said Montgomery Road and with said Koesters Properties, LLC, South 02° 44' 24" West, 88.91 feet to a set cross notch at the northwest corner of The Royal Chamber, LLC, as recorded in Official Record 10341, Page 2284;

thence, departing said The Royal Chamber, LLC, and through the lands of said Ridge Avenue the following five courses: North 85° 09' 34" West, 6.49 feet to a set cross notch;

thence, North 03° 38' 17" East, 71.09 feet to set cross notch;

thence, North 05° 11' 33 West, 6.50 feet to a set cross notch;

thence, North 08° 04' 52" East, 7.00 feet to a set cross notch;

thence, North 56° 08' 17" East, 7.00 feet to the True Point of Beginning containing 0.018 acres.

Basis of Bearings: NAD83(2011) Ohio State Plane Coordinates, South Zone (3402).

The above description was prepared from a sale plat made on February 9, 2024, under the direction of Jeffrey O. Lampert, Professional Surveyor #7568 in the State of Ohio.

Section 2. That the City Manager is hereby authorized to execute a Property Sale, Funding, and Development Agreement with Pleasant Ridge Development Corporation and 6100 Montgomery, LLC (collectively, "Petitioner"), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference (the "Development Agreement"), pursuant to which the City will sell to Petitioner the ROW Property.

Section 3. That the ROW Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and sell the ROW Property, and that such vacation and sale will not be detrimental to the general interest.

Section 4. That the fair market value of the ROW Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$3,900; however, the City is agreeable to conveying the ROW Property for less than fair market value, namely, for \$1, because the City will receive economic and noneconomic benefits from Petitioner causing the assembled property to be redeveloped into a more productive use (the "Project"), which benefits are anticipated to equal or exceed the fair market value of the ROW Property because the Project will stimulate economic development in the Pleasant Ridge neighborhood.

Section 5. That eliminating competitive bidding in connection with the City's sale of the ROW Property is in the best interest of the City because Petitioner will own the abutting property at the time of the City's vacation and sale of the ROW Property to Petitioner, and, as a practical matter, no one other than an abutting property owner would have any use for the ROW Property following the vacation thereof.

Section 6. That the proceeds from the sale of the ROW Property, if any, shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the sale, and that the City's Finance Director is hereby authorized to deposit amounts in excess amount thereof into Miscellaneous Permanent Improvement Fund 757.

Section 7. That the City's Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, "Street Improvements," in which "YY" represents the last two digits of the fiscal year in which the closing occurs and the

proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

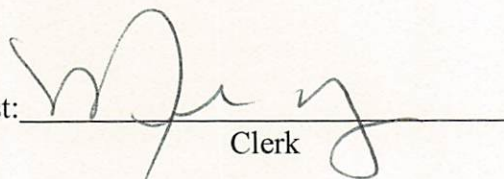
Section 8. That, pursuant to Ohio Revised Code Section 723.041, any affected public utility shall be deemed to have a permanent easement in the ROW Property for the purpose of accessing, maintaining, operating, renewing, reconstructing, and removing its utility facilities.


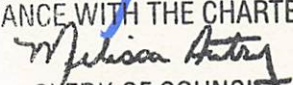
Section 9. That the City Manager and other proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, by executing the Development Agreement, any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation and sale of the ROW Property to Petitioner.

Section 10. That the City Solicitor may cause an authenticated copy of this ordinance to be duly recorded in the Hamilton County, Ohio Recorder's Office.

Section 11. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to enable the City to vacate and convey the ROW Property to Petitioner as soon as possible so that Petitioner can promptly move forward with the Project, thereby creating new jobs, stimulating economic growth in the City, and enabling the consolidated Project site to be put to productive use for the economic benefit of the City at the earliest possible time.

Passed: December 11, 2024

Attest: 
Clerk


Aftab Pureval, Mayor
I HEREBY CERTIFY THAT ORDINANCE NO 411-2024
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 12/24/2024

CLERK OF COUNCIL