

# City of Cincinnati

CHM

## An Ordinance No. 110

- 2021

AWG/EE

**AUTHORIZING** the City Manager to vacate and sell to Uptown Transportation Authority, LLC approximately 0.1749 acres of the public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati.

WHEREAS, the City of Cincinnati owns approximately 0.1749 acres of real property designated as public right-of-way commonly known as Bartle Avenue, as more particularly depicted and described in the *Property Sale 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, Uptown Transportation Authority, LLC, an Ohio limited liability company ("Petitioner"), owns an adjoining property and desires to purchase the Property from the City for incorporation into Petitioner's adjoining property; and

WHEREAS, Andrew D. Graf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated October 19, 2020, certifying that Petitioner is the owner of all real property abutting the Property; and (ii) the written consent of all necessary abutters to the City's vacation and sale of the Property to Petitioner; 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 ("CMC") Sec. 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City's Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Property is \$114,300, which Petitioner has agreed to pay; and

WHEREAS, pursuant to CMC Sec. 331-5, the City 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, 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 meeting on March 5, 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 vacate and sell to Uptown Transportation Authority, LLC, an Ohio limited liability company ("Petitioner"), an approximately 0.1749 acre portion of the public right-of-way known as Bartle Avenue in Cincinnati, as more particularly described as follows (the "Property"):

SITUATE IN SECTION 8, TOWN 3, FRACTIONAL RANGE 2, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING PART OF THE RIGHT OF WAY OF BARTLE AVENUE OF HENRY T. MILLER SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 120 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET CROSS NOTCH AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE WITH THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE; THENCE ALONG THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE, SOUTH 06°24'05" WEST, 253.96 FEET TO THE SOUTHEAST TERMINUS OF BARTLE AVENUE; BEING WITNESSED BY AN EXSITNG MAG NAIL WHICH IS 0.33 FEET WEST; THENCE ALONG THE SOUTHERLY TERMINUS OF BARTLE AVENUE, NORTH 84°01'55" WEST, 30.00 FEET TO THE SOUTHWEST TERMINUS OF BARTLE AVENUE, BEING WITNESSED BY AN EXISTING 5/8" IRON PIN WHICH IS 0.21 FEET SOUTH AND 1.03 FEET WEST; THENCE ALONG THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE, NORTH 06°24'05" EAST, 254.08 FEET TO A SET 5/8" IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF MARTING LUTHER KING DRIVE WITH THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE, SOUTH 83°48'19" EAST, 30.00 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 0.1749 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARINGS USED IN THIS LEGAL DESCRIPTION ARE  
RELATIVE TO OHIO DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY PLAN, HAM-17-3.81.

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 fair market value of the Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$114,300, which Petitioner has agreed to pay.

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 adjoining real property and has obtained the written consent of all abutters to the Property, and as a practical matter, only an abutting property owner would have any practical 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 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.

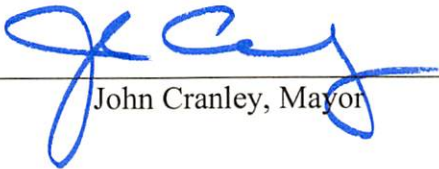
Section 7. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.

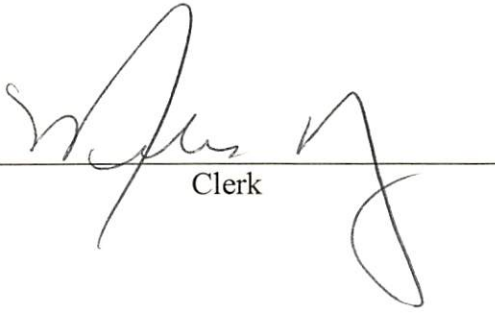
Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation and sale of the Property to Petitioner, including by executing a *Property Sale Agreement* in substantially the form attached to this ordinance as Attachment A.

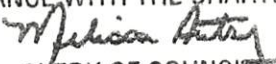
Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

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

Passed: April 7, 2021

  
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John Cranley, Mayor

Attest:   
\_\_\_\_\_  
Clerk

I HEREBY CERTIFY THAT ORDINANCE NO 110-2021  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 4-20-2021  
  
CLERK OF COUNCIL