

Ordinance No. 54-2023 AS AMENDED

By Council Members Howse, Bishop,
Polensek, Hairston and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Directors of Capital Projects, Public Safety and/or Public Works to enter into a Development and/or Purchase Agreement with TurnDev, or its designee, for the development and sale of real property and buildings located at 2530-2570 Superior Avenue as the new police headquarters; authorizing the Commissioner of Purchases and Supplies to acquire the property; authorizing other agreements to implement; authorizing the purchase of materials, equipment, services and supplies to equip the new facility and for moving services; authorizing consulting contracts; and authorizing the Directors to apply for and accept gifts or grants from various public or private entities to implement this ordinance.

WHEREAS, the City of Cleveland has selected a new location for the new police headquarters and parking garage to be located at 2530-2570 Superior Avenue, which is currently the site of the historic ArtCraft Building ("Property"); and

WHEREAS, the Property is currently owned by TurnDev, or its designee ("Developer"); and

WHEREAS, the City wishes to enter into agreements with Developer to redevelop the Property according to the City's specifications and transfer the redeveloped properties to the City in order for the City to provide a new, permanent location and a modern, fully-functional new Cleveland Police Division headquarters, parking garage, and supporting spaces on the Property (the "Project"); and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

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

Section 1. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Capital Projects, Public Safety and/or Public Works, as appropriate, (the "Directors") are authorized to enter into a Development and/or Purchase Agreement with Developer for the construction of the Project, for progress payments to be made to Developer, or to be paid on behalf of the Developer during construction, from bond proceeds and for the transfer and sale of the Project to the City upon completion. The Development and/or Purchase Agreement shall include, but not be limited to, the following provisions:

Ordinance No. 54-2023

AS AMENDED

1. Developer will contract with registered and licensed architectural and general contracting firms to provide the design and construction contracting services for the Project.
2. Developer will negotiate one or more guaranteed maximum price agreements ("GMP Agreement") with a general contractor for the Project.
3. Developer will comply with terms, conditions and requirements imposed on contractors as defined in Chapter 187, Cleveland Area Business Code of the Cleveland Codified Ordinances and Chapter 188, Fannie M. Lewis Cleveland Resident Employment Law of the Cleveland Codified Ordinances. Developer and City will negotiate in good faith to finalize a community benefits agreement satisfactory to both parties ("Community Benefits Agreement").
4. Developer will ensure that prevailing wages are paid on the project and the other applicable City ordinances are followed.
5. The guaranteed maximum price for the Project shall not exceed \$90,000,000, less costs incurred directly by the City, and will include the real estate, new equipment and furniture systems and all appurtenances thereto, the Developer's fee, and all costs related to the design and construction of the improvements, which improvements will be agreed upon between Developer and City in a detailed writing to be attached to the Development and/or Purchase Agreement signed by the parties.
6. The Development and/or Purchase Agreement will provide that the Property will be transferred within 120 days of receipt of Certificate of Occupancy or Substantial Completion of the Project, whichever is later, by deed from the Developer or its designee to the City such that the City will own the Property and Project in fee simple free of all liens and encumbrances after the deed is recorded.
7. The City will expedite the review and approval process for all licenses, permits, approvals, reviews, variances and inspections required by the laws of the City as needed for the Project.

8. The Development and/or Purchase Agreement will require that the following goals are met by the Developer and Developer's subcontractors:

Development Team Diversity:

20% CSB (including minor MBE & FBE%s) Participation for Non-Construction Work

Construction Team Diversity (surpassed RFP and Cleveland Business Code %s):

20% MBE Participation

10% FBE Participation

10% CSB Participation

Workforce Utilization Goals (surpasses Fannie Lewis Law requirements):

25% Cleveland Resident Participation

Ordinance No. 54-2023 AS AMENDED

5% Cleveland Resident Low Income Persons (as defined by Section 188.01(f) of the Codified Ordinances of Cleveland, Ohio, 1976)
20% Union Construction Trade Apprentice

Section 2. That the Directors are authorized to enter into any other agreements, including multi-party agreements, with various entities to implement this ordinance. The agreements may include but are not limited to, an amendment to the City's agreement with PCS Companies, Inc. for services for the Project, and agreements for pre-construction due diligence, financing, and loan servicing.

