

City of Cincinnati

CHM

An Ordinance No. 25

EESW
- 2023

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with BAM Realty Group, LLC, pursuant to which the City will vacate and convey a portion of the public right-of-way known as Madison Road in Oakley.

WHEREAS, the City owns the public right-of-way known as Madison Road, including an approximately 0.0635-acre portion located northeast of Brazee Street, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (such portion of public right-of-way being an undeveloped berm, referred to herein as the "Property"), which Property is under the management of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, pursuant to Ohio Revised Code Sec. 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, BAM Realty Group, LLC, an Ohio limited liability company ("Petitioner"), owns the real property adjoining the Property and has petitioned the City to vacate and sell the Property to facilitate a redevelopment project on Petitioner's property; and

WHEREAS, the City's vacation and sale of the Property was published in a local newspaper of general circulation for six consecutive weeks pursuant to Sections 723.04 and 723.07, Ohio Revised Code; and

WHEREAS, pursuant to Section 331-1, Cincinnati Municipal Code, 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 Property is not needed for transportation purposes or any other municipal purpose; (ii) there is good cause to vacate the Property; and (iii) the vacation of the Property will not be detrimental to the general interest; and

WHEREAS, the City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Property is approximately \$5,800, which Petitioner has agreed to pay; and

WHEREAS, pursuant to Cincinnati Municipal Code 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

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 acquire, construct, enlarge, improve, or equip and 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 purpose, the City believes that the redevelopment project on Petitioner's property is in the vital and best interests of the City and the health, safety, and welfare of its residents and is in accordance with applicable state and local laws; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation and sale of the Property at its regularly scheduled meeting on October 15, 2021; 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 *Property Sale Agreement* with BAM Realty Group, LLC, an Ohio limited liability company ("Petitioner"), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will vacate and convey to Petitioner an approximately 0.0635-acre portion of Madison Road in Oakley, as more particularly depicted and described in the *Property Sale Agreement* ("Property"), which Property is more particularly described as follows:

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing iron pin with cap stamped "Nordloh" in the west line of Madison Road and at the most easterly corner of a tract conveyed to BAM Realty Group, LLC in Official Record 14187, Page 1166 of the Hamilton County Recorder's Office;

Thence through the lands of the Grantor, South 37°06'41" East, 35.24 feet to a set iron pin in the proposed right of way;

Thence with the proposed right of way and through the land of the Grantor the following five (5) courses:

1. South 52°44'36" West, 5.78 feet to a set iron pin,
2. South 62°10'16" West, 16.99 feet to a set iron pin,
3. South 62°54'32" West, 41.03 feet to a set iron pin,
4. South 53°03'42" West, 33.30 feet to a set iron pin,
5. North 37°20'54" West, 24.88 feet to a set iron pin in a southeast line of aforesaid BAM Realty Group, LLC;

Thence with a southeast line of said BAM Realty Group, LLC, North 52°39'06" East, 96.36 feet to the POINT OF BEGINNING.

CONTAINING 0.0635 ACRES and being subject to all legal easements and highways of record.

The above-described tract being part of a right of way parcel conveyed to the City of Cincinnati in D.B. 3266, Page 159 of the Hamilton County Recorder's Office.

The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83) as Established by ODOT VRS GPS Observations Calibrated to City of Cincinnati Control Monuments.

Section 2. That the Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and sell the Property, and that such vacation and sale will not be detrimental to the general interest.

Section 3. That the City's Real Estate Services Division has determined, by a professional appraisal, the fair market value of the Property is approximately \$5,800, which Petitioner has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Petitioner owns the majority of the abutting property and, as a practical matter, only an abutting property owner would have any practical use for the Property.

Section 5. That the proceeds from the sale of the 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 6. That the City's Finance Director is hereby 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.

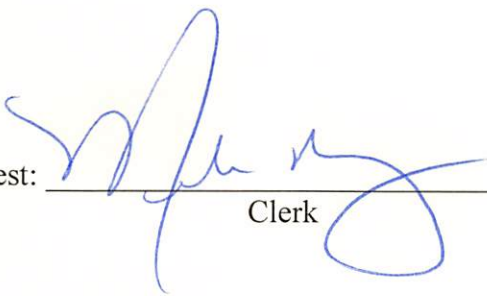
Section 7. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.


Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance; including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to vacate the Property as public right-of-way and convey the Property to Petitioner.

Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

Section 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: January 25, 2023

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 25 2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 2/7/2023
Melissa Harty
CLERK OF COUNCIL