



Legislation Text

File #: 0895-2012, **Version:** 2

Background: The City of Columbus has leased to Capitol South Community Urban Redevelopment Corporation (hereinafter “Capitol South”) certain property at 160 S. High Street, formerly part of the City Center Mall sites (now the “Columbus Commons”) for a term of 99 years, renewable forever. After conducting a competitive process, Capitol South has identified a nationally recognized developer, Carter, (the “Developer”) who is interested in developing the development tracts consisting of 0.484 acres and 1.1740 acres located along High Street (the “High Street Development Pads”) for residential and retail improvements. Capitol South proposes to release its leasehold interest as to the High Street Development Pads, acquire the City’s fee title to the High Street Development Pads and the City’s consent to and/or grant of the associated easements for future consideration arising from the terms of Operative Agreement between the City and Capitol South, as amended, entered into July 30, 2001, all of which conveyance shall be conditioned on the Developer proceeding to closing. Capitol South proposes to convey title to the High Street Development Pads to the Developer at closing for a purchase price of \$2 million and a potential excess profit participation which will be subject to the Operative Agreement. The Developer proposes to develop approximately 300 market rate apartments and 23,000 square feet of first floor retail space for lease in two, six-story buildings, and construct a tunnel for pedestrian access from the buildings to the underground Columbus Commons parking structure (the “High Street Project”).

The following legislation authorizes the Director of Finance to enter into a sale contract with Capitol South, to execute a quit claim deed to Capitol South conveying title to the High Street Development Pads, to execute joinders and consents to parking, utility, access, maintenance, setback, temporary construction and other associated easements necessary for the redevelopment, and to execute other pertinent documents.

Fiscal Impact: None. No expenditure of funds by the City is required.

Emergency action is requested to expedite the redevelopment of the Columbus Commons area.

To authorize the Director of Finance to enter into a sales contract providing for the conveyance of all of the City’s interest in a 0.4840 acre property and a 1.1740 acre property on South High Street, with associated easements, to Capitol South Community Urban Redevelopment Corporation; to execute a quit claim deed conveying such property and associated easements; to enter into and execute other documents pertinent to such conveyance; to the extent applicable, to waive the competitive bidding and Land Review Commission requirements of the Columbus City Codes; and to declare an emergency.

WHEREAS, the City of Columbus has previously leased to Capitol South Community Urban Redevelopment Corporation (hereinafter “Capitol South”) that 0.484 acre and 1.174 acre real property, situated generally north of Rich Street, east of and along High Street, and west of and along the Columbus Commons Park (hereinafter the “High Street Development Pads”), for a term of 99 years, renewable forever; and

WHEREAS, to facilitate redevelopment of the High Street Development Pads the City desires to release the High Street Development Pads from the operation of the leases, to convey the City’s fee interest in the High Street Development Pads to Capitol South, and to join in and consent to the related easements; and

WHEREAS, Capitol South will convey the High Street Development Pads to a development entity, the “Developer”, to

be formed by Carter Development Services, LLC; and

WHEREAS, Developer proposes to develop approximately 300 market rate apartments and 23,000 square feet of retail space for lease in two, six-story buildings (the “High Street Project”); and

WHEREAS, an emergency exists in the usual daily operation of the City of Columbus in that it is immediately necessary to authorize the Director of Finance and Management execute those documents necessary to enter into and execute a sale contract together with utility, access, maintenance, setback, temporary construction and other associated easements to expedite the development of the Columbus Commons to provide residential and retail improvements for the immediate preservation of the public health, peace, property and safety; now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Director of Finance be and hereby is authorized to enter into and execute a sale contract, as approved by the City Attorney’s Office, Department of Law, Real Estate Division and providing generally for the sale of the City’s interest in the following described real property, together with utility, access, maintenance, setback, temporary construction and other associated easements to Capitol South for future consideration arising from the terms of Operative Agreement between the City and Capitol South, as amended, entered into July 30, 2001, making the sale conditioned on the contemporaneous conveyance of the real property to Developer for construction of the High Street Project.

DESCRIPTION OF 0.4840 ACRES
NORTH OF RICH STREET
EAST OF AND ALONG HIGH STREET
WEST OF AND ALONG THE COLUMBUS COMMONS PARK
COLUMBUS, OHIO

0.484 ACRE

Situated in the State of Ohio, County of Franklin, City of Columbus, located in Section 16, Township 5, Range 27, Refugee Lands, being partly out of Lots 337, 338, and 339 of that subdivision entitled “Town Plat of Columbus” of record in Plat Book F, Page 332 as conveyed to The City of Columbus, Ohio by deed of record in Official Record 11411A13 (all references refer to the records of the Recorder’s Office, Franklin County, Ohio), and being described as follows:

BEGINNING at an iron pin set at a southwesterly corner of said Lot 339, and the intersection of the easterly right-of-way line of High Street (100’, public) with the northerly right-of-way line of Vacated Town Street of record in Ordinance Number 922-86, being the;

thence North 08° 07’ 38” West, with the westerly line of said Lots 339 thru 337, the easterly right-of-way line of said High Street, a distance of 168.00 feet to an iron pin set;

thence North 81° 46’ 28” East, across said Lot 337, a distance of 125.50 feet to an iron pin set;

thence South 08° 07’ 38” East, across said Lots 337 thru 339, a distance of 168.00 feet to an iron pin set in the southerly line of said Lot 339, the northerly right-of-way line of said vacated Town Street;

thence South 81° 46’ 28” West, with the southerly line of said Lot 339, and said northerly right-of-way line of said vacated Town Street, a distance of 125.50 feet to the POINT OF BEGINNING, and containing 0.484 acre of land, more or less.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

This survey is based on a field survey performed by EMH&T, Inc., in February of 2009.