Section 3. That in accordance with the Development and/or Purchase Agreement authorized in this ordinance and notwithstanding and as an exception to the provisions of Chapter 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is authorized to purchase the following described properties and buildings, known as the Project, from Developer:

SITE MAP & LEGAL DESCRIPTIONS **Legal Description of the Premises**

Parcel No. 1: 102-26-005

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot Nos. 160, 161, 162 and 204 in Perry and Payne's Subdivision of part of Original Ten Acre Lot Nos, 110,111, 112 and 113 as shown by the recorded plat in Volume 4 of Maps, Page 47 of Cuyahoga County Records and Sublot Nos. 205 and 206 in the Perry-Payne Resubdivision of part of Original Ten Acre Lot Nos, 110 and 111, as shown by the recorded plat in Volume 29 of Maps, Page 10 of Cuyahoga County Records and together forming a parcel of land bounded and described as follows:

Beginning on the Southerly line of Superior Avenue, N.E. at its point of intersection with the Westerly line of East 26th Street;

Thence Westerly along said Southerly line of Superior Avenue, N.E. 267.47 feet to the Easterly line of East 25th Street;

Thence Southerly along said Easterly line of East 25th Street 150.19 feet to the Northerly line of Alabama Court N.E.;

Thence Easterly along said Northerly line Alabama Court 267.67 feet to the said Westerly line of East 26th Street;

Ordinance No. 54-2023

AS AMENDED

Thence Northerly along said Westerly line of East 26th Street 150.12 feet to the place of beginning, be the same more less, but subject to all legal highways, along with the Northerly portion of Vacated Alabama Court N.E. in Ordinance No. 1446-90, dated July 31, 1990.

Parcel No. 2: 102-26-006

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, and known as being New Lot 2 in the Plat of Lot Split and Consolidation of P.P.N. 102-26-006, 007, 008 and 009 of part of Original Ten Acre Lots Nos. 110 and 111 as shown by the recorded plat in Volume 329 of Maps, Page 46 of Cuyahoga County Records, as appears by said plat, along with the Southerly portion of Vacated Alabama Court N.E. in Ordinance No. 1446-90, dated July 31, 1990.

Parcel No. 3: 102-26-043 "B"

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being a Split of New Lot 1 of plat recorded in Volume 329, Page 46, also being part of Original Ten Acre Lots 110 & 111, Township 7 North, and Range 12 West of the Connecticut Western Reserve;

Beginning at a 5/8 inch iron pin found (ID Riverstone) at the southwest corner of said New Lot 2;

Course 1: Thence North 57° 09'32" East, along the southerly line of said New Lot 2, 253.07 feet to a 5/8 inch iron pin found at the southeast corner thereof;

Course 2: Thence South 30° 17'27" East, along the westerly limited access line of Interstate Route 90, 69.83 feet to a 5/8 inch iron pin found at an angle point therein;

Course 3: Thence South 23° 46'01" East, along the westerly limited access line of said Interstate Route 90, 152.21 feet to a 5/8 inch iron pin found (ID Riverstone) at the northeast corner of Parcel A of plat recorded in Volume 288, Page 66 of Cuyahoga County Records;

Course 4: Thence South 57° 12'15" West, along the northerly line of said Parcel A , 90.98 feet to a 5/8 inch iron pin set at an angle point therein;

Course 5: Thence North 32° 50'28" West, 159.87 feet to a 5/8 inch iron pin set at an angle point therein;

Course 6: Thence South 57° 09'32" West, 135.00 feet to a 5/8 inch iron pin set in the easterly line of East 25th Street (66 feet wide);

Course 7: Thence North 32° 50'28" West, along the easterly line of said East 25th Street, 60.13 feet to place of beginning, subject to all legal highways and easements of record and containing 0.7282 acres of land (31,719 s.f.) as calculated as described based a field survey performed in

Ordinance No. 54-2023 AS AMENDED

February, 2016 by Richard A. Thompson Jr. Professional Land Surveyor #7388, of Polaris Engineering and Surveying. Bearings refer to the Ohio Coordinate System of 1983 - North Zone -1986 Adjustment. All iron pins set are 5/8 inch diameter by 30 inch long rebar with identification caps stamped "Polaris s-7087".

Note: Said premises is further known as being Parcel B in the Plat of Lot Split in Volume 384 of Maps, Page 70 of Cuyahoga County Records.

