

EESW

An Ordinance No. 165

- 2024

AUTHORIZING the City Manager to execute a Funding Agreement with The Model Group, Inc., providing for a grant from the City to fund (i) the removal of the elevated pedestrian skywalk bridge above Walnut Street that connects the Mercantile Library Building to the US Bank Tower, and (ii) the restoration of the public right-of-way along Walnut Street, and the exterior, façade, and limited interior portions of those buildings; **AUTHORIZING** the removal of said skywalk bridge and the release and quitclaim of certain public walkway easements over and through the Mercantile Library Building; **AUTHORIZING** the transfer and appropriation of the sum of \$1,753,337 from the unappropriated surplus of Downtown South/Riverfront Equivalent Fund 481 (Downtown South/Riverfront TIF District) to the Department of Community and Economic Development non-personnel operating budget account no. 481x164x7200 to provide resources for the demolition and removal of the elevated pedestrian skywalk bridge above Walnut Street that connects the Mercantile Library Building to the US Bank Tower, restoration of the façades of such buildings, and other public improvements in support of such project; and further **DECLARING** expenditures from such account related to the demolition of the skywalk bridge, the façade restoration activities, and the other public improvements in support of such project to be a public purpose and constitute a “Public Infrastructure Improvement” (as defined in Ohio Revised Code Section 5709.40(A)(8)) that will benefit and/or serve the District 2-Downtown South/Riverfront District Incentive District, subject to compliance with Ohio Revised Code Sections 5709.40 through 5709.43.

WHEREAS, the City of Cincinnati (the “City”) is the owner of an elevated pedestrian skywalk bridge located above Walnut Street between Fourth and Fifth Streets in the Central Business District of Cincinnati (the “Skywalk”) which is attached to and connects the building located at 414 Walnut Street and 115 Fifth Street (the “Mercantile Library Building”) to the building located at 425 Walnut Street (the “US Bank Tower”); and

WHEREAS, MCA Center LLC (“MCA”), a subsidiary of The Model Group, Inc. (“Developer”), is undertaking a renovation of the Mercantile Library Building, pursuant to that certain Community Reinvestment Area Tax Exemption Agreement by and between the City and MCA, dated May 24, 2023 (the “CRA Agreement”), authorized by Ordinance No. 145-2023, passed on May 10, 2023, which authorizes a real property tax abatement for certain improvements that MCA will make to the Mercantile Library Building (the “Mercantile Project”); and

WHEREAS, pursuant to that certain Grant of Easement recorded on August 25, 1994 in Official Record 6554, Page 121, Hamilton County, Ohio Registered Land Records, the City was granted certain easement rights (the “Easement”) in and upon the Mercantile Library Building and other portions of the Mercantile Library Building associated with, and necessary for, allowing the general pedestrian public the right of ingress and egress through the property for use of the Skywalk; and

WHEREAS, as a result of MCA's work on the Mercantile Project, Developer desires to demolish the Skywalk and thereafter complete various improvements to restore the areas impacted by the Skywalk removal, including, without limitation, restoring the façade and limited interior portions of the Mercantile Library Building and the US Bank Tower, and performing certain other construction restoration activities in the right-of-way impacted by the demolition of the Skywalk, at an estimated total cost of approximately \$1,753,337 (the "Public Infrastructure Project") all as more particularly described in the Funding Agreement (the "Agreement") attached as Attachment A hereto; and

WHEREAS, Developer has petitioned the City to close and remove the Skywalk and release and terminate any public pedestrian access rights associated with the same; and

WHEREAS, the City's Real Estate Services Division has determined, by appraisal, that the fair market value of the Easement is approximately \$68,480; however, to facilitate the Mercantile Project, the City desires to terminate and release the Easement and allow for the removal of the Skywalk for Developer's benefit for less than fair market value; namely, for \$1.00, because the City anticipates that it will receive economic and non-economic benefits that equal or exceed the fair market value of the Easement because terminating the Easement and removing the Skywalk will eliminate the financial costs on the City to maintain the Skywalk and will allow resources to be focused on the Mercantile Project; and

WHEREAS, under the proposed Agreement the City will provide a \$1,753,337 grant to Developer to fund the Public Infrastructure Project; and

WHEREAS, pursuant to Ordinance No. 412-2002, passed on December 18, 2002, Council created the District 2-Downtown South/Riverfront District Incentive District (the "TIF District") to, in part, fund "Public Infrastructure Improvement[s]" (as defined in Section 5709.40 of the Ohio Revised Code) that benefit or serve the TIF District, including demolition and demolition on private property when determined to be necessary for economic development purposes; and

WHEREAS, the Skywalk, the Mercantile Library Building, the US Bank Tower, and the Public Infrastructure Project are all located within the boundaries of the TIF District; and

WHEREAS, the proposed expenditures set forth in the Agreement are valid public improvements as they will serve the public purpose of creating jobs and other beneficial economic impacts, supporting the redevelopment of the Central Business District; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, in order to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people of the state, it is in the public interest and a 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, structures, equipment, and facilities for industry commerce, distribution, and research; and to make loans and to provide moneys for the acquisition, construction, enlargement, improvement, or equipment of such property, structures, equipment, and facilities; and

