

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2025 – 064

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN EXCLUSIVE SALES LISTING AGREEMENT CONTRACT FOR PROFESSIONAL REAL ESTATE AGENCY, MARKETING AND ADVISORY SERVICES IN CONNECTION WITH THE SALE OF APPROXIMATELY 87.5 ACRES OF CITY-OWNED VACANT INDUSTRIAL LAND FOR ECONOMIC DEVELOPMENT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Strongsville owns approximately 87.5 acres of vacant industrial land on Foltz Parkway in the City of Strongsville (hereinafter referred to as the "Property"); and

WHEREAS, it is the Council and Administration's belief that the sale of such property would further economic development, provide for the creation or preservation of jobs and employment opportunities within the City of Strongsville, and improve the economic welfare of the citizens of the City and the State of Ohio; and

WHEREAS, the City has attempted to sell such Property through its own resources, and through previous efforts, but has been unsuccessful to date; and

WHEREAS, this Council and Administration believe it to be in the best interests of the City to once again contract for professional real estate agency, marketing and advisory services in order to sell said Property; and

WHEREAS, by and through Resolution No. 2025-022, the City has solicited and received proposals for professional real estate agency, marketing and advisory services in connection with the sale of the Property; and

WHEREAS, Council is desirous of proceeding to award and enter into a contract for such services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That this Council hereby finds and determines that the proposal submitted by **CBRE, INC.** for professional real estate agency, marketing and advisory services in connection with the sale of approximately 87.5 acres of City-owned vacant industrial land on Foltz Parkway in the City of Strongsville for economic development purposes meets the specifications on file in the office of the Director of Economic Development; is in compliance with the applicable requirements for proposals and contracts established by the laws of the City and the State; and is the best proposal for the proposed contract. All other proposals for this contract are hereby rejected.

Section 2. That the Mayor be and is hereby authorized to enter into an *Exclusive Sales Listing Agreement* contract with the aforesaid best proposer for professional real estate agency,

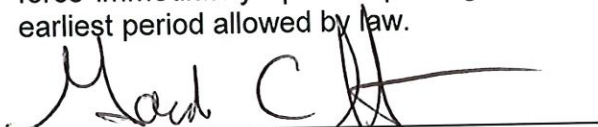
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marketing and advisory services in connection with the sale of approximately 87.5 acres of City-owned vacant industrial land on Foltz Parkway in the City of Strongsville for economic development purposes, in substantially the form attached hereto as Exhibit "A" and incorporated herein by reference, which in all respects is hereby approved.

Section 3. That the funds for the purposes of said contract have been appropriated and shall be paid from the General Fund and/or General Capital Improvement Fund.

Section 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that it is immediately necessary to obtain the aforementioned services in order to properly and effectively market and sell City-owned Property to further economic development, provide for the creation and/or preservation of jobs and employment opportunities within the City of Strongsville, and improve the economic welfare of the citizens of the City and the State of Ohio. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.


President of Council

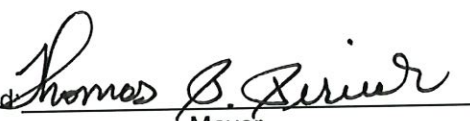
Date Passed: June 2, 2025

Yea

Nay

Carbone
Clark
Kaminski
Kosek
Roff
Short
Spring

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Approved: 
Mayor

Date Approved: June 2, 2025

Attest: 
Clerk of Council

Ord. No. 2025-064 Amended: _____
1st Rdg. 05-19-25 Ref: COW
2nd Rdg. 06-02-25 Ref: _____
3rd Rdg. Suspended Ref: _____

Public Hrg. _____ Ref: _____
Adopted: 06-02-25 Defeated: _____



May 14, 2025

BY ELECTRONIC MAIL: Brent.Painter@Strongsville.org

CITY OF STRONGSVILLE, OH

C/O Mr. Brent Painter

Director of Economic Development

16099 Foltz Parkway

Strongsville, OH 44149

**Re: *Exclusive Sales Listing Agreement*
*Foltz Industrial Parkway, Strongsville, Ohio 44149 ("Property")***

Dear Brent,

Thank you for selecting CBRE, Inc. ("CBRE") to represent you. The terms of our engagement are contained in this agreement ("Agreement").

