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[SPACE ABOVE FOR RECORDER'S USE]

## GRANT OF EASEMENT

(encroachments upon portions of Vine and E. Seventh Streets)

This Grant of Easement is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **HG PEARL PROVIDENT, LLC**, an Indiana limited liability company, with a tax mailing address of 630 Vine Street, Cincinnati, OH 45202 ("**Grantee**").

### Recitals:

A. By virtue of a *Quitclaim Deed* recorded on March 21, 2018, in OR 13629, Page 1682, Hamilton County, Ohio Records, Grantee holds title to certain real property located at 630 Vine Street, Cincinnati, OH 45202, as more particularly described on Exhibit A (*Legal Description – Benefitted Property*) and depicted on Exhibit B (*Survey Plat*) hereto (the "**Benefitted Property**").

B. The City owns the adjoining Vine and E. Seventh Streets public rights-of-way, which are under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant easements for encroachments on and across the Vine and E. Seventh Streets public rights-of-way, i.e., out-swinging doors (the "**Encroachments**").

D. The City Manager, in consultation with DOT, has determined that (i) the easements will not have an adverse effect on the City's retained interest in the Vine and E. Seventh Streets public rights-of-way, and (ii) granting the easements will not have an adverse effect on the usability or accessibility of any existing Vine and E. Seventh Streets public rights-of-way facilities.

E. The City's Real Estate Services Division has determined that the fair market value of the easements, as determined by professional appraisal, are \$980, which has been deposited with the Real Estate Services Division.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easements at its meeting on December 3, 2021.

G. Cincinnati City Council approved the easement by Ordinance No. [\_\_\_\_]-2022, passed on [\_\_\_\_], 2022.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of 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, seven non-exclusive encroachment easements to use, maintain, repair, reconstruct, replace, and remove out-swinging doors in, on, and across the Vine and E. Seventh Streets public rights-of-way, as more particularly depicted on Exhibit B and described on Exhibit C (*Legal Description-Out-Swinging Door Easements*) hereto (the "**Door Easements**" or "**Door Easement Areas**", as applicable). Grantee shall not make any modifications to the Encroachments within the Door Easement Areas without the City's prior written consent.

2. Termination. Notwithstanding anything herein to the contrary, the Door Easements shall automatically terminate upon (i) the complete or respective partial demolition of the Encroachments within the Door Easement Areas, such that the Door Easements would be rendered unnecessary; (ii) upon written notice from the City, if the City determines that it needs the Door Easement Areas, or any portion thereof for a municipal purpose, including, without limitation to the implementation of Americans with Disabilities Act ("**ADA**") regulations compliance or accessibility standards; (iii) or upon written notice from the City if the City determines that the Encroachments are creating a public safety issue, such as noncompliance with ADA accessibility regulations, contributing to adverse impacts on the usability or accessibility of any public right-of-way facilities.

3. Maintenance and Repairs. At no cost to the City, Grantee shall maintain the Encroachments 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 Door Easement Areas ("**Third-Party Utility Lines**"). In connection with Grantee's maintenance, repair, and use of the Encroachments, 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, tenants, licensees, or invitees. Any relocation of Third-Party Utility Lines necessitated by the maintenance, repair, reconstruction, removal, or sealing of the Encroachments 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.

4. Insurance; Indemnification. At all times, and in addition to whatever other insurance and bond requirements as the City may from time to time require, Grantee 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/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall 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 Door Easement Areas. Grantee hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage to the Encroachments, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys' fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the use, maintenance, repair, and all other matters associated with the Encroachments.

5. Default. If Grantee, its successors-in-interest, or assigns fail to perform any required work under this instrument and fails to address the same to DOTE's satisfaction within thirty (30) days after receiving written notice thereof from DOTE, the City shall have right to perform such work, at Grantee's expense, payable within ten (10) days after receiving an invoice from DOTE evidencing the amount due. Grantee, its successors-in-interest, or assigns shall be liable to DOTE for the payment of such work. Any outstanding amount due under this instrument shall create a lien on the Benefitted Property until fully

paid. At the City's option, the City may file an affidavit in the Hamilton County, Ohio Recorder's office to memorialize any outstanding amounts due under this instrument.

