
[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF EASEMENT
(Clifton Avenue)

This Grant of Easement is made as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **THE BOARD OF TRUSTEES OF THE UNIVERSITY OF CINCINNATI**, an Ohio public university, the address of which for the purposes of this instrument is 51 Goodman, P.O. Box 210186 Cincinnati, OH 45221 ("**Grantee**").

Recitals:

A. By virtue of a Deed recorded in Official Record 13750, Page 1415, Hamilton County, Ohio Records, UCF Holdings, LLC, an Ohio limited liability company, an affiliate of the University of Cincinnati Foundation, an Ohio nonprofit corporation, owns certain real property located at 2839 Clifton Avenue, Cincinnati, Ohio 45220 (Auditor's Parcel No. 101-6-84), as more particularly described on Exhibit A (*Legal Description – Benefitted Property*) hereto (the "**Benefitted Property**").

B. The City owns the 100-foot-wide public right-of-way known as Clifton Avenue, which abuts the Benefitted Property to the east, as depicted on Exhibit B (*Depiction of Easement Area*), (the "**City Property**"). The City Property is under the management of the Department of Transportation and Engineering ("**DOT**").

C. Grantee has undertaken the renovation of a structure on the Benefitted Property with the intention of expanding the University of Cincinnati campus. In connection with the campus expansion, Grantee has requested a utility easement across the portion of the City Property depicted on Exhibit B and described on Exhibit C (*Legal Description – Easement Area*) hereto to install communications facilities to serve the Benefitted Property.

D. The City Manager, in consultation with DOTE, has determined that granting the utility easement will not have an adverse effect on the City's retained interest in the City Property.

E. The City's Real Estate Services Division has determined that the approximate fair market value of the utility easement is \$5,625, which Grantee has deposited with the City Treasurer.

F. The City Planning Commission, having the authority to approve the change in use of City-owned property, approved the easements at its meeting on October 23, 2020.

G. The City's execution of this instrument is authorized by Ordinance No. ____-2020, passed by Cincinnati City Council on _____, 2020.

NOW THEREFORE, the parties agree as follows:

1. Grant of Utility Easement. The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Property, a non-exclusive utility easement, for the construction, installation, operation, maintenance, repair, reconstruction, removal, and replacement of telecommunication lines and associated facilities and fixtures (the "**Telecommunication Facilities**"), under and across that portion of the City Property depicted on Exhibit B and described on Exhibit C hereto (the "**Utility Easement**", and the "**Utility Easement Area**", as applicable).

2. Termination of Utility Easement. The Utility Easement shall automatically terminate upon the complete removal of the Telecommunication Facilities unless construction to replace the removed Telecommunication Facilities is commenced within six months thereafter. Each party shall have the right to execute and record an affidavit in the Hamilton County Recorder's Office to memorialize such termination.

3. Relocation of Utility Easement. The City, in its sole discretion, shall have the right to require Grantee, at Grantee's sole expense, to relocate the Telecommunication Facilities, at no cost to the City following prior written notice to Grantee that the City needs the Utility Easement Area or any portion thereof for a municipal purpose or upon the City's determination that the Telecommunication Facilities are creating a public safety issue. The City shall have the right to execute and record an amendment to this instrument in the Hamilton County Recorder's Office to memorialize the relocated Utility Easement Area.

4. Alterations; Maintenance and Repairs.

(A) No Alterations. Once installed, Grantee shall not make any enlargements or other modifications to the Telecommunication Facilities without the prior written consent of DOTE.

(B) Maintenance and Repairs. Grantee, at no cost to the City, shall maintain the Telecommunication Facilities in a continuous state of good and safe condition and repair. Grantee acknowledges that there may be existing easements, utility lines and related facilities in the vicinity of the Utility Easement Area ("**Third Party Utility Lines**"). In connection with Grantee's maintenance, repair and use of the Telecommunication Facilities, Grantee shall not interfere with the access of utility companies to maintain and repair the Third Party Utility Lines and shall, at Grantee's expense, promptly repair any and all damage to Third Party Utility Lines caused by Grantee, its agents, employees, contractors, subcontractors, licensees or invitees. Any relocation of Third Party Utility Lines necessitated by Grantee's activities under this instrument shall be handled entirely at Grantee's expense. All activities undertaken by Grantee under this instrument shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

5. Insurance. The City acknowledges that Grantee, as a governmental entity, is self-insured and does not maintain Commercial General Liability insurance. Notwithstanding the foregoing, If Grantee authorizes a third party contractor to work in the Utility Easement Area, then, as a condition of such authorization, such third party contractor shall maintain, or cause to be maintained, a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, or in such greater amounts as the City may from time to time require. Grantee shall cause such third party contractor to furnish to the City a certificate of insurance evidencing such insurance upon the City's request and, in any event, prior to undertaking any construction activities within the Utility Easement Area. (The foregoing shall not be construed as permitting Grantee to engage in construction activities within the Utility Easement Area.)