1. This Agreement shall terminate one year after the above date ("Term").
2. During the Term, you appoint us your exclusive agent with the right to list and market the Property for sale and to negotiate agreements for the sale of the Property (which includes portions thereof). If, during the Term, the Property is removed from the market because escrow is opened or an offer to purchase the Property is accepted, and if the sale is not consummated for any reason, then the Term will be extended by the longer of the number of days that (i) escrow was open or (ii) the Property was removed from the market, but in no event more than 180 calendar days in the aggregate.
3. We will commit the appropriate number of qualified and licensed professionals to this engagement. You authorize CBRE to appoint George Stevens, Mark Truesdell, Jamie Dunford, Keith Keltner, and Anne Rahm (the "Listing Team") to represent you. We have the right to change members of the Listing Team as necessary and appropriate. You have the right to veto the appointment of any licensee to the Listing Team. The Listing Team shall owe you duties of trust, confidence and loyalty.
4. We will offer the Property at an initial listing price of **\$75,000 Per Acre to be further discussed with the City of Strongsville**. However, it is your right to: (a) approve, modify, reject or disapprove any and all proposals and offers as well as any prospective purchasers for the Property and (b) adjust the terms and conditions of any offer made, including but not limited to, adjusting the Property's listing price.
5. We will work with you to create and implement a sales strategy for the Property, including preparation of appropriate and customary marketing materials (such as an offering brochure). In developing the strategy, we will rely on (without requirement to verify) any information provided to us by you, your agents, affiliates and/or any of the Property's managers. However, we will not issue any written marketing materials without your prior written approval. Further, you authorize us to place one or more signs on the Property as we deem appropriate. You agree to reimburse us for reasonable out-of-pocket marketing expenses approved by you, up to a maximum of Zero Dollars (\$0.00). Reimbursement is due upon the receipt of an invoice.

EX-A

6. The success of this engagement relies, in part, on cooperation and communication between us. Therefore, you agree to: (i) provide us with all available information to assist us in marketing the Property; (ii) immediately refer to us all purchase inquiries for the Property; and (iii) conduct all negotiations with prospective purchasers exclusively through us.
7. You represent that you either are the fee owner of or otherwise have control over the Property. You further represent that you have full authority to enter into this Agreement without violating anyone else's rights, or any other agreements or contractual obligations.
8. We will present all offers to you and assist you in developing and negotiating counteroffers until a PSA is signed and all contingencies are satisfied or waived. You agree that you and/or your legal counsel are solely responsible for determining the legal sufficiency of the documents related to this engagement and the tax consequences of any transaction. You are also responsible for evaluating any offers and determining with whom you will negotiate or enter into a transaction. While we may assist you in gathering reasonably available information, we cannot represent or warrant the creditworthiness of any prospect and/or their ability to satisfy their obligations under a purchase agreement. All final business and legal decisions shall be made solely by you. Notwithstanding any designation of us as "agent" in this Agreement, we will have no right, power, or authority to enter into any agreement with any prospective purchaser, real estate broker, or any other person in the name of, on behalf of, or otherwise binding upon you.
9. We will earn (and you agree to pay) a commission in accordance with this Agreement and the attached Commission Schedule (Exhibit "A") if either of the following occur:
 - (a) during the Term, you enter into an agreement to sell the Property to a purchaser, whether procured by us, you or anyone else, and the sale of the Property subsequently closes (whether during or after the Term); or
 - (b) within one hundred twenty (120) days after the expiration of the Term or after the Agreement otherwise terminates (the "Post-Term"), the Property is sold to, or negotiations continue, resume or commence and thereafter continue leading to a sale of the Property to any person or entity with whom, CBRE negotiated (either directly or through another broker or agent) or to whom the Property was submitted during the Term, or to any such person's or entity's successors, assigns, or affiliates ("Existing Prospect"), or you enter into an agreement to sell the Property to an Existing Prospect and the sale of the Property subsequently closes (whether during or after the Post-Term). You agree that CBRE is authorized to continue negotiations with Existing Prospects, and we will submit to you a list of such Existing Prospects no later than fifteen (15) business days following the expiration or termination of the Term; provided, however, that if a written offer has been submitted prior to said expiration or termination date, then it shall not be necessary to include the offeror's name on the list.
10. You agree that we are authorized to cooperate with and, if appropriate, share our commission with "Cooperating Brokers" (such as a broker representing a purchaser). We will be responsible for paying the fee or commission due to the Cooperating Broker (if any) provided the Cooperating Broker: (i) represents the prospective purchaser pursuant to a written agreement, a copy of which is furnished to us prior to the execution of the transaction; (ii) is properly licensed; and (iii) executes and delivers to us an acceptable cooperating brokerage agreement. Market conditions may exist whereby the Cooperating Broker receives an above-standard fee and/or broker bonus. If so, our commission shall be increased by (and you agree to pay) an amount such that we receive no less than 50% of the total fee in accordance with the Commission Schedule. You further agree that we are authorized to extend an offer of subagency to other licensed brokers and salespersons and share our commission with such subagents.
11. If you lease the Property to anyone during the Term or Post-Term, you agree to pay CBRE a lease commission in accordance with Exhibit A.

