

City of Cincinnati

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An Ordinance No. 605

- 2023

AUTHORIZING the City Manager to vacate and convey to Experimental Holdings, Inc. certain portions of an unnamed alley designated as public right-of-way generally located between Walworth Avenue and Columbia Parkway in the Columbia Tusculum and East End neighborhoods of Cincinnati.

WHEREAS, on April 22, 2022, Council approved Ordinance No. 97-2022, which ordinance authorized the City Manager to sell certain real property lying between Walworth Avenue and Columbia in the Columbia Tusculum and East End neighborhoods to Experimental Holdings, Inc., an Ohio corporation ("Petitioner"), which property is more particularly depicted and described in the Property Exchange Agreement attached to this ordinance as Attachment A and incorporated herein by reference ("Sale Property"); and

WHEREAS, pursuant to a plat of subdivision concerning the Benjamin F. Strader Subdivision of Pendleton recorded on May 24, 1866, in Plat Book 2, Page 284, Hamilton County, Ohio Recorder's Office, Benjamin F. Strader dedicated portions of the Sale Property and adjacent properties to public use for an unnamed alley ("Alley"); and

WHEREAS, on or before the platting of Columbia Avenue through the Benjamin F. Strader Subdivision of Pendleton pursuant to a plat recorded on May 2, 1871, in Plat Book 3, Page 257, the City likely vacated the Alley; however, no record of such vacation can be located; and

WHEREAS, in accordance with the sale of the Sale Property authorized by Ordinance No. 97-2022, Petitioner has petitioned the City to vacate certain portions of the Alley, as more particularly depicted on the Vacation Plat attached to this ordinance as Attachment B and incorporated herein by reference (such portion being an undeveloped paper alley, referred to herein as the "Vacation Property"); and

WHEREAS, Eli Krafte-Jacobs, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that the City and Petitioner own all real property abutting the Vacation 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 DOTE, has determined that: (i) the Vacation Property is not needed for transportation purposes or any other municipal purpose; (ii) there is good cause to vacate the Vacation Property; and (iii) the vacation of the Vacation Property will not be detrimental to the general interest; and

WHEREAS, the City's Real Estate Services Division has determined that the approximate fair market value of the Sale Property in Ordinance No. 97-2022, which fair market value a professional appraisal determined to be \$23,500, includes the approximate contributory fair market value of the Vacation Property; 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 vacation of the Vacation Property is appropriate because the City and Petitioner own all real property abutting the Vacation Property, and, as a practical matter, no one other than an abutting property owner would have any use for it; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation of the Vacation Property at its regularly scheduled meeting on November 18, 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 do all things necessary to vacate and sell to Experimental Holdings, Inc., an Ohio corporation ("Petitioner"), an approximately 0.025-acre portion of an unnamed alley designated as public right-of-way by plat pursuant to the Benjamin F. Strader Subdivision of Pendleton recorded on May 24, 1866, in Plat Book 2, Page 284, Hamilton County, Ohio Recorder's Office, as more particularly described on the *Vacation Plat* attached to this ordinance as Attachment B and incorporated herein by reference ("Vacation Property"), which Vacation Property is more particularly described below and on the legal descriptions attached to this ordinance as Attachment C and incorporated herein by reference:

Tract I:

Situated in Section 31, Town 4, Fractional Range 2, Miami Purchase, City of Cincinnati, Columbia Township, Hamilton County, Ohio, and being the vacation of the entire 10.00-foot alley adjacent to and to the north of Lot 3 of B. F. Strader's Addition to the Town of Pendleton as recorded in Plat

Book 2, Page 284 and further described as follows:

Beginning at a point found by measuring from the southeast corner of said Lot 3, said point being on the northerly right-of-way line of Walworth Avenue, along the easterly line of said Lot 3, North $35^{\circ}16'33''$ East, 97.01 feet to the South line of an existing 10-foot alley and the true point of beginning;

thence from the point of beginning thus found, leaving said easterly line, along said southerly line, North $52^{\circ}15'55''$ West, 30.03 feet to a point on the westerly line of said Lot 3;

thence leaving said southerly line, along said westerly line extended, North $35^{\circ}16'33''$ East, 10.01 feet to a point on the northerly line of the aforementioned 10.00-foot alley;

thence leaving said westerly line, along said northerly line, South $52^{\circ}15'55''$ East, 30.03 feet to a point on the extended easterly line of aforementioned Lot 3;

thence leaving said northerly line, along said easterly line, South $35^{\circ}16'33''$ West, 10.01 feet to the point of beginning containing 300.32 square feet or 0.007 acres of land.

The above description was prepared by Todd K. Turner of Tri-State Location Services, Registered Surveyor #7684 in the State of Ohio, and is based on a Vacation Plat dated August 15, 2022, and recorded in the Hamilton County, Ohio records.

Basis of Bearings: Ohio State Plane Coordinate System, Southerly Zone
All of the above-described recording references are to the Hamilton County, Ohio records.