6. Indemnity. The City acknowledges that, as a governmental entity, Grantee is not legally permitted under Ohio law to contractually agree to indemnify the City. As such, Grantee shall have no indemnity obligations to the City under this section; nevertheless, Grantee shall comply with all DOTE requirements as pertains to working on the Utility Easement Area. Grantee waives all claims against the City for damage or theft of Grantee's equipment or other property that may from time to time be at the Utility Easement Area. If Grantee authorizes a third party contractor to work in the Utility Easement Area, then, as a condition of such authorization, such third party contractor shall indemnify, defend and hold harmless the City, its employees, agents, contractors, licensees and invitees from and against any and all claims, causes of action, losses, injuries, damages, liability, costs, and Workers' Compensation claims whatsoever arising from the work performed in the Utility Easement Area.

7. Covenants Running with the Land. The provisions hereof shall run with the land and shall inure to the benefit of the City and be binding upon Grantee and its successors-in-interest with respect to the Benefitted Property, subject however to the termination provisions hereof.

8. Governing Law; Severability. This instrument shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. If any provisions hereof are determined to be invalid or unenforceable by a court of law, the remainder of this instrument shall not be affected thereby, and all other provisions of this instrument shall be valid and enforceable to the fullest extent permitted by law.

9. Notices. All notices given hereunder shall be in writing and shall be sent by U.S. certified or registered mail, return receipt requested, or delivered by a recognized courier service, or by personal delivery, to the parties at their respective addresses set forth in the introductory paragraph hereof or such other address as either party may specify from time to time by notice given in the manner prescribed herein. All notices to the City shall be addressed to the Office of the City Manager, and a copy of each such notice shall simultaneously be delivered to: City of Cincinnati, Department of Transportation and Engineering, 801 Plum Street, 4th Floor, Cincinnati, OH 45202. In the event of an alleged breach by the City of this instrument, a copy of each notice of breach shall simultaneously be delivered to the Office of the City Solicitor, 801 Plum Street, Room 214, Cincinnati, OH 45202.

10. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description—Benefitted Property*
Exhibit B – *Depiction of Easement Area*
Exhibit C – *Legal Description—Easement Area*

[SIGNATURE PAGE FOLLOWS]

Executed on the date of acknowledgment set forth below (the "Effective Date").

CITY OF CINCINNATI

By: _____
Paula Boggs Muething, Interim City Manager

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by Paula Boggs Muething, Interim City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

**ACKNOWLEDGED AND ACCEPTED BY:
THE BOARD OF TRUSTEES OF THE UNIVERSITY
OF CINCINNATI**

By: _____

Printed name: _____

Title: _____

Date: _____, 2020

This instrument prepared by:

City of Cincinnati Law Department
801 Plum Street
Cincinnati, OH 45202

EXHIBIT A
to Grant of Easement

Legal Description—Benefitted Property

SITUATE IN THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND BEING FURTHER DESCRIBED AS PART OF LOT 61 OF COL. JOHN RIDDLE'S SUBDIVISION, BEGINNING ON THE WEST SIDE OF CLIFTON AVENUE AT A POINT THREE HUNDRED SEVENTY-FIVE (375) FEET NORTH OF JOSELIN AVENUE, THENCE WEST PARALLEL WITH JOSELIN AVENUE TWO HUNDRED (200) FEET TO A TWELVE (12) FOOT ALLEY; THENCE NORTH PARALLEL WITH CLIFTON AVENUE ONE HUNDRED SIX AND TWELVE HUNDREDTHS (106.12) FEET TO THE SOUTH LINE OF PROBASCO AVENUE, THENCE EAST ON SAID SOUTH LINE TWO HUNDRED FEET AND FIFTY-SIX HUNDREDTHS (200.56) FEET TO CLIFTON AVENUE, THENCE SOUTH ALONG THE WEST LINE OF CLIFTON AVENUE ONE HUNDRED TWENTY (120) FEET TO THE PLACE OF BEGINNING.