Parcel No. 4: 102-26-042 "A"

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio:

And known as being a split of New Lot 1 of plat recorded in Volume 329 of Maps, Page 46 of Cuyahoga County Records, and also being part of Original Ten Acre Lots 110 & 111, Township 7 North, and Range 12 West, of the Connecticut Western Reserve;

Beginning at a 5/8 inch iron pin found (ID Riverstone), at the Southwest corner of New Lot 2 of said Volume 329 of Maps, Page 46 of Cuyahoga County Records;

Thence South 32 deg. 50' 28" East, along the Easterly line of East 25th Street (60 feet wide), 60.13 feet to a 5/8 inch iron pin set at the place of beginning;

Course 1: Thence North 57 deg. 09' 32" East, 135.00 feet to a 5/8 inch iron pin set, at an angle point therein;

Course 2: Thence South 32 deg. 50' 28" East, 159.87 feet to a 5/8 inch iron pin set in the Northerly line of Parcel A of plat recorded in Volume 288 of Maps, Page 66 of Cuyahoga County Records;

Course 3: Thence South 57 deg. 09' 32" West, along the Northerly line of said Parcel A, 135.00 feet to a 5/8 inch iron pin found at the Northwest corner thereof;

Course 4: Thence North 32 deg. 50' 28" West, along the Easterly line of said East 25th Street, 159.87 feet to the principal place of beginning, subject to all legal highways, and containing 0.4955 acres of land (21,582 S.F.), as calculated as described, based on a field survey performed in February, 2016, by Richard A. Thompson Jr., Professional Land Surveyor #7388, of Polaris Engineering and Surveying.

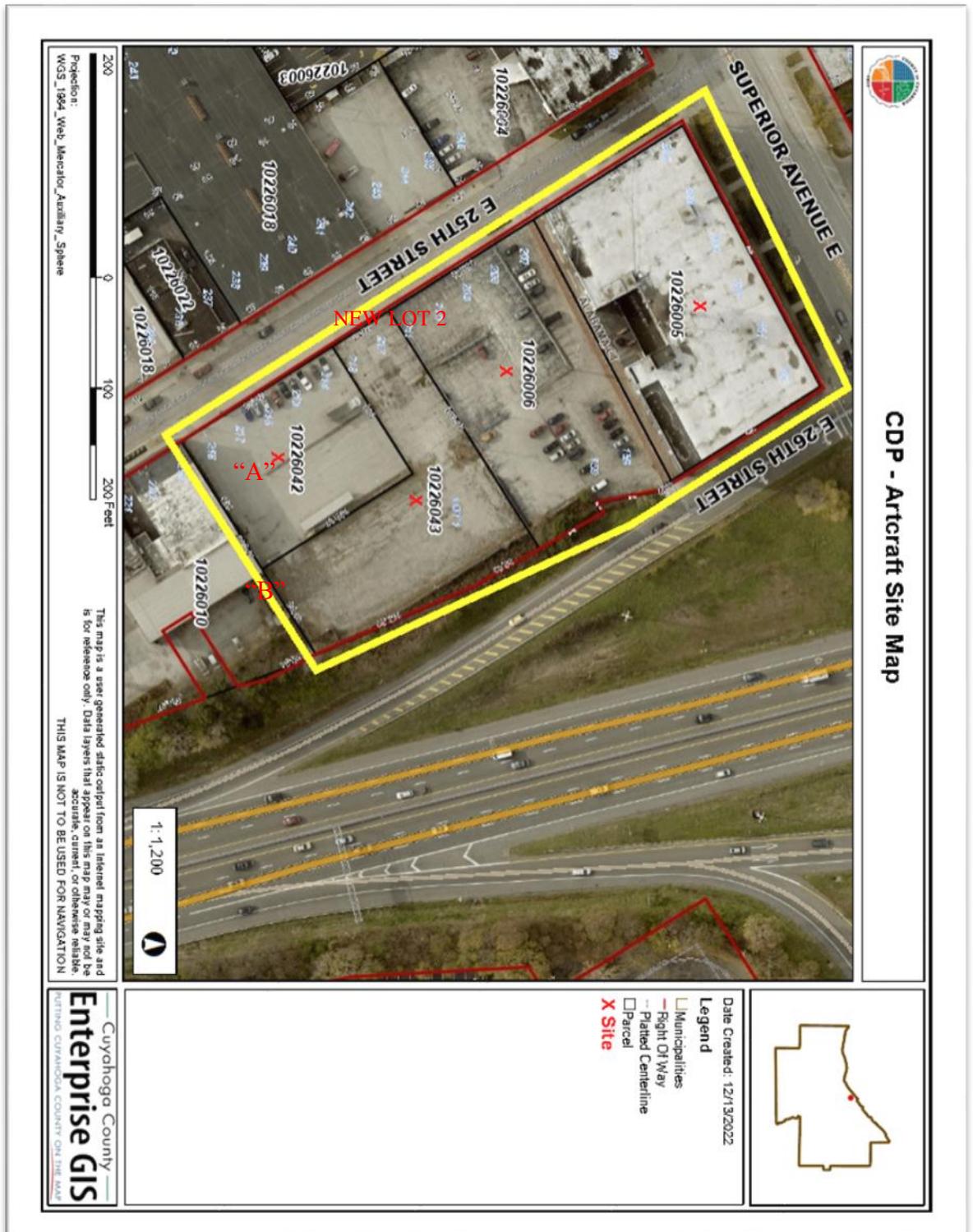
Bearings refer to the Ohio Coordinate System of 1983 - North Zone - 1986 adjustment.

