

City of Cincinnati

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An Ordinance No. 470

- 2021

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with 7AD Properties, LTD., pursuant to which the City will vacate and convey portions of certain real property designated as public rights-of-way known as Creston, Coney, and East Epworth Avenues in Spring Grove Village.

WHEREAS, the City owns certain real property designated as public rights-of-way, namely, an approximately 0.6762-acre tract of Coney and Creston Avenues and an approximately 0.2506-acre tract of East Epworth Avenue in Spring Grove Village, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (such portions of public rights-of-way being paper streets, referred to herein as the "Property"), which Property is under the management of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, 7AD Properties, LTD., 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 (the "Project"); and

WHEREAS, Kenneth P. Kreider, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided an Attorney's Certificate of Title dated September 22, 2021, certifying that the Petitioner is the owner of 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, the City Manager, in consultation with DOT, 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 professional appraisal, that the fair market value of the Property is approximately \$5,250, however, the City is agreeable to convey the Property for \$1.00 because the City will receive economic and non-economic benefits from the Project that are anticipated to equal or exceed the fair market value of the Property, including the expansion of Petitioner's manufacturing facility and the creation and retention of jobs within the City, which will stimulate economic activity and growth in the Spring Grove Village neighborhood; 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 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 April 16, 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 7AD Properties, LTD., 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 0.6762-acre portion of Coney and Creston Avenues and an approximately 0.2506-acre portion of East Epworth Avenue in Spring Grove Village, as more particularly depicted and described in the *Property Sale Agreement* (the “Property”), which Property is more particularly described as follows:

Portions of Coney Avenue and Creston Avenue

SITUATED IN SECTION 17, TOWN 3, FRACTIONAL RANGE 2, BETWEEN THE MIAMIS, MILLCREEK TOWNSHIP, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND PART OF CONEY AVENUE AND PART OF CRESTON AVENUE OF THE HAMILTON COUNTY RECORDER’S OFFICE CONTAINING 0.6762 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT A SET 5/8” IRON PIN AT THE SOUTHEAST INTERSECTION OF THE SOUTH RIGHT OF WAY TO ZIG ZAG AVENUE (UNIMPROVED) AND THE

EAST RIGHT OF WAY OF SAID CONEY AVENUE, SAID INTERSECTION BEING A NORTHWEST CORNER OF 7AD PROPERTIES, LTD AS RECORDED IN OFFICIAL RECORD 11800, PAGE 616, SAID PIN BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING, DEPARTING THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING SEVEN COURSES: SOUTH 22° 08' 00" EAST, PASSING A FOUND 5/8" IRON PIN CAPPED "JOSEPH ALLEN CO" AT 3.00 FEET, A TOTAL DISTANCE OF 574.16 FEET TO A SET 5/8" IRON PIN;

THENCE, NORTH 67° 52' 00" EAST, 10.00 FEET TO A SET 5/8" IRON PIN;

THENCE, SOUTH 22° 21' 00" EAST, 40.00 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID CONEY AVENUE;

THENCE, WITH SAID TERMINUS, SOUTH 67° 52' 00" WEST, 50.00 FEET TO A SET 5/8" IRON PIN;

THENCE, DEPARTING SAID TERMINUS, NORTH 22° 21' 00" WEST, 40.00 FEET TO A SET 5/8" IRON PIN;

THENCE, NORTH 22° 08' 00" WEST, 370.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE SOUTH RIGHT OF WAY OF SAID CRESTON AVENUE;

THENCE, SOUTH 67° 52' 00" WEST, 120.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE NORTH LINE OF AN UNNAMED 10' ALLEY;

THENCE, DEPARTING SAID 7AD PROPERTIES, LTD, SAID UNNAMED 10' ALLEY AND THROUGH THE LANDS OF SAID CRESTON AVENUE RIGHT OF WAY, NORTH 22° 08' 00" WEST, 40.00 FEET TO A SET 5/8" IRON PIN ON A LINE OF SAID 7AD PROPERTIES, LTD, SAID PIN BEING ON THE NORTH RIGHT OF WAY OF SAID CRESTON AVENUE;

THENCE, WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING TWO COURSES: NORTH 67° 52' 00" EAST, 120.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE SOUTH RIGHT OF WAY OF SAID CONEY AVENUE;

THENCE, NORTH 22° 08' 00" WEST, 148.67 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" ON THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE;

THENCE, DEPARTING SAID 7AD PROPERTIES, LTD AND WITH THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE, NORTH 46° 42' 00" EAST, 42.89 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.6762 ACRES.

BASIS OF BEARINGS: NAD86(2011) OHIO STATE PLANE COORDINATES, SOUTH ZONE (3402).

