

EMERGENCY
City of Cincinnati

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An Ordinance No. 2021

- 2021

AUTHORIZING the City Manager to execute a *Property Sale and Development Agreement* with Gest Street Distributions, LLC, an affiliate of Nehemiah Manufacturing Company LLC, pursuant to which the City will vacate and sell approximately 0.2751 acres of real property designated as public right-of-way known as Summer Street and sell approximately 1.8591 acres of unimproved real property generally located south of Gest Street and west of Berlin Street in the Lower Price Hill neighborhood.

WHEREAS, the City owns the following real property generally located south of Gest Street in the Lower Price Hill neighborhood and more particularly depicted and described in the attached *Property Sale and Development Agreement*: (i) approximately 1.8591 acres of unimproved real property generally located west of Berlin Street (the "Gest Property"), which Gest Property is under the management of the City's Department of Community and Economic Development ("DCED"); and (ii) approximately 0.2751 acres of real property designated as public right-of-way known as Summer Street (the "ROW Property," and together with the Gest Property, collectively referred to herein as the "Sale Property"), which ROW Property is under the management of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, the City issued a request for proposals to solicit offers to develop the Gest Property, and Gest Street Distributions, LLC, an Ohio limited liability company ("Developer"), submitted a response proposing to purchase the Sale Property from the City as an assemblage to construct an approximately 49,900-square foot manufacturing facility resulting in a capital investment of approximately \$3,630,000 and the creation of up to 15 new full-time jobs and 34 temporary construction jobs (the "Project"), which proposal the City determined to be most advantageous to the City; and

WHEREAS, Ann D. Jennings, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated June 9, 2021, certifying that the City and the Port of Greater Cincinnati Development Authority are the owners of all real property abutting the ROW Property; and (ii) the written consent of all necessary abutters to the City's vacation and sale of the ROW Property to Developer; and

WHEREAS, pursuant to Ohio Revised Code Sec. 723.05, the City may 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") Sec. 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, pursuant to Ohio Revised Code Chapter 723, the legislative authority of a municipal corporation may convey the fee simple estate or other interest in land used for streets and alleys if it has determined that the property is not needed for any municipal purpose; and

WHEREAS, the City Manager, in consultation with DCED and 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; (iii) the vacation of the ROW Property will not be detrimental to the public interest; and (iv) the Gest Property is not needed for any municipal purpose; 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, pursuant to CMC Sec. 331-5, the City 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, 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's Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Gest Property is \$195,500 and that the approximate fair market value of the ROW Property is \$13,500 for a combined value of the Sale Property of \$209,000; however, the City is agreeable to conveying the Sale Property for less than fair market value, namely, for \$1.00, because the City will receive economic and noneconomic benefits from the Project that equal or exceed the fair market value of the Sale Property because it is anticipated that the Project will create new jobs and stimulate economic growth in the Lower Price Hill neighborhood; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Gest Property and the City's vacation and sale of the ROW Property on December 18, 2020; 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 approximately 0.2751 acres of real property designated as a portion of the Summer Street

public right-of-way. The portion of Summer Street to be vacated is more particularly described as follows (the "ROW Property"):

Situated in Section 30, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, State of Ohio, being part of Summer Street and being more particularly described as follows: BEGINNING at the intersection of the south line of Gest Street and the east line of Summer Street; Thence along said east line of Summer Street, South 06°30'40" West, 257.91 feet to the northwest corner of a tract conveyed to RWG South Street, LLC, recorded in Official Record 12326, Page 1585 of the Hamilton County Recorder's Office; Thence through said Summer Street, along new division lines, North 84°06'22" West, 2.34 feet to a set cross notch AND along a curve deflecting to the left, having a radius of 41.00 feet, an arc length of 57.57 feet, a delta angle of 80°27'05" and being subtended by a chord bearing North 57°38'05" West, 52.96 feet to an existing iron pin and cap stamped City of Cincinnati Engineering in the west line of Summer Street; Thence along said west line of Summer Street, North 06°30'40" East, 234.39 feet to an existing MAG nail in the south line of aforesaid Gest Street; Thence along said south line of Gest Street, South 84°00'41" East, 50.00 feet to the POINT OF BEGINNING. CONTAINING 0.2751 ACRES. Together with and subject to all easements of record. Bearings are based on State Plane Coordinate System, Ohio South Zone (NAD83).

