

EMERGENCY

City of Cincinnati

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EESW

An Ordinance No. 307

- 2022

**AUTHORIZING** the City Manager to execute a *Property Sale Agreement* with Marshall at Central, LLC, pursuant to which the City will vacate and convey certain real property designated as public right-of-way known as Hallmar Avenue in the CUF neighborhood of Cincinnati; and further **REPEALING** Ordinance No. 283-2022.

WHEREAS, the City owns certain real property designated as public right-of-way, namely, an approximately 0.387-acre tract of Hallmar Avenue in the CUF neighborhood, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (“Property”), which Property is under the management of the City’s Department of Transportation and Engineering (“DOTTE”); and

WHEREAS, Council, on September 14, 2022, approved Ordinance No. 283-2022, which authorized the City Manager to execute a *Property Sale Agreement* with Marshall at Central, LLC, an Ohio limited liability company (“Petitioner”), pursuant to which the City would vacate and sell the Property to Petitioner to facilitate the construction of a four-story multi-family structure totaling approximately 105,000 gross square feet, a private clubhouse, and a surface parking lot on Petitioner’s property (the “Project”); and

WHEREAS, Section 10 of Ordinance No. 283-2022 established that said ordinance shall be effective and be in force from and after the earliest period authorized by law; however, Council has determined that it is necessary for the preservation of the public peace, health, safety, and general welfare of the City and its residents to authorize the City Manager to allow the shovel-ready project to move forward immediately, so that the City may receive the economic and noneconomic benefits of the Project at the earliest possible time; and

WHEREAS, Richard C. Spoor, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that Petitioner owns all real property abutting the Property; 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, pursuant to Cincinnati Municipal Code Section 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City Manager, in consultation with DOTTE, 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 \$96,000, 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 eliminating competitive bidding in connection with the City's sale of the Property is appropriate because Petitioner owns all real property abutting the Property, 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 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, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City by providing or assisting in providing housing; 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 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 February 4, 2022; 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 Marshall at Central, 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 ("City") will vacate and convey to Petitioner an approximately 0.387-acre tract of Hallmar Avenue in the CUF neighborhood, as more

particularly depicted and described in the *Property Sale Agreement* (the "Property"), which Property is more particularly described as follows:

Situate in Section 20, Town 3, Fractional Range 2, City of Cincinnati, Hamilton County, Ohio, and being part of Lots 1, 2, and 3 of A.J. Riddle's Subdivision of Lot 53 as recorded in Plat book 2, Page 41, and being more fully described as follows:

Beginning at an iron pin set and being at a wall corner at the intersection of the south right-of-way line of Marshall Avenue, and the northwesterly right-of-way line of Hallmar Avenue, and being the northeast corner of Tract XIII owned by Marshall at Central, L.L.C. as described in Official Record 13324, Page 2476;

thence, South  $84^{\circ}10'50''$  East, 6.27 feet, to a cut cross set;

thence, South  $37^{\circ}38'21''$  East, 72.49 feet, to a cut cross set on the west right-of-way line of West McMicken Avenue and being the northeast corner of Tract XIII owned by Marshall at Central, L.L.C. as described in Official Record 13324, Page 2476;

thence, North  $75^{\circ}32'30''$  West, 16.64, along the north line of said Tract XII owned by Marshall at Central, L.L.C. to an iron pin set and being the northwest corner of said Tract XII;

thence, South  $37^{\circ}16'55''$  West, 127.10 feet, along the west line of said Tract XII owned by Marshall at Central, L.L.C. to an iron pin set;

thence, South  $37^{\circ}16'39''$  West, 88.23 feet, along the west line of said Tract XII owned by Marshall at Central, L.L.C. to an iron pin set;

thence, South  $34^{\circ}22'05''$  West, 56.35 feet, along the west line of said Tract XII owned by Marshall at Central, L.L.C. to an iron pin set;

thence, South  $21^{\circ}31'45''$  West, 51.37 feet, along the west line of said Tract XII owned by Marshall at Central, L.L.C. to an iron pin set;

thence, North  $09^{\circ}24'07''$  East, 52.19 feet, to a cut cross set;

thence, North  $00^{\circ}09'22''$  West, 36.87 feet, to a Mag nail set;

thence, North  $03^{\circ}43'42''$  West, 63.94 feet, to an iron pin set;

thence, North 07°45'59" West, 19.96 feet, to an iron pin found on the east right-of-way of Central Parkway and being the southwest corner of said Tract XIII owned by Marshall at Central, L.L.C. to an iron pin set;

thence, South 81°04'22" East, 29.65 feet, along the south line of said Tract XIII owned by Marshall at Central, L.L.C. to an iron pin set;

thence, North 37°16'38" East, 191.25 feet, along the east line of said Tract XIII owned by Marshall at Central, L.L.C. to an iron pin set and being the point of beginning.

Containing 0.387 acres more or less with all being subject to any legal highway and easements of record.

The bearings are based on NAD 83 CORS 2011 adjustment, Ohio South Zone, ODOT VRS CORS Network. The above description was prepared by Allen J. Bertke, Ohio Professional Surveyor Number 8629, based on a field survey performed under his direct supervision and dated November 23, 2021, all iron pins set are 5/8" x 30" rebar with caps reading "CHOICE ONE ENGR-AJB PS 8629."

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 professional appraisal, the fair market value of the Property is approximately \$96,000, 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 all real property that abuts the Property, and, as a practical matter, no one other than an abutting property owner would have any 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.

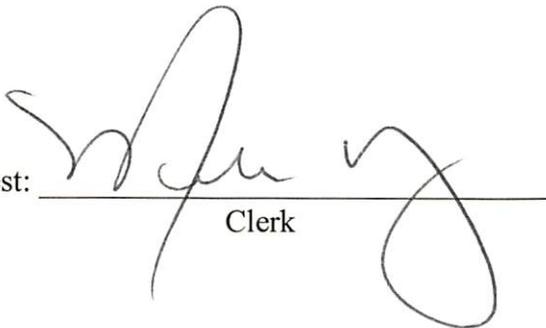
Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance and the *Property Sale Agreement*, including, without limitation, executing any and all ancillary agreements, deeds, plats, or other documents described in or contemplated by the *Property Sale Agreement* to facilitate the vacation and sale of the Property to Petitioner.

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

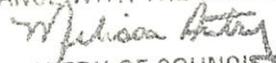
Section 10. That Ordinance No. 283-2022, passed on September 14, 2022, is hereby repealed in its entirety.

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 allow the shovel-ready project to move forward so that the City may receive the economic and noneconomic benefits from the sale and redevelopment of the Property at the earliest possible time.

Passed: September 20, 2022

Attest:   
Clerk

  
Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 307-2022  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 10-11-2022  
  
CLERK OF COUNCIL