ALL SET IRON PINS ARE 5/8" X 30" IN SIZE WITH CAP "BAYER BECKER"

THE ABOVE DESCRIPTION WAS PREPARED FROM A SALE PLAT MADE ON OCTOBER 12, 2020 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

Portion of East Epworth Avenue

SITUATED IN SECTION 17, TOWN 3, FRACTIONAL RANGE 2, BETWEEN THE MIAMIS, MILLCREEK TOWNSHIP, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND PART OF EAST EPWORTH AVENUE OF THE HAMILTON COUNTY RECORDER'S OFFICE CONTAINING 0.2506 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT A POINT FOUND BY MEASURING FROM A SET 5/8" IRON PIN AT THE SOUTHEAST INTERSECTION OF THE SOUTH RIGHT OF WAY OF ZIG ZAG AVENUE (UNIMPROVED) AND THE EAST RIGHT OF WAY OF SAID CONEY AVENUE, SAID INTERSECTION BEING A NORTHWEST CORNER OF 7AD PROPERTIES, LTD AS RECORDED IN OFFICIAL RECORD 11800, PAGE 616; THENCE, DEPARTING THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING THREE COURSES: SOUTH 22° 08' 00" EAST, PASSING A FOUND 5/8" IRON PIN CAPPED "JOSEPH ALLEN CO" AT 3.00 FEET, A TOTAL DISTANCE OF 574.16 FEET TO A SET 5/8" IRON PIN; THENCE NORTH 67° 52' 00" EAST, 10.00 FEET TO A SET 5/8" IRON PIN; THENCE SOUTH 22° 21' 00" EAST, 40.00 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID CONEY AVENUE; THENCE, THROUGH THE LANDS OF SAID 7AD PROPERTIES, LTD, NORTH 67° 52' 00" EAST, 104.82 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID EAST EPWORTH AVENUE, SAID PIN BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING, THUS FOUND AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING TWO COURSES: WITH A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 41° 10' 29", A RADIUS OF 285.00 FEET, AN ARC LENGTH OF 204.81 FEET, AND A CHORD BEARING NORTH 47° 16' 46" EAST, 200.43 FEET;

THENCE, NORTH 67° 52' 00" EAST, 63.58 FEET TO A SET 5/8" IRON PIN AT THE SOUTHWEST CORNER OF KINGS RUN REAL ESTATE, LLC (TRACT 2) AS RECORDED IN OFFICIAL RECORD 13692, PAGE 478;

THENCE, DEPARTING SAID KINGS RUN REAL ESTATE, LLC (TRACT 2) AND THROUGH THE LANDS OF SAID EAST EPWORTH AVENUE RIGHT OF WAY, SOUTH 22° 06' 15" EAST, 50.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE NORTHWEST CORNER OF KINGS RUN REAL ESTATE, LLC (TRACT 1) AS RECORDED IN OFFICIAL RECORD 13692, PAGE 478 AND A NORTHEAST CORNER OF SAID 7AD PROPERTIES, LTD;

THENCE, DEPARTING SAID KINGS RUN ESTATE, LLC (TRACT 1) AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING THREE COURSES: SOUTH 67° 52' 00" WEST, 63.55 FEET TO A SET 5/8" IRON PIN;

THENCE, WITH A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 24° 05' 48", A RADIUS OF 235.00 FEET, AN ARC LENGTH OF 98.83 FEET, AND A CHORD BEARING SOUTH 55° 49' 06" WEST, 98.11 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID EAST EPWORTH;

THENCE, WITH SAID TERMINUS SOUTH 67° 52' 00" WEST, 91.69 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.2506 ACRES.

BASIS OF BEARINGS: NAD86(2011) OHIO STATE PLANE COORDINATES, SOUTH ZONE (3402).

ALL SET IRON PINS ARE 5/8" X 30" IN SIZE WITH CAP "BAYER BECKER"

THE ABOVE DESCRIPTION WAS PREPARED FROM A SALE PLAT MADE ON OCTOBER 12, 2020 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

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 \$5,250; however, the City is agreeable to convey the Property for \$1.00 because the City will receive economic and non-economic benefits from a redevelopment project on Petitioner's property that are anticipated to equal or exceed the fair market value of the Property, including the expansion of Petitioner's manufacturing facility and the creation and retention of jobs within the City, which will stimulate economic activity and growth in the Spring Grove Village neighborhood.

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.

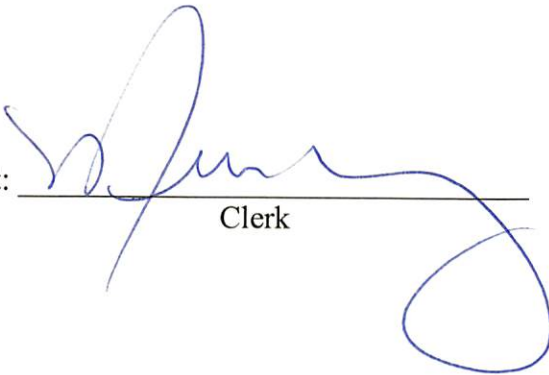
Section 7. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.

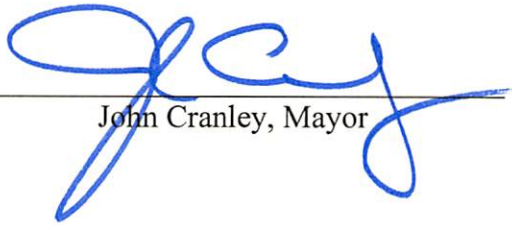
Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance; including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the sale and conveyance of the Property to Petitioner.

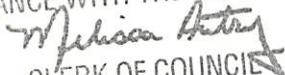
Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

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

Passed: December 8, 2021

Attest: 
Clerk


John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 70-2021
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 2-21-2021

CLERK OF COUNCIL