

ORDINANCE NO. BL2018-1377

An ordinance approving the Right of Way Relocation Agreement for Molloy Street with CBR 217 2nd Avenue, LLC and CBR Ragland Parking Lot, LLC, and conditionally abandoning a portion of Molloy Street located between Second Avenue South and Third Avenue South (Mandatory Referral No. 2018M-018AG-001) .

WHEREAS, CBR 217 2nd Avenue, LLC is the owner of the parcel of property located on the north boundary of Molloy Street between Second Avenue South and Third Avenue South (Parcel ID No. 09306409100) (the “North Molloy Property”); and,

WHEREAS, CBR Ragland Parking Lot, LLC is the owner of the multiple parcels of property located south of Molloy Street between Second Avenue South and Third Avenue South (Parcel ID Nos. 09306003400, 09306003500, 09310040600, 09310040800, 09310040700, 09310040900, 09310041100, 09310041500, 09310041600, 09310041700, 09310041800, 09310041900 and 09310042000) (the “South Molloy Property”); and,

WHEREAS, CBR 217 2nd Avenue and CBR Ragland Parking Lot are affiliated entities that are coordinating the development of the North Molloy Property and the South Molloy Property; and,

WHEREAS, in connection with the development of the North Molloy Property and the South Molloy Property, CBR 217 2nd Avenue and CBR Ragland Parking Lot have proposed to realign Molloy Street between Second Avenue South and Third Avenue South as shown on the drawing attached hereto as Exhibit 1 (the “Relocation Project”); and,

WHEREAS, in connection with the development of the North Molloy Property, CBR 217 2nd Avenue has proposed that Metro would retain an easement for pedestrian access across a portion of the Abandoned Area (as defined below) in exchange for Metro permitting CBR 217 2nd Avenue to utilize a portion of the right of way of Molloy Street for a valet lane and or lay-by lane for the benefit of the North Molloy Property; and,

WHEREAS, in order to complete the with Relocation Project, CBR Ragland Parking Lot will be required to dedicate a portion of the South Molloy Property for the right of way for the relocated Molloy Street, as shown on Exhibit 2 and described on Exhibit 3 (the “Dedicated Area”), and Metro will abandon a portion of the existing right of way of Molloy Street adjacent to the North Molloy Property, as shown on Exhibit 4 and described on Exhibit 5 (the “Abandoned Area”), while retaining (i) a pedestrian zone easement for pedestrian access (the “Pedestrian Zone Easement”) across and over to a height of 14 feet above the surface of the area shown on Exhibit 6 and described on Exhibit 7 (the “Pedestrian Zone Easement Area”), and (ii) an easement for the underground District Energy System lines and vault (the “DES Easement”) across, under and over to a height of 14 feet above the surface of the area shown on Exhibit 8 and described on Exhibit 9 (the “DES Easement Area”); and,

WHEREAS, following the adoption of this Ordinance, (i) CBR 217 2nd Avenue will replat the North Molloy Property to include the Abandoned Area, subject to the Pedestrian Zone Easement and the DES Easement, (ii) CBR Ragland Parking Lot will replat the South Molloy Property to

dedicate the Dedicated Area for the right of way for the relocated Molloy Street, (iii) Metro will be permitted to continue to utilize the Abandoned Area as a public right of way until the commencement of the construction of the Relocation Project (iv) CBR Ragland Parking Lot will be permitted to continue to utilize Dedicated Area for parking until the commencement of construction of the Relocation Project, (v) upon the completion of construction of the Relocation Project and CBR 217 2nd Avenue obtaining the necessary permit from Metro's Department of Public Works (the "Valet/Lay-By Lane Permit"), CBR 217 2nd Avenue will be permitted to utilize the portion of the Molloy Street right of way adjacent to the Pedestrian Zone Easement and shown as the Future Valet/Lay-By Lane on Exhibit 1 and more particularly described on Exhibit 10, for a valet lane and or lay-by lane for the benefit of the North Molloy Property (the "Valet/Lay-By Lane"); and,

WHEREAS, prior to recording the replat of the North Molloy Property or the South Molloy Property, CBR 217 2nd Avenue and/or CBR Ragland Parking Lot will be required to post a letter of credit with the Metropolitan Planning Commission to secure the completion of the improvements required for the Relocation Project; and,

