

EMERGENCY

City of Cincinnati

CHM

EESW

An Ordinance No. 195

- 2023

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with PLK Cooper, LLC, and Vandalia Point, LLC, pursuant to which the City will vacate and convey a portion of certain real property designated as public right-of-way known as Vandalia Avenue in the Northside neighborhood of Cincinnati.

WHEREAS, the City owns certain real property designated as public right-of-way, namely, an approximately 0.115-acre tract of Vandalia Avenue, formerly known as Railroad Street, in the Northside neighborhood, as more particularly depicted and described in the *Property Sale 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 Transportation and Engineering (“DOT E”); and

WHEREAS, PLK Cooper, LLC, an Ohio limited liability company (“Petitioner”), owns the real property abutting the Property, and Vandalia Point, LLC, an Ohio limited liability company (“Developer”) is under contract to purchase Petitioner’s property to construct a 52-unit affordable housing development on Petitioner’s property (“Project”); and

WHEREAS, Petitioner and Developer have petitioned the City to vacate and sell the Property to Petitioner to facilitate the Project; and

WHEREAS, Natalie H. Rauf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that Petitioner owns all real property abutting the Property; 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 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 E, 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 the fair market value of the Property is approximately \$32,500; however, the City is agreeable to convey the Property for less than fair market value, namely, for \$1.00 because the City anticipates that it will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the Property because it is anticipated that the Project will create new temporary construction jobs, stimulate economic growth in the Northside neighborhood, will create additional housing in Cincinnati and is consistent with the City’s objective of creating good quality housing options in the Northside neighborhood, thereby

contributing to the social and economic viability and stability of the neighborhood and restore Purchaser's property to productive use; 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 eliminating competitive bidding in connection with the City's sale of the Property is appropriate because Petitioner owns all real property abutting the Property, and, as a practical matter, no one other than an abutting property owner would have any use for it; 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, 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, 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 and is in accordance with applicable state and local laws; 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 regularly scheduled meeting on April 7, 2023; 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* ("Agreement") with PLK Cooper, LLC, an Ohio limited liability company ("Petitioner"), and Vandalia Point, LLC, an Ohio limited liability company ("Developer"), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati ("City") will vacate and convey to Petitioner an approximately 0.115-acre tract of Vandalia Avenue in the Northside neighborhood, as more particularly depicted and described in the Agreement ("Property"), which Property is more particularly described below and on the legal description attached to this ordinance as Attachment B and incorporated herein by reference:

Situated in Section 28, Town 3, Fractional Range 2, Miami Purchase, Millcreek Township, City of Cincinnati, Hamilton County, Ohio and being a part of an original 100' railroad right of way dedicated in P.B. 1, Pg. 2 of the Hamilton County, Ohio Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a cross notch found at the intersection of the east right of way line of Apple Street with the south right of way line of Vandalia Street (north);

Thence along said east right of way line, N05°56'32" E a distance of 19.44 feet to a cross notch set at the intersection of said east right of way line with the north right of way line of Vandalia Street;

Thence along said north right of way line, N66°56'02" E a distance of 277.45 feet to a cross notch set at the intersection of said north right of way line with the south right of way line of Blue Rock Street;

Thence along said south right of way line, S80°27'47" E a distance of 31.55 feet to a cross notch set at the intersection of said south right of way line with the aforementioned south right of way line of Vandalia Street;

Thence along said south right of way line, S66°56'02" W a distance of 313.46 feet to the Point of Beginning.

Containing 0.115 acres of land, more or less.

Bearings are based on the Ohio State Plane Coordinate System South Zone as derived from the Ohio Department of Transportation's Virtual Reference Stationing System. (VRS) (NAD 83)

The above description is based on a field survey performed by The Kleingers Group under the direct supervision of Matthew D. Habedank, Ohio Professional Land Surveyor No. 8611.

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 City's Real Estate Services Division has determined, by a professional appraisal, the fair market value of the Property is approximately \$32,500; however, the City is agreeable to convey the Property 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 Property because the vacation and sale of the Property will facilitate the construction of a 52-unit affordable housing development by Developer that is anticipated to create new temporary construction jobs, stimulate economic growth in the Northside neighborhood, will create additional housing in Cincinnati and is consistent with the City's objective of creating good quality housing options in the Northside neighborhood, thereby contributing to the social and economic viability and stability of the neighborhood and restore Purchaser's property to productive use.

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 real property that abuts the Property, and, as a practical matter, no one other than an abutting property owner would have any 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 the excess amount thereof into Miscellaneous Permanent Improvement Fund 757.

Section 6. That the City's Finance Director is hereby 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.

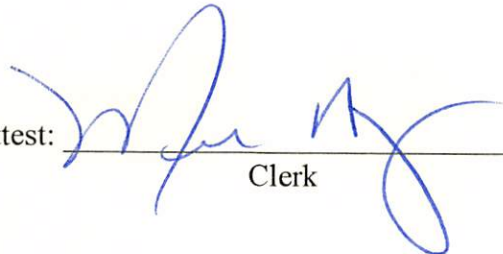
Section 7. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Property to maintain, operate, renew, reconstruct, and remove its utility facilities and to access said utility facilities.

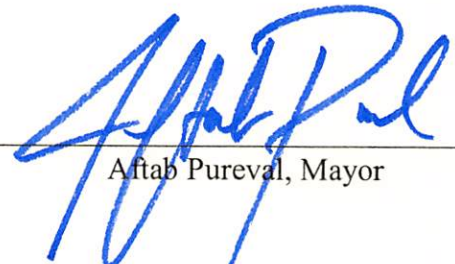
Section 8. That the City Manager is hereby authorized to vacate the Property as public right-of-way, and the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance and the Agreement, including, without limitation, 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 Property to Petitioner.

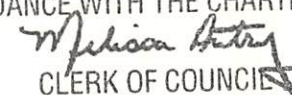
Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the Hamilton County, Ohio Recorder's Office.

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 immediate need to allow the shovel-ready project to move forward so that the City may receive the economic and non-economic benefits from the sale and redevelopment of the Property at the earliest possible time.

Passed: June 7, 2023

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 195-2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 6/24/2023

CLERK OF COUNCIL