12. The Listing Team are your designated agents to the exclusion of all of CBRE's other licensees. All other CBRE-affiliated licensees shall be referred to as "Non-Listing Team Agents" and shall be considered Cooperating Brokers. You acknowledge that we are an international brokerage firm and that we may represent prospective purchasers. You desire that the Property may be presented to such persons or entities and, upon written consent pursuant to the **Agency Disclosure Statement** required by Section 4735.57 of the Ohio Revised Code, you agree to any dual representation created thereby. In the event of a dual representation, CBRE shall not disclose the confidential information of one principal to the other, except as expressly authorized by the principals, and CBRE shall establish procedures to protect your confidential information from disclosure to Non-Listing Team Agents representing prospective purchasers. You acknowledge that Non-Listing Team Agents owe duties of trust, confidence and loyalty exclusively to their clients. The Listing Team and Non-Listing Team Agents shall not disclose the confidential information of one principal to the other.
13. Questions regarding environmental and zoning issues may arise during the course of our representation. CBRE is not obligated to perform, and has not made any investigation of the physical conditions or zoning issues relating to the Property. You agree to disclose to us and allow us to disclose to prospective purchasers everything you know (after reasonable inquiry by you) regarding present and future property issues including, but not limited to, structural, mechanical, hazardous materials, zoning and environmental matters affecting the Property and/or the Property's condition.
14. If the Property becomes the subject of foreclosure proceedings before the expiration of the Term, then in our sole and absolute discretion we may: (a) suspend this Agreement until we may elect to reinstate it or (b) terminate this Agreement and enter into a listing agreement with any receiver, party initiating foreclosure, party purchasing the Property at a foreclosure sale, or any other third party.
15. While we are confident that our relationship will be mutually satisfactory, if there is a dispute between us, then we agree to resolve it subject to the following:
- (a) if either party institutes a legal proceeding against the other party relating to this Agreement, the prevailing party shall recover from the non-prevailing party all of its (i) reasonable attorneys' fees and costs, (ii) expert-related fees and costs and (iii) other related expenses. All past due amounts shall bear interest at twelve percent (12%) per annum or the maximum rate permitted in the state in which the Property is located. No party will be entitled to punitive, special and/or consequential damages, and we each waive all rights to and claims for relief other than for compensatory damages; and
 - (b) **WHERE PERMITTED BY LAW, WE EACH KNOWINGLY AGREE TO WAIVE ANY AND ALL RIGHTS TO HAVE A DISPUTE ON ANY MATTER RELATING TO, OR ARISING FROM THIS AGREEMENT DETERMINED BY A JURY.**
16. You and CBRE agree to comply with all applicable laws, regulations, codes, ordinances and administrative orders. Further, we both acknowledge that: (a) it is illegal to refuse to display or lease or sell to or from any person because of one's membership in a protected class, *e.g.*: race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status or any other class protected by applicable law and (b) the Property will be offered in compliance with all applicable anti-discrimination laws.
17. This Agreement is our entire agreement and supersedes all prior understandings between us regarding this engagement and is governed by the laws of the state where the Property is located, without regard to its conflict of laws principles. This Agreement will be binding and inure to the benefit of our lawful representatives, heirs, successors, designees and assignees. It may not be altered or terminated except in a writing signed by both you and CBRE. Neither party's failure to exercise any of its rights under this Agreement will relieve the other party of its obligations hereunder. Nothing herein is or may be deemed a waiver or full statement of any of our rights or