WHEREAS, CBR 217 2nd Avenue and/or CBR Ragland Parking Lot will be required to construct the right of way improvements required for the Relocation Project when the first of the North Molloy Property or the South Molloy Property is redeveloped and shall complete the construction the Relocation Project within four (4) years of the commencement of construction; and,

WHEREAS, upon the inspection and approval of the public street and sidewalk improvements constructed by CBR 217 2nd Avenue and/or CBR Ragland Parking Lot for the Relocation Project, Metro will record an instrument terminating any right to use the Abandoned Area for a public right of way, except for the retention by Metro of the Pedestrian Zone Easement and the DES Easement, and CBR Ragland Parking Lot will record an instrument terminating any right to use the Dedicated Area.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the form, terms and provisions of the Right of Way Relocation Agreement attached hereto as Exhibit 11 are hereby approved and the Metropolitan Mayor of the Metropolitan Government (the "Metropolitan Mayor") is hereby authorized, empowered and directed to execute and deliver the Right of Way Relocation Agreement in the name and on behalf of the Metropolitan Government in the form now before this meeting. From and after the execution and delivery of the Right of Way Relocation Agreement, the officers of the Metropolitan Government or any of them, are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Right of Way Relocation Agreement as executed.

Section 2. All acts and doings of the Metropolitan Mayor, the Director of Finance and any other officer of the Metropolitan Government which are in conformity with the purposes and intent of this Ordinance shall be, and the same hereby are in all respects, approved and confirmed

as may be necessary or appropriate in order for the Metropolitan Government to comply with the terms of the Right of Way Relocation Agreement.

Section 3. Any amendment(s), change(s) or extension(s) of the Right of Way Relocation Agreement or any amendment to the provisions of this Ordinance shall be approved by resolution of the Metropolitan Council receiving twenty-one affirmative votes.

Section 4. That the Geographic Information Systems (GIS) Street and Alley Centerline Layer for The Metropolitan Government of Nashville and Davidson County, as enacted by Ordinance No. BL2015-1041, is hereby amended, as follows:

Conditioned upon compliance with the terms of the Right of Way Relocation Agreement, the right of way of the portion of Molloy Street included in the Abandoned Area, all of which is more particularly described by lines, words and figures on the drawing which is attached to as Exhibit 4 and more particularly described on Exhibit 5 and made a part of this ordinance as though copied herein, is hereby abandoned.

Section 5. That conditioned upon compliance with the terms of the Right of Way Relocation Agreement, said right-of-way included in the Abandoned Area, including all utility easements within it, are hereby abandoned, with the exception of the Pedestrian Zone Easement extending to a height of 14 feet above the surface of the Pedestrian Zone Easement Area, and the DES Easement extending to a height of 14 feet above the surface of the DES Easement Area.

Section 6. That the Director of the Department of Public Works be and hereby is authorized and directed, upon the enactment and approval of this ordinance, to cause said change to be made on said GIS Centerline Record as set out in Section 4 of this ordinance, and to make notation thereon of reference to the date of passage and approval of this amendatory ordinance.

Section 7. That, subject to CBR 217 2nd Avenue obtaining the Valet/Lay-By Lane Permit, the Metropolitan Government hereby approves of the use of the Valet/Lay-By Lane for a valet lane and or lay-by lane commencing upon the completion of construction of the Relocation Project. In the event CBR 217 2nd Avenue is unable to obtain the Valet/Lay-By Lane Permit, then Metro's Pedestrian Zone Easement across and over the Pedestrian Zone Easement Area shall automatically terminate and Metro shall record an instrument terminating any right to use the Pedestrian Zone Easement Area.

Section 8. That the Director of Public Property Administration or his designee is authorized to execute the instrument terminating any right to use the Abandoned Area for a public right of way, except for the retention by Metro of the Pedestrian Zone Easement and the DES Easement, as provided for in Section 1 the Right of Way Relocation Agreement. The Director of Public Property Administration or his designee is also authorized to execute an instrument terminating any right to use the Pedestrian Zone Easement Area as provided in Section 5 the Right of Way Relocation Agreement, and the memorandums of the Right of Way Relocation Agreement as provided in Section 12 the Right of Way Relocation Agreement.

Section 9. This ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

Mark Sturtevant, Director
Department of Public Works

APPROVED AS TO FORM AND
LEGALITY:

Assistant Metropolitan Attorney

INTRODUCED BY:

Member(s) of Council