

# City of Cincinnati

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## An Ordinance No. 378

- 2020

**AUTHORIZING** the City Manager to vacate and sell certain portions of an unnamed alley and the public right-of-way known as Bigelow Street in the Mt. Auburn neighborhood to Bigelow Land LLC to facilitate its construction of a multi-family development.

WHEREAS, the City of Cincinnati owns (i) a 0.2148 acre tract of land designated as public right-of-way and commonly known as Bigelow Street and (ii) a 0.00615 acre tract of land designated as public right-of-way and currently unnamed, which rights of way are depicted in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the "Property"), and which rights of way are under the management and control of the City's Department of Transportation and Engineering; and

WHEREAS, Bigelow Land LLC ("Petitioner") owns adjoining property and desires to purchase the Property from the City to facilitate the construction of a multi-family development consisting of approximately 166 residential rental units and a structured parking garage; and

WHEREAS, Alan S. Henderson, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that (i) Petitioner and the City are the owners of all of the property that abuts the Property and (ii) Petitioner has obtained 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 Section 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, 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 in the public interest and a 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 Cincinnati Municipal Code Section 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 appraisal, that the approximate fair market value of the Property is \$33,500, which Petitioner has agreed to pay; 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, 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 April 17, 2020; 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 Bigelow Land LLC (“Petitioner”) (i) a 0.2148 acre portion of the public right-of-way known as Bigelow Street, located south of Carmalt Street, and (ii) a 0.00615 acre portion of unnamed public right-of-way consisting of an alley, located west of Josephine Street, which rights of way are located in the Mt. Auburn neighborhood (the “Property”), and are more particularly described and depicted on the *Property Sale Agreement*, attached to this ordinance as Attachment A and incorporated herein by reference, in order to facilitate the construction of a multi-family development consisting of approximately 166 residential rental units and a structured parking garage (the “Project”).

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 \$33,500, 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 the sale of the Property to Petitioner will facilitate the Project, provide economic benefits to the City through the retention and creation of jobs, enhance the availability of adequate housing in the City, and stimulate economic growth in the Mt. Auburn neighborhood.

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 Section 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.

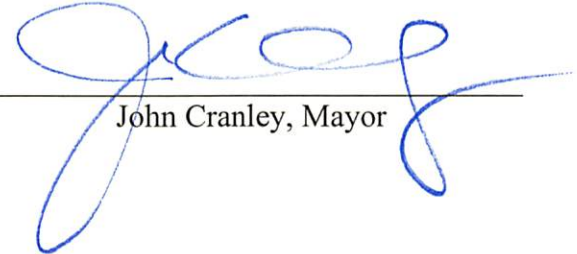
Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, executing a *Property Sale Agreement* substantially in the form as Attachment A, and any and all other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

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.

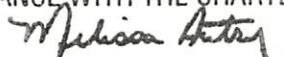
Section 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: November 12, 2020

Attest:   
Clerk

  
John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 378-2020  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 11-25-2020

  
CLERK OF COUNCIL

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