Property Address: 2839 Clifton Avenue, Cincinnati, OH
Parcel No.: 101-0006-0084-90

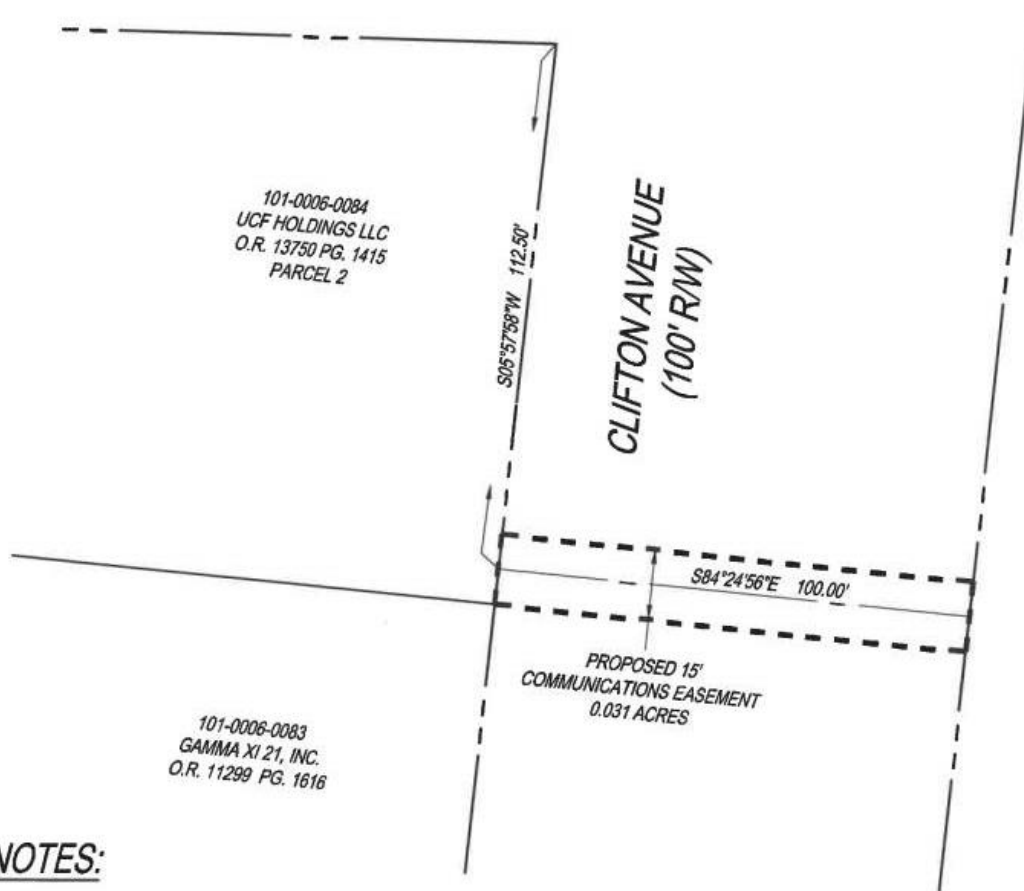
EXHIBIT B
to Grant of Easement

Depiction of Easement Area

INSPIRED PEOPLE ► CREATIVE DESIGN ► TRANSFORMING COMMUNITIES


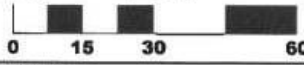


PROBASCO STREET
(50' R/W)



NOTES:

- HORIZONTAL DATUM IS BASED ON UNIVERSITY OF CINCINNATI CONTROL NETWORK. (NAD 83)

 <p>CIVIL ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE www.kleingers.com 6219 Centre Park Dr. West Chester, OH 45069 513.779.7851</p>	<p align="center">PROPOSED 15' COMMUNICATION EASEMENT</p> <p align="center">SECTION 20, TOWN 3, F.R. 2, 5TH. CITY OF CINCINNATI HAMILTON COUNTY, OHIO</p>	PROJECT NO: 200071VEA000
		DATE: 07-06-2020
		SCALE: 1" = 30'
		
		SHEET NO. 1 OF 1

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EXHIBIT C
to Grant of Easement

Legal Description—Easement Area



CINCINNATI
COLUMBUS
DAYTON
LOUISVILLE

6219 Centre Park Drive
West Chester, OH 45069
phone ☎ 513.779.7851
fax ☎ 513.779.7852
www.kleingers.com

Legal Description
15' Communication Easement

Situated in Section 20, Town 3, Fractional Range 2, BTM, City of Cincinnati, Hamilton County, Ohio being part of the right of way of Clifton Avenue, the centerline of a 15' Communication easement being more particularly described as follows:

Beginning at a point in the westerly right of way line of Clifton Avenue being S05°57'58"W a distance of 112.50 feet from the intersection with the south right of way line of Probasco Street;

Thence S84°24'56"E a distance of 100.00 feet to the terminus of said easement being in the easterly right of way line of Clifton Avenue.

Bearings are based on University of Cincinnati Control Network (NAD83)