remedies, whether at law or in equity, all of which are expressly reserved. If any provision of this Agreement is unenforceable or void under applicable law, the remaining provisions will continue to be binding. This Agreement and the rights, interests or obligations created hereunder will not be assigned by either of the parties without the prior written consent of the other party. We each agree that we have both participated in the negotiation and drafting of this Agreement. You acknowledge that the person signing this Agreement on your behalf has your full authority to execute it. This Agreement will be binding whether signatures are exchanged electronically or by hand, by mail, by fax, by electronic transfer or image, by photocopy or in counterparts. You acknowledge receipt of a copy of this Agreement.

Thank you again for this opportunity. We look forward to working with you.

Very truly yours,

CBRE, Inc.
Licensed Real Estate Broker

By: _____
Name: Andrew Coleman
Title: Managing Director

AGREED:

City of Strongsville, Ohio

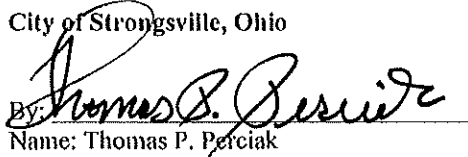
By: 
Name: Thomas P. Perciak
Title: Mayor

EXHIBIT A – Commission Schedule

- A. *Sale.* As to sales of real property, CBRE's commission shall be Five Percent (5%) the gross sales price payable by the City to CBRE only. In the event the purchaser is represented by a licensed buyer's representative with an executed representation agreement, the total commission will be Eight Percent (8%) of the gross sales price with a portion paid to the buyer's representative. Gross sales price shall include any and all consideration received or receivable, in whatever form, including but not limited to assumption or release of existing liabilities. In the event this sale is in connection with a "build to suit" transaction, the commission shall be calculated on the gross sales price plus the gross construction cost of the building to be constructed on the Property. The commission shall be earned and paid on the date title to the Property is transferred to the purchaser; provided, however, that if the transaction involves an installment contract, then payment shall be made upon execution of such contract. In the event you contribute or convey the Property or any interest therein to a corporation, joint venture, partnership, or other business entity, the commission shall be calculated on the fair market value of the Property or the portion thereof that is so transferred, and shall be earned and paid at the time of the contribution or transfer. If you are a partnership, corporation, or other business entity, and an interest in the partnership, corporation or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property, and applicable law does not prohibit the payment of a commission in connection with such sale or transfer, the commission shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid at the time of the transfer.

In the event the Property is sold, conveyed, donated, or otherwise transferred by Owner at a discounted price or for nominal or no monetary consideration (including through a deed, donation, or incentive arrangement) to an end user, developer, or third party for the purpose of promoting economic development, job creation, or other public benefit, Broker shall remain entitled to a commission as stated above based on the fair market value of the land as determined by the listing price or a mutually agreed upon appraised value. The intent of this provision is to ensure Broker is compensated in a manner consistent with market-rate transactions, regardless of the actual consideration received by the City of Strongsville.

1. *Definitions.* Under this Agreement the terms "sell," "sale" or "sold" shall mean: (a) an exchange of the Property; (b) the granting of an option to purchase the Property; or (c) any other transfer, conveyance or contribution of a controlling interest in the Property or in the entity which owns the Property, including, but not limited to, situations where you are a corporation, partnership or other business entity and a controlling interest in such corporation, partnership or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property.
2. *Option to Purchase.* If you grant an option to purchase the Property, you agree to pay us a commission in accordance with this Commission Schedule, on the price paid for the option and for any extensions when you receive payment for any such option and/or extensions. If the option is exercised, whether during the Term or after, we will earn a further commission in accordance with this Agreement. Notwithstanding the foregoing, to the extent that all or part of the price paid for the option or any extension thereof is applied to the sales price of the Property, then any commission previously paid by you to us on account of the option payments will be credited against the commission payable to us on account of the exercise of the option.