All iron pins set are 5/8 inch diameter by 30 inch long rebar with identification caps stamped Polaris S-7087.

Note: The above described premises is now further known as being Parcel A in the Plat of Lot Split recorded in Volume 384 of Maps, Page 70 of Cuyahoga County Records.

**Ordinance No. 54-2023
AS AMENDED**

Site Map



Section 4. That the Directors are authorized to execute on behalf of the City of Cleveland all necessary documents and to pay all fees necessary to effect the purposes of this ordinance.

Ordinance No. 54-2023 AS AMENDED

Section 5. That the Directors are authorized to apply for and accept any grants or gifts of cash or services from any public or non-public entity to implement this ordinance; that the Directors are authorized to file all papers and execute all documents necessary to receive the funds under the grant or to accept the cash or services; and that the funds are appropriated for the purposes of this ordinance.

Section 6. That the Directors are authorized to make one or more written standard purchase contracts and written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, the period of requirements to be determined by the Directors, for the necessary items of materials, equipment, supplies, and services, including furniture, fixtures, equipment, information technology business systems, moving, and other related services needed to implement and equip the Project, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the appropriate department. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines.

Section 7. That the costs of the requirement or standard contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of any purchase under the contract, each of which purchases shall be made on order of the Commissioner of Purchases and Supplies by a delivery order issued against the contract or contracts and certified by the Director of Finance.

Section 8. That the Directors are authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to equip the Project.

Ordinance No. 54-2023 AS AMENDED

The selection of the consultant or consultants for the services shall be made by the Board of Control on the nomination of the Directors from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Directors for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Directors, and certified by the Director of Finance.

Section 9. That under Section 108(b) of the Charter, the purchases and/or services authorized by this ordinance may be made through cooperative arrangements with other governmental agencies. The Directors may sign all documents that are necessary to make the purchases and/or obtain such services, and may enter into one or more contracts with the vendors and/or consultants selected through that cooperative process.

Section 10. That all costs of this ordinance shall be paid from Fund Nos. 20 SF 566, 20 SF 573, 20 SF 578, 20 SF 585, 20 SF 588, 20 SF 591, 20 SF 596, 20 SF 701, 20 SF 705, 20 SF 709, 20 SF 710, 20 SF 711, from the fund or funds to which are credited the sale of bonds and future bonds issued for this purpose, from the fund or funds to which are credited the grants or gifts received, and from any other funds approved by the Director of Finance. (RQS 0103, RLA 2019-68)

Section 11. That the Director of Capital Projects shall provide all members of Council quarterly reports with updates on the construction of the Project.”

Section 11. 12. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

SM:RB:nl 1-9-23 FOR: Directors DeRosa, Howard, and Williams

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**REPORT
after second Reading**

**By Council Members Howse, Bishop, Polensek, Hairston and Griffin
(by departmental request)**

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Authorizing the Directors of Capital Projects, Public Safety and/or Public Works to enter into a Development and/or Purchase Agreement with TurnDev, or its designee, for the development and sale of real property and buildings located at 2530-2570 Superior Avenue as the new police headquarters; authorizing the Commissioner of Purchases and Supplies to acquire the property; authorizing other agreements to implement; authorizing the purchase of materials, equipment, services and supplies to equip the new facility and for moving services; authorizing consulting contracts; and authorizing the Directors to apply for and accept gifts or grants from various public or private entities to implement this ordinance.

READ FIRST TIME **REPORTS**
and referred to
by the council

CITY CLERK

READ SECOND TIME
by the council

CITY CLERK

READ THIRD TIME
by the council

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. _____ Page _____
Published in the City Record _____