Section 2. That the City Manager is hereby authorized to execute a *Property Sale and Development Agreement* with Gest Street Distributions, LLC, an Ohio limited liability company and an affiliate of Nehemiah Manufacturing Company LLC ("Developer"), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference (the "Agreement"), pursuant to which the City will sell to Developer the ROW Property and approximately 1.8591 acres of unimproved real property generally located south of Gest Street and west of Berlin Street in the Lower Price Hill neighborhood (the "Gest Property," and together with the ROW Property, collectively referred to herein as the "Sale Property").

Section 3. That Council finds (i) there is good cause to vacate the ROW Property, that such vacation will not be detrimental to the general interest, and the ROW Property is not needed

for transportation purposes or any other municipal purpose; and (ii) that the Gest Property is not needed for any municipal purpose.

Section 4. That the fair market value of the Sale Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$195,500 for the Gest Property and approximately \$13,500 for the ROW Property for an aggregate value of \$209,000; however, the City is agreeable to convey the Sale Property for less than fair market value, namely, for \$1.00, because the City will receive equivalent economic and noneconomic benefits from Developer's proposed development project that consist of an approximately 49,900-square foot manufacturing facility resulting in a capital investment of approximately \$3,630,000 and the creation of up to 15 new full-time jobs and 34 temporary construction jobs (the "Project"), which economic and noneconomic benefits are anticipated to equal or exceed the fair market value of the Sale Property because the Project will stimulate economic development in the Lower Price Hill neighborhood.

Section 5. That eliminating competitive bidding in connection with the City's sale of the Sale Property is in the best interest of the City because the City Manager, in consultation with the Department of Community and Economic Development, has determined that the Project was the most advantageous development proposal for the City in response to a request for proposals, and further because the Developer has obtained the consent of all necessary abutters to the City's vacation and sale of the ROW Property and, as a practical matter, no one other than an abutting property owner would have any use for the ROW Property.

Section 6. That the proceeds from the sale of the Sale 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 Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the ROW Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.

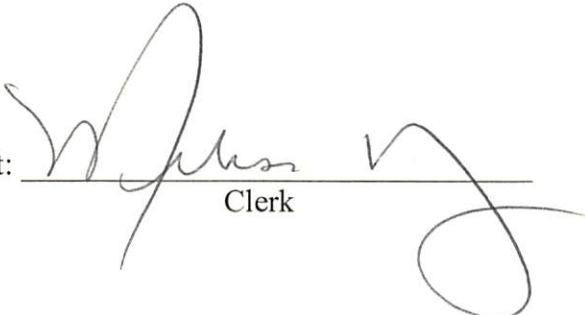
Section 9. That the City Manager and other proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, by executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation and sale of the ROW Property and the sale of the Gest Property to Developer including a *Property Sale and Development Agreement* in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference.

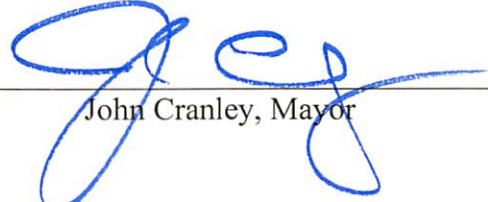
Section 10. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

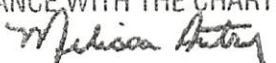
Section 11. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to enable the City to vacate the ROW Property and sell the

Sale Property as soon as possible so that Developer can promptly move forward with the Project, thereby creating new jobs, stimulating economic growth in the City, and enabling the Sale Property to be put to productive use for the economic benefit of the City at the earliest possible time.

Passed: June 23, 2021

Attest: 
Clerk


John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 288-2021
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 7-6-2021

CLERK OF COUNCIL