WHEREAS, the City has determined that, following demolition of the Skywalk (i) the Easement will no longer be needed for any transportation, public right-of-way, or municipal purposes; (ii) there is good cause to release the Easement; and (iii) release of the Easement will not be detrimental to the general interest; and

WHEREAS, the City believes that the Public Infrastructure Project will benefit and/or serve the TIF District; is in the vital and best interests of the City and health, safety, and welfare of its residents; and is in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements; and

WHEREAS, the City Planning Commission, having the authority to approve the change in City-owned property, approved the removal of the Skywalk and termination of the Easement at its meeting on March 15, 2024; 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) a Funding Agreement with The Model Group, Inc. (“Developer”), in substantially the form attached to this ordinance as Attachment A (the “Agreement”), pursuant to which: (i) Developer will demolish and remove the elevated pedestrian skywalk bridge above Walnut Street located between Fourth and Fifth Streets in the Central Business District of Cincinnati (the “Skywalk”), which is attached to and connects the building located at 414 Walnut Street and 115 Fifth Street (the “Mercantile Library Building”) to the building located at 425 Walnut Street (the “US Bank Tower”), and thereafter complete various public infrastructure improvements to restore the areas impacted by the Skywalk removal, including, without limitation, restoring the façade and limited interior portions of the Mercantile Library Building and the US Bank Tower, and perform certain other construction restoration activities in the right-of-way impacted by the demolition of the Skywalk (collectively, the “Public Infrastructure Project”); and (ii) the City will make a \$1,753,337 grant to support the Public Infrastructure Project; and (b) any and all documents that may be necessary to release and quitclaim the public walkway easement granted to the City upon and through the Mercantile Library Building pursuant to that Grant of Easement recorded on August 25, 1994 in Official Record 6554, Page 121, Hamilton County, Ohio Registered Land Records (the “Easement”).

Section 2. That the Director of Finance is hereby authorized to transfer and appropriate the sum of \$1,753,337.00 from the unappropriated surplus of Downtown South/Riverfront Equivalent Fund 481 to the Department of Community and Economic Development non-personnel operating budget account no. 481x164x7200 to provide resources for the Public Infrastructure Project, as allowable by Ohio law and as further described in the Agreement.

Section 3. That Council hereby declares that (a) the improvements associated with the Public Infrastructure Project constitute a “Public Infrastructure Improvement” (as defined in Section 5709.40(A)(8) of the Ohio Revised Code), that will benefit and/or serve the District 2-Downtown South/Riverfront District Incentive District, subject to compliance with Ohio Revised Code Sections 5709.40 through 5709.43; and (b) the Public Infrastructure Improvements serve a public purpose.

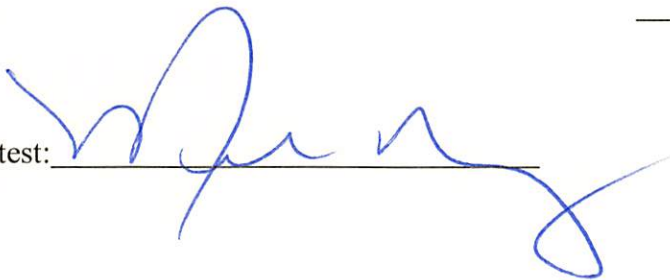
Section 4. That, following the demolition of the Skywalk, (a) the Easement is not needed for transportation, public right-of-way, or municipal purposes; (b) there is good cause to release the Easement; and (c) release of the Easement will not be detrimental to the general interest.

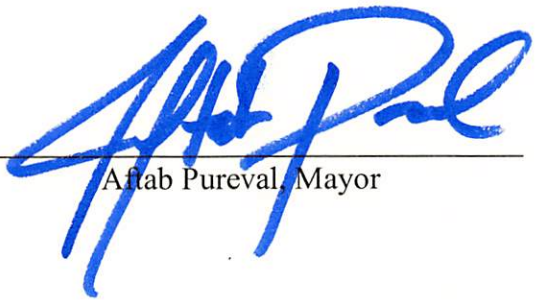
Section 5. That Council authorizes the appropriate City officials to take all necessary and proper actions as they deem necessary or appropriate to fulfill the terms of this ordinance and the Agreement, including, without limitation, executing any and all releases, terminations, closing documents, agreements, amendments, and other instruments pertaining to the Easement, and the Public Infrastructure Project.

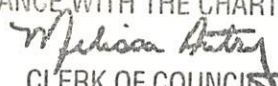
Section 6. That any proceeds from the sale of the Easement shall be deposited into Property Management Fund 209 to pay for the services provided by the City’s Real Estate Services Division in connection with the sale, and that the City’s Finance Director is hereby authorized to deposit any amount in excess thereof into the Miscellaneous Permanent Improvement Fund 757.

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 enable Developer to move forward with the Public Infrastructure Project as soon as possible, which will result in the creation of jobs and the stimulation of economic growth in the Central Business District of Cincinnati at the earliest possible date.

Passed: May 27, 2024

Attest: 


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 165-2024
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 6/4/2024

CLERK OF COUNCIL