

EMERGENCY
City of Cincinnati

ZDS

An Ordinance No. 152

- 2022

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AUTHORIZING the City Manager to execute a *Property Transfer and Development Agreement* with the Board of County Commissioners of Hamilton County, Ohio, pursuant to which the City will vacate and convey a portion of the public right-of-way known as Logan Street in the Over-the-Rhine neighborhood of Cincinnati in connection with the construction of a public parking garage.

WHEREAS, the Board of County Commissioners of Hamilton County, Ohio (the "County") owns certain real property consisting of approximately 0.915 acres of real property in the Over-the-Rhine neighborhood of Cincinnati, which property is currently bifurcated by a portion of the public right-of-way known as Logan Street (the "City ROW"), as more particularly described and depicted in the *Property Transfer and Development Agreement* (the "Agreement") attached to this ordinance as Attachment A (the "Property"), which is under the management and control of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, the County desires to purchase the City ROW from the City to consolidate with the County's adjoining real property (collectively, the "Project Site"), and thereafter construct a public parking garage consisting of approximately 515 parking spaces, at an estimated total project cost of \$19,200,000 (the "Garage Project") on the consolidated Project Site; and

WHEREAS, as a material inducement to the City to vacate and convey the City ROW to the County, the County has agreed to, among other things, construct a street that will be dedicated as right-of-way for use by the general public, as more particularly described in the Agreement (the public street and associated public sidewalks and/or other public improvements (including, without limitation, any infrastructure required in support of the Garage Project and surrounding area by Greater Cincinnati Water Works ("GCWW"), Stormwater Management Utility ("SMU"), the Metropolitan Sewer District of Greater Cincinnati ("MSD"), or any other public utility) being referred to collectively herein as the "Infrastructure Project"; and together with the Garage Project, the "Project"); and

WHEREAS, the City's Real Estate Services Division has determined, by appraisal, that the fair market value of the City ROW is approximately \$56,350; however, to facilitate the Project and promote its economic feasibility, the City is willing to vacate the City ROW as public right-of-way and convey it to the County for less than fair market value; namely, for \$1.00, because the City will receive economic and non-economic benefits that equal or exceed the fair market value of the City ROW because (i) the Project will create employment opportunities and stimulate economic growth and development of other property in the area; (ii) the Garage Project will provide additional public parking for the Over-the-Rhine neighborhood, including in support of the City-owned Findlay Market House and surrounding businesses and residents; and (iii) the City

will receive the benefit of the Infrastructure Project, including the new street connecting Logan Street and Central Parkway; and

WHEREAS, the County has delivered to the City an Attorney's Certificate of Title certifying that the County is the owner of all of the property that abuts the City ROW; and

WHEREAS, if applicable, all necessary abutters will have consented to the City's vacation and sale of the City ROW to the County by executing and delivering Quitclaim Deeds prior to the City Manager vacating and conveying the City ROW to the County; 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, 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 City ROW 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 City ROW, and upon verification from DOTE, MSD, GCWW, and SMU, has determined that the City ROW is not needed for transportation or other municipal purposes, that there is good cause for vacating the City ROW as public right-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 City ROW 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 City ROW because the City desires to vacate and convey the City ROW to the County to facilitate the Project; 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 City ROW at its meeting on September 17, 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 Transfer and Development Agreement*, in substantially the form attached to this ordinance as Attachment A (the

“Agreement”), pursuant to which the City will vacate and convey to the Board of County Commissioners of Hamilton County, Ohio (the “County”) a portion of the public right-of-way known as Logan Street north of Elder Street in the Over-the-Rhine neighborhood of Cincinnati (the “City ROW”), for the County to (a) consolidate with adjoining property the County owns (together with the City ROW, the “Project Site”), and (b) construct a public parking garage consisting of approximately 515 parking spaces at the consolidated Project Site, at an estimated total project cost of approximately \$19,200,000 (the “Project”).

Section 2. That the fair market value of the City ROW, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$56,350; however, the City is agreeable to conveying the City ROW to the County for less than fair market value; namely, for \$1.00, because the City will receive economic and non-economic benefits that equal or exceed the fair market value of the City ROW because (a) the Project will create employment opportunities and stimulate economic growth and development of other property in the area; (b) the Project will provide additional public parking for the Over-the-Rhine neighborhood, including in support of the City-owned Findlay Market House and surrounding businesses and residents; and (c) the County has agreed to construct a new street and corresponding public infrastructure improvements to create access between Logan Street and Central Parkway.

Section 3. That the City ROW is not needed for transportation or other municipal purposes, and that the vacation and sale of the City ROW (subject to the creation of utility easements for existing utilities, if any, as provided for under Section 723.041, 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 City Row is in the best interest of the City because the County owns and controls the adjoining

property, and consolidation of the City ROW with the remainder of the Project Site is necessary for the County to undertake the Project.

Section 5. That proceeds from the sale of the City ROW 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 the County can move forward with the Project without delay, enabling the City ROW to be put to its highest and best use, for the economic benefit of the City, at the earliest possible time.

Passed: MARCH 7, 2022

Attest: [Signature]
Clerk

[Signature]
Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 52-2022
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 3-15-2022
[Signature]
CLERK OF COUNCIL