

EMERGENCY

KMG

- 2024

AUTHORIZING the City Manager to execute a Property Sale Agreement with Consolidated Metal Products, Inc., pursuant to which the City will vacate and convey approximately (i) 0.2290 acres of public right-of-way, being a portion of South Steet, to Consolidated Metal Products, Inc., and (ii) 0.0919 acres of public right-of-way, being a portion of South Street, to CSX Transportation, Inc., all in the Lower Price Hill neighborhood of Cincinnati.

WHEREAS, the City of Cincinnati (the “City”) owns (i) approximately 0.2290 acres of public right-of-way, being a portion of South Street (the “Sale Property”), and (ii) approximately 0.0919 acres of public right-of-way, being a portion of South Street (the “Remnant Property” and collectively with the Sale Property, the “Property”), which are under the management of the City’s Department of Transportation and Engineering (“DOT”), and which are more particularly depicted and described in the Property Sale Agreement attached as Attachment A hereto; and

WHEREAS, Consolidated Metal Products, Inc. (“Developer”) owns real property abutting the Sale Property and desires to expand its existing industrial operations, with a cumulative anticipated investment of \$9,600,000 (the “Project”); and

WHEREAS, Developer has requested that the City vacate and convey the Sale Property to Developer to facilitate the Project; and

WHEREAS, such vacation and conveyance would make the Remnant Property a landlocked parcel without any egress or ingress access, so DOT recommends that the Remnant Property be conveyed to its abutting property owner, CSX Transportation, Inc. (“CSX”); and

WHEREAS, Daniel E. Reitz, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that Developer, CSX, the Port of Greater Cincinnati Development Authority, and the City own all real property abutting the Sale Property and the Remnant Property; 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, 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 Manager, in consultation with DOT, has determined that (i) the Property is not needed for transportation purposes or any other municipal purpose, (ii) there is good cause to vacate the Property, and (iii) the vacation of the Property will not be detrimental to the general interest; and

WHEREAS, the City's Real Estate Services Division has determined, by a professional appraisal, that (i) the fair market value of the Sale Property is approximately \$7,475, which Developer has agreed to pay; and (ii) the fair market value of the Remnant Property is approximately \$2,250, however, to facilitate the Project, the City desires to convey the Remnant Property to CSX for less than fair market value, namely, for \$0.00, because (a) the vacation of the Sale Property would make the Remnant Property landlocked, without ingress and egress access, and (b) the City desires to facilitate the Project and anticipates that it will receive economic and non-economic benefits that equal or exceed the fair market value of the Remnant Property since the City anticipates that the Project will stimulate economic activity and growth in the Lower Price Hill neighborhood of Cincinnati; 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, eliminating competitive bidding in connection with the City's conveyance of the Property is appropriate because (i) Developer owns all real property abutting either side of the Sale Property to the north and south, CSX owns all real property abutting either side of the Remnant Property to the north and south, and as a practical matter, no one other than an abutting property owner would have any use for the Property, and (ii) the City desires to facilitate the Project because the City anticipates that the Project will create new temporary and permanent jobs, and stimulate economic growth in the Lower Price Hill neighborhood; 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 acquire, construct, enlarge, improve, or equip, and to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; and

WHEREAS, in furtherance of the foregoing public purposes, the City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents because the Project will bring the Project site to productive use and stimulate economic growth in the Lower Price Hill neighborhood for the economic benefit 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 conveyance of the Sale Property at its regularly scheduled meeting on June 19, 2020, and approved the vacation and conveyance of the Remnant Property at its regularly scheduled meeting on December 18, 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 execute a Property Sale Agreement (the "Agreement") with Consolidated Metal Products, Inc., an Ohio corporation ("Developer"), in substantially the form attached as Attachment A hereto, pursuant to which the

City of Cincinnati (the “City”) will (i) vacate and convey to Developer approximately 0.2290 acres of public right-of-way, being a portion of South Street, as more particularly described on Attachment B hereto (the “Sale Property”), and (ii) vacate and convey to CSX Transportation, Inc., a Virginia corporation (“CSX”), approximately 0.0919 acres of public right-of-way, being a portion of South Street, as more particularly described on Attachment C hereto (the “Remnant Property” and collectively with the Sale Property, the “Property”).

Section 2. That the Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and convey the Property, and that such vacation and sale will not be detrimental to the general interest.

Section 3. That the City’s Real Estate Services Division has determined, by a professional appraisal, that (i) the fair market value of the Sale Property is approximately \$7,475, which Developer has agreed to pay; and (ii) the fair market value of the Remnant Property is approximately \$2,250, however, to facilitate Developer’s expansion project, the City desires to convey the Remnant Property to CSX for less than fair market value, namely, for \$0.00, because (a) the vacation of the Sale Property would make the Remnant Property landlocked, without ingress and egress access, and (b) the City anticipates that it will receive economic and non-economic benefits that are anticipated to equal or exceed the fair market value of the Remnant Property since the City anticipates that Developer’s expansion project will stimulate economic activity and growth in the Lower Price Hill neighborhood Cincinnati.

Section 4. That eliminating competitive bidding in connection with the City’s sale of the Sale Property is in the best interest of the City because (i) Developer owns all real property abutting either side of the Sale Property to the north and south, CSX owns all real property abutting either side of the Remnant Property to the north and south, and as a practical matter, no one other than

an abutting property owner would have any use for the Property, and (ii) the City desires to facilitate Developer's expansion project because the City anticipates that such project will create new temporary and permanent jobs, and stimulate economic growth in the Lower Price Hill neighborhood.

Section 5. That the proceeds from the sale of the Property 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 the excess amount thereof into Miscellaneous Permanent Improvement Fund 757.

Section 6. That, pursuant to Ohio Revised Code Section 723.041, any affected public utility shall be deemed to have a permanent easement in the Property to maintain, operate, renew, reconstruct, and remove its utility facilities and to access said utility facilities.

Section 7. That the Property is hereby vacated as public right-of-way effective upon the City Manager's approval and execution of documentation effectuating such vacation, and 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 and the Agreement, including, without limitation, executing any and all ancillary agreements, deeds, plats, or other documents described in or contemplated by the Agreement to facilitate the vacation and conveyance of the Sale Property to Developer and the Remnant Property to CSX.

Section 8. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the Hamilton County, Ohio Recorder's Office.

Section 9. 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 urgency for Developer to commence its expansion at the project site at the earliest possible time.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk