

City of Cincinnati

CHM *EESW*

An Ordinance No. _____

- 2022

AUTHORIZING the City Manager to execute two *Contracts to Sell Real Property* with the United States of America, pursuant to which the City will sell real property commonly known as the Cincinnati Parks Operations Center and three vacant parcels of real property located at 3139 Reading Road in the Avondale neighborhood of Cincinnati at an aggregate purchase price of \$3,070,500.00 to facilitate the development of a new Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health campus; and further **AUTHORIZING** the City Manager to do all things necessary to vacate and convey to the United States of America all of the Hickman Avenue public right-of-way between Harvey Avenue and Reading Road and a portion of the Reading Road public right-of-way between East Martin Luther King Jr. Drive and former vacated Union Street for inclusion in the development.

WHEREAS, the United States of America (“Petitioner”), acting by and through the United States Department of Health and Human Services, operates two National Institute for Occupational Safety and Health research laboratories in Cincinnati and desires to consolidate the two research facilities into a new facility on a single campus (the “Project”) generally bounded by East Martin Luther King Jr. Drive, Reading Road, Ridgeway Avenue, and Harvey Avenue (the “Project Site”) in the Avondale neighborhood; and

WHEREAS, the City owns the following real property located within the bounds of the Project Site: (i) an approximately 1.363-acre tract under the control of the City’s Board of Park Commissioners (the “Parks Property”), (ii) approximately 0.353 acres of real property under the management of the City’s Department of Community and Economic Development (“DCED” and the “DCED Property”), and (iii) certain real property designated as public rights-of-way under the management of the City’s Department of Transportation and Engineering (“DOT”), namely, (a) an approximately 0.044-acre portion of Reading Road and (b) an approximately 0.751-acre portion of Hickman Avenue (collectively, the “ROW Property”; and together with the Parks Property and the DCED Property, the “City Sale Property”), all as depicted and more particularly described in the *Contracts to Sell Real Property* attached to this ordinance as Attachment A and incorporated herein by reference; 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 Administration, including the Board of Park Commissioners, DCED, and DOTE, has determined that: (i) the Parks Property is not needed for park purposes or any other municipal purpose; (ii) the DCED Property is not needed for any municipal purpose; (iii) the ROW Property is not needed for transportation purposes or any other municipal purpose;

(iv) there is good cause to vacate the ROW Property; and (v) the vacation of the ROW Property will not be detrimental to the general interest; and

WHEREAS, contingent upon the City Law Department’s satisfactory review of Petitioner’s title to all real property abutting the ROW Property, the City desires to vacate and convey the ROW Property to Petitioner; and

WHEREAS, Petitioner now desires to purchase the City Sale Property to consolidate with other property within the Project Site that Petitioner has acquired, or will acquire; and

WHEREAS, the City Administration has determined, through an arms-length negotiation, that Petitioner’s aggregate purchase offer of \$3,070,500.00 (the “Purchase Price”), which includes a contribution from Petitioner to a Greater Cincinnati Water Works public improvement project to install a water main along Reading Road south of the Project Site, equals or exceeds the fair market value of the City Sale Property; and

WHEREAS, the City now desires to facilitate the Project by selling the City Sale Property to Petitioner for the Purchase Price; 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 Board of Park Commissioners approved the sale of the Parks Property by resolution at its meeting on October 15, 2020; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation of the ROW Property and the sale of the City Sale Property at its regularly scheduled meeting on August 19, 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 two *Contracts to Sell Real Property* with the United States of America (“Petitioner”), in substantially the form

attached to this ordinance as Attachment A and incorporated herein by reference (the “Agreements”), pursuant to which the City of Cincinnati (the “City”) will (a) vacate and convey title to Petitioner of certain real property designated as public rights-of-way, namely, (i) an approximately 0.044-acre portion of Reading Road and (ii) an approximately 0.751-acre portion of Hickman Avenue (collectively, the “ROW Property”); and (b) sell (i) an approximately 1.363-acre tract of real property under the control of the City’s Board of Park Commissioners (the “Parks Property”), and (ii) approximately 0.353 acres of real property under the management of the City’s Department of Community and Economic Development (“DCED” and the “DCED Property”); and together with the ROW Property and the Parks Property, the “City Sale Property”) to facilitate the development of a new research laboratory for the National Institute for Occupational Safety and Health (“NIOSH”) on property generally bounded by East Martin Luther King Jr. Drive, Reading Road, Ridgeway Avenue, and Harvey Avenue (the “Project Site”) in the Avondale neighborhood. The public rights-of-way to be vacated and conveyed to Petitioner are more particularly described as follows:

An approximately 0.751-acre portion of Hickman Avenue

Situated in Section 8, Town 3, Fractional Range 2, Miami Purchase, City of Cincinnati, County of Hamilton, State of Ohio and being Hickman Avenue and the remainder portion of a property conveyed to The City of Cincinnati in DB 3853 Page 232, the boundary of which being more particularly described as follows:

Commencing at the intersection of the west right of way line of Reading Road with the south right of way line of Ridgeway Avenue;

Thence along said west right of way line the following four (4) courses:

- 1. South 37°30’47” West a distance of 141.03 feet;
- 2. South 32°08’07” West a distance of 59.81 feet;
- 3. North 56°30’24” West a distance of 1.77 feet;

