

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 180156

Authorizing the Director of General Services to enter into a Cooperative Agreement with the Planned Industrial Expansion Authority of Kansas City, Missouri (the "PIEA") to transfer by special warranty deed title to real property generally located at E. 22nd Street on the north, E. 23rd Street on the south, Prospect Avenue on the east and Olive Street on the west except that portion dedicated for public street purposes, to facilitate redevelopment within the 22nd/23rd Street Connector PIEA Planning Area; removing from such Cooperative Agreement certain real property previously approved for transfer by the City; directing the City Clerk to record this ordinance; and declaring this Ordinance to have an accelerated effective.

WHEREAS, the City owns roughly 4.2 acres of property generally located at E. 22nd Street on the north, E. 23rd Street on the south, Prospect Avenue on the east and Olive Street on the west (the "Property") which it acquired for the purposes of implementing the 22nd/23rd Street Connector Project (the "Connector Project"); and

WHEREAS, the Property is located within the 22nd/23rd Street Connector PIEA Planning Area and, pursuant to Ordinance No. 151048 passed on January 21, 2016, and PIEA Resolution No. 1709 passed on April 16, 2017, the entirety of the Property was declared to be a blighted and insanitary area, within the meaning of those terms as set out in Section 100.310 of the Revised Missouri Statutes; and

WHEREAS, that portion of the Property necessary for public street purposes has been dedicated and established by Ordinance No. 150405 passed on June 4, 2015 and recorded in the official records of the Jackson County Recorder of Deeds on July 14, 2015, as Instrument No. 2015E0062124 (the "Connector Right-of-Way"); and

WHEREAS, pursuant to Ordinance No. 151048 passed on January 21, 2016, and PIEA Resolution No. 1709 passed on April 16, 2017, the entirety of the Property was declared to be a blighted and insanitary area, within the meaning of those terms as set out in Section 100.310 of the Revised Missouri Statutes;

WHEREAS, on July 12, 2017, the PIEA issued a request for proposals for a developer of the Excess Property as subsequently defined in Ordinance No. 170550 passed August 3, 2017 and as defined in the recital below, and on July 20, 2017, pursuant to its Resolution Nos. 1911 and 1912, the Board of Commissioners of the PIEA selected Taliaferro & Browne Real Estate 22nd/23rd Street LLC, a Missouri limited liability company, as the developer of the Excess Property (the "Developer"), to implement a development plan for the Excess Property (the "Development Plan"); and

WHEREAS, pursuant to Ordinance No. 170550 dated August 3, 2017, the City Council did approve disposition of certain portions of the Property not included in the Connector Right-of-Way (the "Excess Property") to the PIEA, by authorizing the Director of General Services to execute a Cooperative Agreement with the PIEA (the "Cooperative Agreement"), so the PIEA could make the Excess Property available for

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development for the purposes of remediating an insanitary and undeveloped area which has been declared by the City to be injurious to the public health, safety, morals, economy and welfare of the residents of Kansas City, on the condition that such Excess Property remains subject to a temporary construction easement in favor of the City, until the completion of the Connector Project; and

WHEREAS, subsequent to the passage of Ordinance No. 170550, the Developer determined (a) that a parcel of Property subject to the Development Plan had been acquired by the City but was inadvertently excluded from the definition of the Excess Property (the “Additional Property”), and (b) a parcel of Property subject to the Development Plan and approved for disposition by the City in Ordinance No. 170550 was inadvertently included in the definition of the Excess Property (the “Excluded Property”); and

WHEREAS, the Additional Property is needed for the public purpose of revitalizing the Plan Area, which public purpose may be served by the City, in collaboration with and through the oversight of the PIEA; and

WHEREAS, Article I, Section 103 of the City Charter, empowers the City to cooperate with other governmental bodies, such as the PIEA, to carry out the powers of the City; and

WHEREAS, the City desires to authorize modification of the Cooperative Agreement with the PIEA previously authorized by Ordinance No. 170550, to:

(a) exclude from the authorized conveyance of Excess Property to the PIEA the Excluded Property, which Excluded Property is commonly known as 2209 Olive Street, and legally described as Lot 24, Lot 25 and the South 15 Feet of Lot 26, Block 6, Prospect Summit, a subdivision in Kansas City, Jackson County, Missouri, which modification shall be deemed implemented hereafter when the defined term of Excess Property is used in the remainder of this Ordinance; and

