

EMERGENCY

City of Cincinnati

ZDS

An Ordinance No. 412

- 2023

AUTHORIZING the City Manager to execute a Property Sale and Development Agreement with West End Development, LLC, an affiliate of FC Cincinnati Holdings, LLC, pursuant to which the City will vacate and convey portions of the public rights-of-way known as Wade Street, Kuhfers Alley, Bard Alley, Central Avenue, and Bauer Avenue, all in the West End neighborhood of Cincinnati, to facilitate the company's construction of an approximately 1,272,000 square foot mixed-use development, consisting of residential, commercial, retail, and office space, at an estimated total project cost of approximately \$264,000,000.

WHEREAS, the City of Cincinnati (the "City") owns approximately 0.814 acres of real property designated as public rights-of-way consisting of portions of Wade Street, Kuhfers Alley, Bard Alley, Central Avenue, and Bauer Avenue, all as more particularly depicted and described in the Property Sale and Development Agreement attached to this ordinance as Attachment A and incorporated herein by reference (the "Property"), which Property is under the management and control of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, West End Development, LLC, an Ohio limited liability company ("Developer"), owns or controls adjoining properties and desires to purchase the Property from the City for consolidation with Developer's adjoining properties to facilitate a proposed mixed-use development project that will consist of approximately 1,272,000 square feet of residential, commercial, retail, and office space (the "Project"); and

WHEREAS, the City has determined, through an arms-length negotiation, that the purchase price of \$100,000 reflects the fair market value of the Property, which Developer has agreed to pay; and

WHEREAS, Developer has delivered to the City an Attorney's Certificate of Title certifying that the owners of all the real property abutting the Property are as follows: (i) Developer; (ii) the Port of Greater Cincinnati Development Authority, an Ohio port authority organized and established under Ohio Revised Code Chapter 4582; (iii) Bauer Ventures, LLC, an Ohio limited liability company; (iv) Bauer Ventures II, LLC, an Ohio limited liability company; (v) Bauer Ventures III, LLC, an Ohio limited liability company; and (vi) West End Holdings LLC, an Ohio limited liability company; and

WHEREAS, all necessary abutters will have consented to the City's vacation and sale of the Property to Developer by executing and delivering Quitclaim Deeds prior to the City Manager vacating and conveying the Property to Developer; 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, 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, pursuant to Chapter 723 of the Ohio Revised Code, the legislative authority of a municipal corporation may convey the fee simple estate or other interest in land used for streets if it has determined that the Property is not needed for municipal purposes and that the sale will not be detrimental to the general interest; and

WHEREAS, the City Manager, being the officer having the custody and control of the Property, and upon verification from the City's Department of Transportation and Engineering, the Metropolitan Sewer District of Greater Cincinnati ("MSD"), Greater Cincinnati Water Works ("GCWW"), and the City's Stormwater Management Utility ("SMU"), has determined that the Property is not needed for transportation or other municipal purposes, that there is good cause for vacating the Property as public rights-of-way, and that such vacation will not be detrimental to the general interest; and

WHEREAS, pursuant to Section 723.041 of the Ohio Revised Code, any affected public utility, including, without limitation, MSD, GCWW, SMU, Duke Energy, and Cincinnati Bell, shall be deemed to have permanent easements in the Property for their existing utility facilities, if any; and

WHEREAS, the City has determined that it is in the best interest of the City to eliminate competitive bidding in connection with the sale of the Property because Developer, or an affiliate thereof, owns all the real property abutting the Property, and the Property is necessary in order for Developer to undertake the Project, which the City desires to facilitate because the City anticipates that the Project will create new temporary and permanent jobs, stimulate economic growth in the West End neighborhood, and will create additional housing in Cincinnati; and

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Property at its meeting on September 15, 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 execute a Property Sale and Development Agreement, in substantially the form attached to this ordinance as Attachment A (the "Agreement"), pursuant to which the City of Cincinnati (the "City") will vacate and convey to West End Development, LLC ("Developer") portions of the public rights-of-way known as

Wade Street, Kuhfers Alley, Bard Alley, Central Avenue, and Bauer Avenue, all in the West End neighborhood of Cincinnati (the "Property"), for Developer to (a) consolidate with adjoining property Developer owns (together with the Property, the "Project Site"), and (b) construct a mixed-use development consisting of approximately 1,272,000 square feet of residential, commercial, retail, and office space at the consolidated Project Site, at an estimated total project cost of approximately \$264,000,000 (the "Project").

Section 2. That the City has determined, through an arms-length negotiation, that the purchase price of \$100,000 reflects the fair market value of the Property, which Developer has agreed to pay.

Section 3. That the Property is not needed for transportation or other municipal purposes, and that the vacation and sale of the Property (subject to the creation of utility easements for existing utilities, if any, as provided for under Section 723.041 of the Ohio Revised Code) will not be detrimental to the general interest.

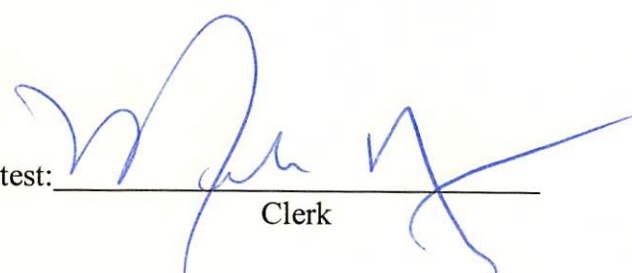
Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Developer owns and controls the adjoining property, and consolidation of the Property with the remainder of the Project Site is necessary for Developer to undertake the Project, which the City desires to facilitate because the City anticipates that the Project will create new temporary and permanent jobs, stimulate economic growth in the West End neighborhood, and will create additional housing in Cincinnati.

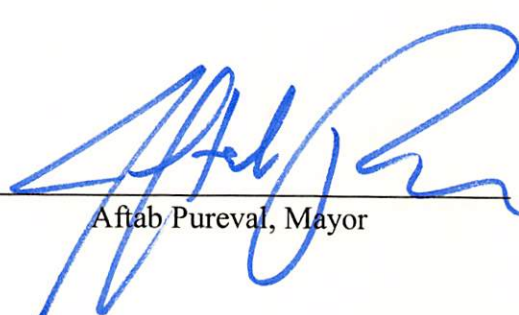
Section 5. That proceeds from the sale of the Property shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the sale, and that the City's Finance Director is hereby authorized to deposit amounts in excess thereof into Miscellaneous Permanent Improvement Fund 757.

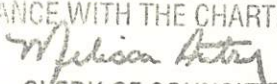
Section 6. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance and the Agreement, including, without limitation, executing any and all ancillary agreements, amendments, deeds, plats, terminations, releases, and other documents.

Section 7. 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 to expedite the parties' execution of the Agreement, so that Developer can move forward with the Project without delay, enabling the Property to be put to its highest and best use, for the economic benefit of the City, at the earliest possible time.

Passed: December 6, 2023

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 412-2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 12/19/2023

CLERK OF COUNCIL