

EMERGENCY

ZDS

- 2024

AUTHORIZING the City Manager to execute a Property Sale Agreement with 101 West Fifth LLC, pursuant to which the City will vacate and convey approximately 0.0382 acres of public right-of-way, being a portion of West Fifth Street in the Central Business District of Cincinnati; and **AUTHORIZING** the City Manager to execute a Grant of Easement in favor of 101 West Fifth LLC pursuant to which the City will grant an encroachment easement over a portion of Race Street in the Central Business District.

WHEREAS, the City of Cincinnati (the “City”) owns (i) approximately 0.0382 acres of public right-of-way, being a portion of West Fifth Street (the “Sale Property”), and (ii) approximately 0.0037 acres Race Street (the “Easement Property”), which are under the management of the City’s Department of Transportation and Engineering (“DOTE”), and which are more particularly depicted and described in the Property Sale Agreement attached as Attachment A hereto; and

WHEREAS, 101 West Fifth LLC (“Developer”), an affiliate of Cincinnati Center City Development Corporation (“3CDC”), owns real property abutting the Sale Property and the Easement Property, which property was most recently occupied by Saks Fifth Avenue, and which the City previously sold to Developer to facilitate the redevelopment of the vacant structure located thereon into approximately 62,000 square feet of renovated office space and approximately 13,000 square feet of renovated commercial space (the “Project”); and

WHEREAS, Developer has requested that (i) the City vacate and convey the Sale Property to Developer, and (ii) grant an easement to Developer for an encroachment upon the Easement Property (the “Easement”) to facilitate the Project; and

WHEREAS, Angela L. Hahn, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that Developer and the City own all real property abutting the Sale Property and the Easement 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 DOTE, has determined that (i) the Sale Property is not needed for transportation purposes or any other municipal purpose, (ii) there is good cause to vacate the Sale Property, (iii) the vacation of the Sale Property will not be detrimental to the general interest, (iv) granting the Easement to Developer is not adverse to the

City's retained interest in the Easement Property, and (v) granting the Easement will not have an adverse effect on the usability or accessibility of any existing transportation facilities located on the Easement Property; 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 \$92,000, and (ii) the fair market value of the Easement is \$2,900; however, to facilitate the Project, the City desires to convey the Sale Property and grant the Easement to Developer for less than fair market value, namely, for \$1.00, because the City anticipates that it will receive economic and non-economic benefits that equal or exceed the fair market value of the Sale Property and the Easement because the City anticipates that the Project will stimulate economic activity and growth in the Central Business District; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-5, Council may authorize the sale and the encumbrance 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 sale of the Sale Property and the grant of the Easement is appropriate because the City has developed a comprehensive strategy for the redevelopment of the area generally surrounding the Duke Energy Convention Center along Race Street, Central Avenue, Fourth Street, and Sixth Street (the "Convention Center Redevelopment District"), and the City has engaged 3CDC to provide general planning, development, and management services as it relates to the revitalization of certain properties located within the Convention Center Redevelopment District; 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 Central Business District 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 and the grant of the Easement at its regularly scheduled meeting on March 15, 2024; 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 101 West Fifth LLC, an Ohio limited liability company

(“Developer”), in substantially the form attached as Attachment A hereto, pursuant to which the City of Cincinnati (the “City”) will (a) vacate and convey to Developer approximately 0.0382 acres of public right-of-way, being a portion of West Fifth Street, as more particularly described on Attachment B hereto (the “Sale Property”); and (b) grant to Developer an easement to construct and maintain an encroachment (“Easement”) over approximately 0.0037 acres of Race Street (the “Easement Property”), as more particularly described on Attachment A hereto.

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

Section 3. That granting the Easement to Developer (a) is not adverse to the City’s retained interest in the Easement Property; and (b) will not have an adverse effect on the usability or accessibility of any existing transportation facilities located on the Easement Property.

Section 4. That the City’s Real Estate Services Division has determined, by a professional appraisal, that (a) the fair market value of the Sale Property is approximately \$92,000; and (b) the fair market value of the Easement Property is \$2,900; however, the City is justified in conveying the Sale Property and granting the Easement to Developer for less than fair market value, namely, for \$1.00, because the City anticipates that it will receive economic and non-economic benefits that are anticipated to equal or exceed the aggregate fair market value of the Sale Property and the Easement because the City anticipates that Developer’s use of the Sale Property and the Easement will stimulate economic activity and growth in the Central Business District.

Section 5. That eliminating competitive bidding in connection with the City’s sale of the Sale Property is in the best interest of the City because the Sale Property and the Easement

Property are located in the Convention Center District, which surrounds Duke Energy Convention Center and is generally bounded by Race Street, Central Avenue, 4th Street, and 6th Street (collectively, the “District”), and the City has engaged Cincinnati Center City Development Corporation (3CDC), an affiliate of Developer, to provide general planning, development, and management services as it relates to the revitalization of certain properties located within the District.

Section 6. That the proceeds from the sale of the Sale Property and the grant of the Easement, 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 the excess amount thereof into Miscellaneous Permanent Improvement Fund 757.

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 Sale Property to maintain, operate, renew, reconstruct, and remove its utility facilities and to access said utility facilities.

Section 8. That the Sale 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 sale of the Sale Property and the grant of the Easement to Developer.

Section 9. 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 10. 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 redevelopment efforts at the project site at the earliest possible time.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk