

## City of Cincinnati

- 2021

An Ordinance No. 42

**AUTHORIZING** the City Manager to vacate and sell to David G. Bird approximately 0.1033 acres of the public right-of-way known as Lang Street in the Mt. Auburn neighborhood of Cincinnati.

WHEREAS, the City of Cincinnati owns approximately 0.1033 acres of real property designated as public right-of-way commonly known as Lang Street, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the "Property"), which Property is under the management and control of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, David G. Bird ("Petitioner") owns an adjoining property and desires to purchase the Property from the City for incorporation into Petitioner's adjoining property; and

WHEREAS, Eric J. Fernandez, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that (i) Petitioner, the City, Donna Lee Robertson, f/k/a Donna Lee Heustis, and Cure Properties, LLC, an Ohio limited liability company, 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 Section 723.04, Ohio Revised Code, 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 Section 331-1, Cincinnati Municipal Code, 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 professional appraisal, that the approximate fair market value of the Property is \$4,500, which Petitioner has agreed to pay; and

WHEREAS, pursuant to Section 331-5, Cincinnati Municipal Code, 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, 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 meeting on October 23, 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 David G. Bird ("Petitioner") an approximately 0.1033 acre portion of the public right-of-way known as Lang Street in Cincinnati, as more particularly described as follows (the "Property"):

Situated in Section 13, Town 3, Fractional Range 2, Miami Purchase, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows: Commencing at the north west corner of Lot 40 of Dorsey Red Subdivision, as recorded in Deed Book 82, Page 418 of the Hamilton County Recorder's Office; said point lies at the intersection of the East line of Lang Street with the South line of Goethe Street; THENCE leaving the south line of Goethe Street, along the east line of Lang Street, South 45 degrees 04 minutes 43 seconds West for a distance of 90.00 feet to the North line of Seitz Street; THENCE leaving the east line of Lang Street, along the extension of the North line of Seitz Street, North 45 degrees 15 minutes 00 seconds West for a distance of 50.00 feet, to the west line of Lang Street; THENCE with the west line of Lang Street, North 45 degrees 04 minutes 43 seconds East for a distance of 90.00 feet to the south line of Goethe Street; THENCE with the south line of Goethe Street, South 45 degrees 15 minutes 00 seconds East for a distance of 50.00 feet to the place of beginning. Containing in all 0.1033 acres more or less.

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 \$4,500, 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 Petitioner owns adjoining real property and has obtained the written consent of all abutters to the Property, and as a practical matter, only an abutting property owner would have any practical 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 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 Section 723.041, Ohio Revised Code, 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.

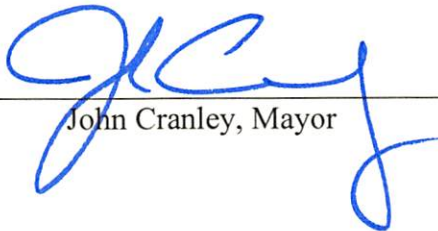
Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation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

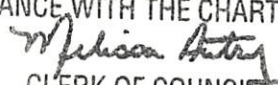
Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

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

Passed: February 18, 2021

Attest:   
Clerk

  
John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 48-2021  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 3-2-2021  
  
CLERK OF COUNCIL