(b) include the Additional Property, along with the conveyance of the Excess Property to PIEA, for the public purpose of revitalizing the Additional Property, as authorized by Sections 100.390, RSMo, subject to and conditioned upon the following: (1) that such conveyance by means of a Special Warranty Deed from the City to the PIEA of the Additional Property shall be subject to the same reservations applicable to the Excess Property pursuant to Ordinance No. 170550, including without limitation a reserved temporary construction easement reserved unto the City over the Additional Property in combination with the Excess Property, for the purposes of the City completing the construction and installation of the Connector Project and all post-construction activities related to the Connector Project, with the duration of such temporary easement being determined in the sole discretion of the Director of the City’s Department of Public Works; (2) the City’s conveyance shall have the same limited warranties

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consistent with a Special Warranty Deed for the modified Excess Property inclusive of the Additional Property, to PIEA, subject to the temporary construction easement in favor of the City, with the understanding that the PIEA may examine title to the Additional Property contemporaneously with the Excess Property to evaluate whether such title is free and clear of all other leases, liens and encumbrances unacceptable to PIEA but may also accept title as a conduit to the Developer with the latter undertaking the obligation to cure any title defects deemed not acceptable to the PIEA; (3) the PIEA paying such consideration to the City for the Additional Property as a part of the modified Excess Property, following PIEA's conveyance of the Additional Property and modified Excess Property to the Developer and the amount of such consideration may be nominal within regulatory guidelines applicable from the source of funds for the acquisition of the Property; (4) the City receiving those proceeds, less PIEA's administrative costs, for the Additional Property and modified Excess Property, upon the closing, and (5) neither the PIEA nor the Developer taking any possessory interest in the Additional Property prior to the completion of the Connector Project which, in the City's sole judgment, interferes with the City's construction of the Connector Project; and

WHEREAS, Subsection 2-422(a)(1), Code of Ordinances, generally grants to the Director of the General Services Department the power and responsibility for the disposition of City-owned real property and Subsection 2-422(b) enables such Director to permit other Departments certain management responsibilities, and in these circumstances the Director of General Services has determined that portions of the Cooperative Agreement between the City and the PIEA may be implemented by the Director of Public Works as provided below; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. The City Council hereby excludes and removes the Excluded Property from the description of the Excess Property authorized for conveyance by the City to the PIEA by Ordinance No. 170550, which Excluded Property is commonly known as 2209 Olive Street, and legally described as Lot 24, Lot 25 and the South 15 Feet of Lot 26, Block 6, Prospect Summit, a subdivision in Kansas City, Jackson County, Missouri; and

Section 2. The City Council determines that a transfer of title to the Additional Property in combination with the modified Excess Property to the PIEA serves the public purpose of enabling the implementation of the Development Plan authorized by Ordinance No. 151048, to remedy blight and commence the revitalization of the Additional Property, along with the Excess Property, located in the Plan Area.

Section 3. That the Director of the General Services Department is authorized to negotiate, execute and implement an amendment to the Cooperative Agreement with PIEA authorized by Ordinance No. 170550, to transfer by special warranty deed the City-owned modified Excess Property, and also include as a part of the conveyance, the Additional Property bearing the approximate legal description of:

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Lot 20, Block 6, Prospect Summit, a subdivision in Kansas City, Jackson County, Missouri (currently being Tax Parcel No. 29-610-35-10-00-0-00-000), commonly referred to as 2215 Olive Street, Kansas City, Missouri 64127

Section 4. That the Director of General Services delegates to the Director of Public Works certain aspects of implementing the Cooperative Agreement, including the determination of whether any existing easements for utilities or access upon or affecting the Additional Property should be retained and reserved to the City, and in which event the Special Warranty Deed to the PIEA shall expressly reserve the City's interests in those further easements, and when to terminate the temporary construction easements upon completion of the Connector Project.

Section 5. That the Director of the General Services Department is authorized: a) to execute a Special Warranty Deed conveying the modified Excess Property and the Additional Property to the PIEA, subject to and reserving (i) a temporary construction easement in favor of the City over the Additional Property, with final legal descriptions of the aggregate of the modified Excess Property, inclusive of the Additional Property being determined by survey prepared by Taliaferro & Browne, Inc., and certified by Ricky E. Gard as of February 28, 2018, and March 7, 2018, the latter of which was reviewed and approved by Public Works staff as corresponding to the Connector Project's construction plans horizontal control for street grade; and (ii) any other easements for utilities or access deemed necessary to be reserved for the benefit of the City; (iii) to execute any and all other real estate and closing documents necessary, and (iv) to take such further actions as are required to carry out the intent of this ordinance.

Section 6. That this ordinance, relates to a contract relating to the design and construction of a public improvement, is hereby recognized as having an accelerated effective date pursuant to Section 503(a)(3) (D) of the Charter.

Section 5. That the City Clerk is directed to record with the Jackson County, Missouri Recorder of Deeds a certified copy of this Ordinance.

Approved as to form and legality:

Amelia McIntyre
Associate City Attorney