Property: Foltz Industrial Parkway, Strongsville, OH 44149

Seller/Landlord Disclosure of Material Facts, Delivery of Reports, and Compliance with Laws.

Sellers/landlords are hereby requested to disclose directly to buyers/tenants all facts known to sellers/landlords that materially affect the value or desirability of the Property and are not readily observable nor known to the buyer/tenant, including, but not limited to, facts regarding hazardous materials, zoning, construction, design, engineering, soils, title, survey, fire/life safety, proneness to natural hazards such as earthquakes, and other matters, and to provide buyers/tenants with copies of all reports in the possession of or accessible to sellers/landlords regarding the Property. Sellers/landlords and buyers/tenants must comply with all applicable federal, state and local laws, regulations, codes, ordinances and orders, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act.

Americans with Disabilities Act (ADA). The Americans With Disabilities Act (42 United States Code §12101 et seq.) and other federal, state and local requirements may require changes to the Property. Have your experts investigate and evaluate these matters.

Taxes. Sales, leases and other real estate transactions can have federal, state and local tax consequences. In sales transactions, Internal Revenue Code §1445 requires buyers to withhold and pay to the IRS 15% of the gross sales price within 20 days of the date of a sale unless the buyers can establish that the sellers are not foreigners, generally by having the sellers sign a Non-Foreign Seller Affidavit. Depending on the structure of the transaction, the tax withholding liability can exceed the net cash proceeds to be paid to sellers at closing. Have your experts investigate and evaluate these matters.

Flood Zones. Many lenders require flood insurance for properties located in flood zones, and government authorities may regulate development and construction in flood zones. Whether or not located in a flood zone, properties can be subject to flooding and moisture problems, especially properties on a slope or in low-lying areas. Buyers/tenants should have their experts confirm whether the Property is in a flood zone and otherwise investigate and evaluate these matters.

Fires. Properties, whether or not located in a fire hazard zone, are subject to fire/life safety risks and may be subject to state and local fire/life safety-related requirements, including retrofit requirements. Have your experts investigate and evaluate these matters.

Hazardous Materials and Underground Storage Tanks. Due to prior or current uses of the Property or in the areas or the construction materials used, the Property may have hazardous or undesirable metals (including but not limited to lead-based paint), minerals (including but not limited to asbestos), chemicals, hydrocarbons, petroleum-related compounds, or biological or radioactive/emissive items (including but not limited to electrical and magnetic fields) in soils, water, building components, above or below-ground tanks/containers or elsewhere in areas that may or may not be accessible or noticeable. Such items may leak or otherwise be released. If the Property was built before 1978 and has a residential unit, sellers/landlords must disclose all reports, surveys and other information known to them regarding lead-based paint to buyers/tenants and allow for inspections (42 United States Code §4851 et seq.). Have your experts investigate and evaluate these matters.

Property Inspections and Evaluations. Buyers/tenants should have the Property thoroughly inspected and all parties should have the transaction thoroughly evaluated by the experts of their choice. Ask your experts what investigations and evaluations may be appropriate as well as the risks of not performing any such investigations or evaluations. Information regarding the Property supplied by the real estate brokers has been received from third party sources and has not been independently verified by the brokers. Have your experts verify all information regarding the Property, including any linear or area measurements, the availability of all utilities, applicable zoning, and entitlements for the intended use. All work should be inspected and evaluated by your experts, as they deem appropriate. Any projections or estimates are for example only, are based on assumptions that may not occur, and

do not represent the current or future performance of the property. Real estate brokers are not experts concerning, nor can they determine if any expert is qualified to provide advice on, legal, tax, design, ADA, engineering, construction, soils, title, survey, fire/life safety, insurance, hazardous materials, or other such matters. Such areas require special education and, generally, special licenses not possessed by real estate brokers. Consult with the experts of your choice regarding these matters.

CONSULT YOUR ADVISORS – This document has legal consequences. No representation or recommendation is made by Broker as to the legal or tax consequences of this Agreement or the transaction(s) which it contemplates. This form is not intended to substitute for any disclosures the law requires that the parties make to each other. These are questions for your attorney and financial advisors.