4. Along a curve to the left an arc distance of 70.85 feet to a set 5/8" iron pin at the intersection said west right of way and with the north right of way line of Hickman Avenue, being the true Point of Beginning, said curve having a radius of 1945.86 feet, a delta of 2°05'11" and a chord bearing South 32°27'01" West distance of 70.85 feet;

Thence continuing along said west right of way line, South 32°45'24" West a distance of 71.52 feet to a found 1" iron pin at the intersection of said west right of way line with the south right of way of Hickman Avenue;

Thence along said south right of way line, North 11°12'48" West, a distance of 5.73 feet to a found 5/8" iron pin;

Thence continuing, North 84°07'53" West a distance of 635.52 feet to a point in the east right of way line of Harvey Avenue, said point being witnessed by a found cross notch lying 2.5 feet west;

Thence along said east right of way line, North 06°12'01" East a distance of 60.06 feet to a set 5/8" iron pin at the intersection of said east right of way line with the aforementioned north right of way line of Hickman Ave;

Thence along said north right of way line of Hickman Avenue, along a curve to the left an arc distance of 15.77 feet to a set 5/8" iron pin, said curve having a radius of 10.00 feet, a delta of 90°19'53" and a chord bearing South 38°57'56" East distance of 14.18 feet;

Thence along said north right of way line of Hickman Avenue, South 84°07'53" East a distance of 645.17 feet to a set 5/8" iron pin;

Thence continuing, North 65°13'48" East a distance of 16.30 feet to a point to the Point of Beginning.

Containing 0.751 acres, more or less, and being subject to easements, restrictions and rights of way of record. Bearings are based on the old north right of way line of Martin Luther King Drive established by a survey done by Woolpert Inc. on 8/15/2006 being North 84°02'21" West.

An approximately 0.044-acre portion of Reading Road

Situated in Section 8, Town 3, Fractional Range 2, Miami Purchase, City of Cincinnati, County of Hamilton, State of Ohio and being part of Reading Road, the boundary of which being more particularly described as follows:

Beginning at a found 5/8" iron pin in the west right-of-way line of reading road being North 47° 51' 04" East a distance of 44.62 feet from the

intersection of said west right-of-way with the north right-of-way line of Martin Luther King Jr. Drive;

Thence along said west right-of-way line, along a curve to the right an arc distance of 251.70 feet to a set 1" iron pin in the south line of a parcel being conveyed to City of Cincinnati in O.R. 14380, Page 24, said curve having a radius of 1504.40 feet, a delta of 9° 35' 10" and a chord bearing North 07° 01' 38" East distance of 251.41 feet;

Thence along said south line, South 82° 08' 19" East a distance of 10.83 feet to a set 5/8" iron pin; Thence along new division lines, the following three (3) courses:

1) South 15° 14 '57" West, a distance of 44.56 feet to a set 5/8" iron pin;

2) Along a curve to the left an arc distance of 199.35 feet to a set 5/8" iron pin, said curve having a radius of 1496.90 feet, a delta of 7° 37' 49" and a chord bearing South 06° 19' 51" West a distance of 199.20 feet;

3) South 47° 51' 04" West a distance of 10.52 feet to a point to the TRUE PLACE OF BEGINNING.

Containing 0.044 acres, more or less, and being subject to easements, restrictions and rights-of-way of record. Bearings are based on the old north right-of-way line of Martin Luther King Jr. Drive established by a survey done by Woolpert Inc. on 8/15/2006 being North 84° 02' 21" West.

Section 2. That (a) the Parks Property is not needed for park purposes or any other municipal purpose; (b) the DCED Property is not needed for any municipal purpose; (c) the ROW Property is not needed for transportation purposes or any other municipal purpose; (d) there is good cause to vacate the ROW Property; and (e) the vacation of the ROW Property will not be detrimental to the general interest.

Section 3. That the City has determined, following an arms-length negotiation with Petitioner, that Petitioner's aggregate purchase offer of \$3,070,500.00 equals or exceeds the fair market value of the City Sale Property.

Section 4. That eliminating competitive bidding in connection with the City's sale of the City Sale Property is in the best interest of the City because Petitioner is the only party

realistically suited to redevelop the City Sale Property because Petitioner intends to acquire, or otherwise appropriate, all non-City-controlled real property constituting the Project Site, and the proposed NIOSH research laboratory is likely to create and preserve jobs and employment opportunities within the City, and will stimulate economic growth and activity in the Avondale neighborhood.

Section 5. That the proceeds from the sale of the City Sale 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 (the “Real Estate Fee”), and that, thereafter, the City’s Finance Director is hereby authorized to deposit \$2,170,500 (the “Parks Amount”) into Park Board Permanent Improvement Fund 752.

Section 6. That the City’s Finance Director is hereby authorized to transfer and appropriate excess proceeds from the sale of the City Sale Property, being the Purchase Price less (a) the Real Estate Fee and (b) the Parks Amount, into Water Works Capital Permanent Improvement Fund 756.

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 ROW 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 Agreements; including, without limitation, executing any and all ancillary agreements, deeds, plats, or other documents described in or contemplated by the Agreements including, but not limited to, documents to release existing encumbrances associated with the title of the City Sale

Property and to facilitate the vacation and conveyance of the ROW 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 this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2022

Aftab Pureval, Mayor

Attest: _____
Clerk