

City of Cincinnati

CHM

An Ordinance No. 89

EESW

- 2023

AUTHORIZING the City Manager to execute a *Property Sale and Development Agreement* with 8K Development Company, LLC for the sale of the upper levels of the City-owned building located at 129-131 W. Elder Street in the Over-the-Rhine neighborhood for residential redevelopment.

WHEREAS, the City owns the real property, including the building thereon, located at 129-131 W. Elder Street at Findlay Market in the Over-the-Rhine neighborhood, 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 (“Property”), which Property is under the management of the City’s Department of Community and Economic Development (“DCED”); and

WHEREAS, the City currently leases the Property to the Corporation for Findlay Market of Cincinnati (“CFFM”), which manages the Property for the City; and

WHEREAS, two commercial tenants presently occupy the Property’s street-level commercial spaces, and the upper levels of the building are vacant and in need of redevelopment; and

WHEREAS, 8K Development Company, LLC, an Ohio limited liability company (“Developer”), submitted a development proposal to redevelop the upper floors of the Property into residential use, which proposal the City Manager, in consultation with DCED, determined to be the most advantageous to the City and involves the subdivision of the Property into two parcels: (i) a residential air lot primarily comprised of the upper floors of the building (“Residential Air Lot”) to be sold to Developer for the construction of 10 residential multi-family dwelling units at an estimated cost of approximately \$1,056,840 (“Project”); and (ii) a commercial air lot, including the basement and any and all residual space and land rights not part of the Residential Air Lot to be retained by the City (leased and managed by CFFM); and

WHEREAS, Developer estimates that the Project will create approximately 12 temporary construction jobs and no full-time permanent jobs; and

WHEREAS, the City Manager, in consultation with DCED, has determined that the Residential Air Lot is not needed for a municipal purpose and that the conveyance to Developer of the Residential Air Lot is not adverse to the City’s retained interest in the Property; and

WHEREAS, the City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Residential Air Lot is approximately \$100,000; however, the City desires to sell the Residential Air Lot for less than the fair market value, namely, for \$1.00 because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the Residential Air Lot because the City anticipates that the Project will create new jobs, stimulate economic growth in the Over-the-Rhine neighborhood, will create additional housing in Cincinnati, and will contribute to the social and economic viability and stability of the Findlay Market area by restoring the vacant upper levels of the building to productive use; 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, the City has determined that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents and in accordance with the above-stated public purposes because the Project will restore the vacant upper levels of the building to productive use, create additional housing and employment opportunities, stimulate economic growth in the Findlay Market area, and help to revitalize the Over-the-Rhine neighborhood, all for the economic benefit of the City; 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, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Residential Air Lot to Developer at its meeting on September 16, 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 a *Property Sale and Development Agreement* with 8K Development Company, LLC, an Ohio limited liability company ("Developer"), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference ("Agreement"), pursuant to which the City will sell to

Developer an air lot located at 129-131 W. Elder Street in Over-the-Rhine, as more particularly detailed in the Agreement (“Residential Air Lot”).

Section 2. That the Residential Air Lot is not needed for a municipal purpose and that the conveyance to Developer of the Residential Air Lot is not adverse to the City’s retained interest in the building and property located at 129-131 W. Elder Street.

Section 3. That the City’s Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Residential Air Lot is approximately \$100,000; however, the City will sell the Residential Air Lot for less than the fair market value, namely, for \$1.00 because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the Residential Air Lot because the City anticipates that the Project will create new jobs, stimulate economic growth in the Over-the-Rhine neighborhood, will create additional housing in Cincinnati, and will contribute to the social and economic viability and stability of the Findlay Market area by restoring the vacant upper levels of the building to productive use.

Section 4. That it is in the best interest of the City to eliminate competitive bidding in connection with the City’s sale of the Residential Air Lot because the City Manager, in consultation with the Department of Community and Economic Development, determined Developer’s proposal to be the most suitable and advantageous to the City.

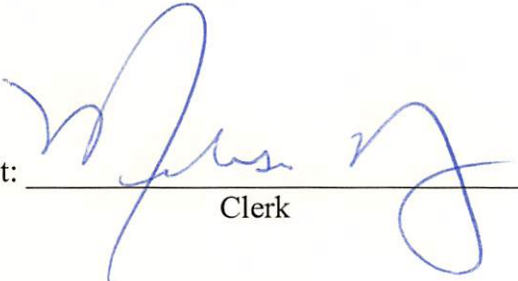
Section 5. That proceeds from the sale of the Residential Air Lot shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City’s Real Estate Services Division in connection with the sale, and that the City’s Finance Director is hereby authorized to deposit amounts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

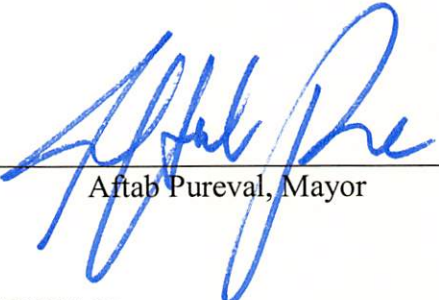
Section 6. That the City's Finance Director is authorized to transfer and appropriate such excess funds from the unappropriated surplus of Miscellaneous Permanent Improvement Fund 757 to capital improvement program project account no. 980x162xYY1641, "DCED Property Improvements," in which "YY" represents 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.

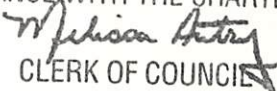
Section 7. That Council authorizes the proper City officials to take all necessary and proper actions to fulfill the terms of the Agreement and this ordinance, including without limitation executing any and all ancillary agreements, deeds, plats, and other documents to facilitate all transactions contemplated by the Agreement.

Section 8. 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 the immediate need to allow the City to do all things necessary to create the Residential Air Lot without delay to allow this construction-ready project to move forward so that the City may receive the economic and noneconomic benefits from the sale and development of the Residential Air Lot at the earliest possible time.

Passed: March 22, 2023

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 89-2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 4/4/2023

CLERK OF COUNCIL