Tract II:

Situated in Section 31, Town 4, Fractional Range 2, Miami Purchase, City of Cincinnati, Columbia Township, Hamilton County, Ohio, and being the vacation of the entire 10.00-foot alley adjacent to and to the north of Lot 2 of B. F. Strader's Addition to the Town of Pendleton as recorded in Plat Book 2, Page 284 and further described as follows:

Beginning at a point found by measuring from the southeast corner of said Lot 2, said point being on the northerly right-of-way line of Walworth Avenue, along the easterly line of said Lot 2, North 35°16'33" East, 97.76 feet to the South line of an existing 10-foot alley and the true point of beginning;

thence from the point of beginning thus found, leaving said easterly line, along said southerly line, North 52°15'55" West, 30.03 feet to a point on the westerly line of said Lot 2;

thence leaving said southerly line, along said westerly line extended, North 35°16'33" East, 10.01 feet to a point on the northerly line of the aforementioned 10.00-foot alley; thence leaving said westerly line, along said northerly line, South 52°15'55" East, 30.03 feet to a point on the extended easterly line of aforementioned Lot 2;

thence leaving said northerly line, along said easterly line, South 35°16'33" West, 10.01 feet to the point of beginning containing 300.32 square feet or 0.007 acres of land.

The above description was prepared by Todd K. Turner of Tri-State Location Services, Registered Surveyor #7684 in the State of Ohio, and is based on a Vacation Plat dated August 15, 2022, and recorded in the Hamilton County, Ohio records.

Basis of Bearings: Ohio State Plane Coordinate System, Southerly Zone
All of the above-described recording references are to the Hamilton County, Ohio records.

Tract III:

Situated in Section 31, Town 4, Fractional Range 2, Miami Purchase, City of Cincinnati, Columbia Township, Hamilton County, Ohio, and being the vacation of the entire 10.00-foot alley adjacent to and to the north of Lot 1 of B. F. Strader's Addition to the Town of Pendleton as recorded in Plat Book 2, Page 284 and further described as follows:

Beginning at a point found by measuring from the southeast corner of said Lot 1, said point being on the northerly right-of-way line of Walworth Avenue, along the easterly line of said Lot 1, North 35°16'33" East, 92.82 feet to the South line of an existing 10-foot alley and the true point of beginning;

thence from the point of beginning thus found, leaving said easterly line, along said southerly line, North 52°15'55" West, 49.79 feet to a point on the westerly line of said Lot 1;

thence leaving said southerly line, along said westerly line extended, North 32°35'53" East, 10.04 feet to a point on the northerly line of the aforementioned 10.00-foot alley; thence leaving said westerly line, along said northerly line, South 52°15'55" East, 50.26 feet to a point on the extended easterly line of aforementioned Lot 1;

thence leaving said northerly line, along said easterly line, South 35°16'33" West, 10.01 feet to the point of beginning containing 500.24 square feet or 0.011 acres of land.

The above description was prepared by Todd K. Turner of Tri-State Location Services, Registered Surveyor #7684 in the State of Ohio, and is based on a Vacation Plat dated August 15, 2022, and recorded in the Hamilton County, Ohio records.

Basis of Bearings: Ohio State Plane Coordinate System, Southerly Zone
All of the above-described recording references are to the Hamilton County, Ohio records.

Section 2. That the Vacation Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and sell the Vacation 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 that the approximate fair market value of the Sale Property in Ordinance No. 97-2022, which fair market value a professional appraisal determined to be \$23,500, includes the approximate contributory fair market value of the Vacation Property.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Vacation Property is in the best interest of the City because the City and Petitioner own all real property that abuts the Vacation Property; and, as a practical matter, no one other than an abutting property owner would have any use for the Vacation Property.

Section 5. That the proceeds from the sale of the Vacation 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 amounts thereof into Parks Improvement Fund 752.

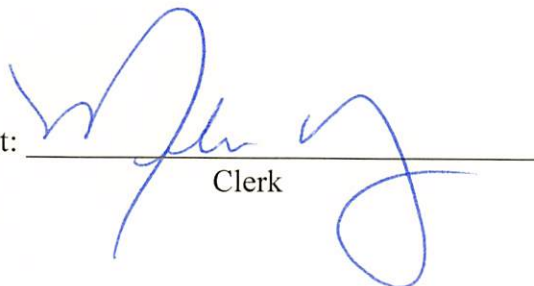
Section 6. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Vacation Property to maintain, operate, renew, reconstruct, and remove its utility facilities and for purposes of access to said facilities.

Section 7. 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 any and all ancillary agreements, deeds, plats, or other documents necessary to facilitate the vacation and sale of the Vacation Property to Petitioner.

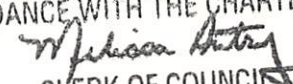
Section 8. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the Hamilton County, Ohio Recorder's Office.

Section 9. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: March 1, 2023

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 65-2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 3/14/2023

CLERK OF COUNCIL