Bearings are based on the Ohio, State Plane Coordinate System, South Zone, per NAD83 (1986 adjustment) relative to Franklin County Monuments Frank43 and COC 11-83 and other points as shown in FRA-62-14.11 plats by DLZ Ohio, Inc.

EVANS, MECHWART, HAMBLETON & TILTON, INC.
Jeffrey A. Miller
Registered Surveyor No. 7211

DESCRIPTION OF 1.1740 ACRES
NORTH OF RICH STREET
EAST OF AND ALONG HIGH STREET
WEST OF AND ALONG THE COLUMBUS COMMONS PARK
COLUMBUS, OHIO

1.175 ACRE

Situated in the State of Ohio, County of Franklin, City of Columbus, located in Section 16, Township 5, Range 27, Refugee Lands, being partly out of Lots 340 thru 345 of that subdivision entitled "Town Plat of Columbus" of record in Plat Book F, Page 332, out of Lots 2 and 3, partly out of Lots 1 and 4 of that subdivision entitled "Samuel Barr Subdivision" of record in Deed Book 39, Page 317 as conveyed to The City of Columbus, Ohio by deed of record in Official Record 11411A13, (all references refer to the records of the Recorder's Office, Franklin County, Ohio), and being described as follows:

BEGINNING at an iron pin set at a southwesterly corner of said Lot 345, the intersection of the easterly right-of-way line of High Street (100', public), with the northerly right-of-way line of Rich Street (Public, 82.50');

thence North 08° 07' 38" West, with the westerly line of said Lots 345 thru 340, and Lots 1 thru 3, and said easterly right-of-way line of High Street, a distance of 407.77 feet to an iron pin set at a northwesterly corner of said Lot 3, and the intersection of the easterly right-of-way line of High Street with the southerly right-of-way line of vacated Town Street by Ordinance Number 922-86;

thence North 81° 46' 28" East, with the northerly line of said Lots 3 and 4, and said southerly right-of-way line of vacated Town Street, a distance of 125.50 feet to an iron pin set;

thence South 08° 07' 38" East, across said Lots 1 thru 4 and Lots 340 thru 345, a distance of 407.77 feet to an iron pin set in the southerly line of said Lot 345, the northerly right-of-way line of said Rich Street;

thence South 81° 46' 28" West, with the southerly line of said Lot 345, and said northerly right-of-way line of Rich Street, a distance of 125.50 feet to the POINT OF BEGINNING, and containing 1.175 acre of land, more or less.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

This survey is based on a field survey performed by EMH&T, Inc., in February of 2009.

Bearings are based on the Ohio, State Plane Coordinate System, South Zone, per NAD83 (1986 adjustment) relative to Franklin County Monuments Frank43 and COC 11-83 and other points as shown in FRA-62-14.11 plats by DLZ Ohio, Inc.

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SECTION 2. That the Director of Finance be and hereby is authorized to execute a quit claim from the City to Capitol South in completion of such sale agreement, a mutual release of any previous lease and any other previous agreement or document between the City and Capitol South or others that may be required or helpful in clearing title to such real estate in Capitol South, and grant associated easements to Capitol South.

SECTION 3. Consent to Easements. That the Director of Finance be and hereby is authorized to execute easement agreement(s), approved by the City Attorney's Office, Department of Law, Real Estate Division and providing generally for the City's joinder in and consent to easements granted to Developer by Capitol South for the construction, use and maintenance of: a service drive connecting the Pearl Street ramp with Rich Street along the western edge of the Columbus Commons; a subterranean tunnel connecting the Project with the Columbus Commons Underground Garage together with utility, access, maintenance, setback, temporary construction and other associated easements including: temporary construction easements to facilitate the construction of the project, a permanent no-build easement 30 feet in depth where needed for fire separation and to permit the installation of windows, a permanent easement to allow for the maintenance of the Project, and permanent utility easements.

SECTION 4. Consent to Parking Agreements. That the Director of Finance be and hereby is authorized to execute parking agreement(s), in the form of an easement as to the Columbus Commons Underground Garage and the form of a long term agreement as to the Columbus Commons Main Garage, in form approved by the City Attorney's Office, Department of Law, Real Estate Division and providing generally for the City's joinder in and consent to the parking agreements granted to Developer by Capitol South to provide parking for the residents and retail patrons of the Project.

SECTION 5. That this Council has determined that it is in the best interest of the City of Columbus to waive and does hereby waive the requirements of Columbus City Codes (1959) Revised, Chapter 328 (Land Review Commission) and Section 329.259 (competitive bidding) to the extent that they may apply to this transaction with regards to this ordinance only.

SECTION 6. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.