

# City of Cincinnati

## An Ordinance No. 109

- 2021

**AUTHORIZING** the City Manager to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, pursuant to which the City of Cincinnati will grant encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way in the Walnut Hills neighborhood of Cincinnati.

WHEREAS, 2445 Gilbert, LLC, an Ohio limited liability company (“Grantee”), owns the building located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood of Cincinnati; and

WHEREAS, the City of Cincinnati owns the adjoining Gilbert Avenue public right-of-way, which is under the management of the City’s Department of Transportation and Engineering (“DOTE”); and

WHEREAS, Grantee has requested encroachment easements from the City, as more particularly depicted and described in the *Grant of Encroachment Easements* attached to this ordinance as Attachment A and incorporated herein by reference, to permit existing balconies, existing bracketed hoods, and an existing cornice to encroach upon portions of the Gilbert Avenue public right-of-way; and

WHEREAS, the City Manager, in consultation with DOTE, has determined (i) that granting the easements to Grantee is not adverse to the City’s retained interest in the public right-of-way and (ii) that granting the easements will not have an adverse effect on the usability or accessibility of any existing public right-of-way facilities; and

WHEREAS, pursuant to Cincinnati Municipal Code Sec. 331-5, the City Council may authorize the encumbrance of City-owned property without competitive bidding in those cases in which it determines that it is in the best interest of the City; and

WHEREAS, the City’s Real Estate Services Division has determined by appraisal that the fair market value of the easements is approximately \$300, which Grantee has agreed to pay; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easements at its meeting on February 19, 2021; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, an Ohio limited liability company (“Grantee”), owner of the building located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood of Cincinnati, in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will grant to Grantee encroachment easements to permit existing balconies, existing bracketed hoods, and an existing cornice to encroach upon portions of the Gilbert Avenue public right-of-way.

Section 2. That granting the easements to Grantee (i) is not adverse to the City’s retained interest in the Gilbert Avenue public right-of-way and (ii) will not have an adverse effect on the usability or accessibility of any existing Gilbert Avenue public right-of-way facilities.

Section 3. That it is in the best interest of the City to grant the easements without competitive bidding because, as a practical matter, no one other than Grantee would have any use for the easements.

Section 4. That the fair market value of the easements, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$300, which Grantee has agreed to pay.

Section 5. That the proceeds from the grant of easements shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City’s Real Estate Services Division in connection with the easements, and that the City’s Finance Director is hereby authorized to deposit amounts in excess thereof, if any, into Miscellaneous Permanent Improvement Fund 757.

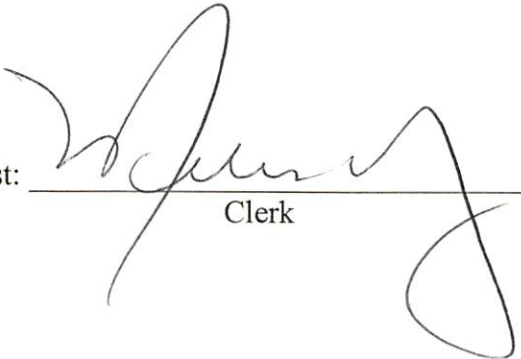
Section 6. That the City’s Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, “Street Improvements,” in which “YY”

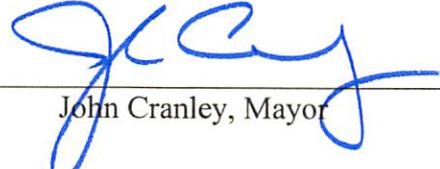
represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

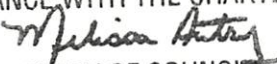
Section 7. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance and to fulfill the terms of the *Grant of Encroachment Easements*, including, without limitation, executing any and all ancillary agreements, plats, and other real estate documents.

Section 8. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: April 7, 2021

Attest:   
Clerk

  
John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 109-2021  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 4-20-2021  
  
CLERK OF COUNCIL