6. Covenants Running with the Land. The provisions hereof shall run with the land and shall inure to the benefit of and be binding upon the City, Grantee, and their respective successors-in-interest and assigns.

7. 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.

8. 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: Department of Transportation and Engineering, Attn: Director, Room 450. 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.

9. Coordinated Report Conditions (CR #21-2020). The following additional conditions shall apply:

(A) DOT:

(i) The doors must remain in their existing recessed position—the same doorjamb.

(ii) Grantee must provide a clear pedestrian path of at least 8 feet from the outswing door edge to the curb.

(iii) Grantee must obtain zoning approval, including, but not limited to, a Certificate of Appropriateness issued by the Urban Conservator or Historic Conservation Board, as applicable.

(B) Cincinnati Bell: There are existing underground telephone facilities at or around this location. The existing facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result of this instrument will be handled entirely at Grantee's expense.

(C) Buildings and Inspections: Grantee shall record a consolidation plat for the Benefitted Property.

10. Counterparts and Electronic Signatures. This instrument may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This instrument may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

11. Exhibits. The following exhibits are attached hereto and made a part hereof:

Exhibit A – *Legal Description - Benefitted Property*

Exhibit B – *Survey Plat*

Exhibit C – *Legal Description - Out-Swinging Door Easements*

Executed by the parties on the respective date of acknowledgement listed below, effective as the later of such dates (the "Effective Date").

**CITY OF CINCINNATI**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_, the \_\_\_\_\_ 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 to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved by:

\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form by:

\_\_\_\_\_  
Assistant City Solicitor

[ Grantee Signature Page Follows ]

ACCEPTED AND AGREED TO BY:

**HG PEARL PROVIDENT, LLC,**  
an Indiana limited liability company,

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2022

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_, the \_\_\_\_\_ of **HG PEARL PROVIDENT, LLC**, an Indiana limited liability company, on behalf of the company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

This instrument prepared by:  
City of Cincinnati Law Department  
801 Plum Street, Suite 214  
Cincinnati, OH 45202

EXHIBIT A

to Grant of Easement

*LEGAL DESCRIPTION - BENEFITTED PROPERTY*

Situated in the City of Cincinnati, Hamilton County, Ohio, at the southeast corner of Vine Street and Seventh Street and being all of Lots 17, 18, 24, 25 and 26 and part of Lots 23 and 27 of J.S. Gano Subdivision as recorded in Plat Book M, Volume 1, Page 689 of the Hamilton County, Ohio Records, and being more particularly described as follows:

Commencing at the intersection of the South line of Seventh Street and the East line of Vine Street, also being the northwest corner of said J.S. Gano Subdivision; thence from said beginning point eastwardly along the South line of Seventh Street and along the North lines of Lots 25, 24, and 17 of said J. S. Gano Subdivision to the West line of Lodge Street, said point also being the northeast corner of Lot No. 17 of said J. S. Gano Subdivision; thence southwardly along the west line of Lodge Street and along the East line of Lots 17 and 18 of J. S. Gano Subdivision to the North line of Gano Street, said point also being in the southeast corner of Lot 18 of J. S. Gano Subdivision; thence westwardly along the North line of Gano Street and along the South lines of Lot 18 and 23 of J. S. Gano Subdivision a distance of 72 feet 8 inches more or less to the Southeast corner of Registered Land Certificate No. 14138; thence North 16 degrees West along the East line of Registered Land Certificate No. 14138 a distance of 70.95 feet to the Northeast corner of Registered Land Certificate No. 14138; thence South 74 degrees 06' West 116.45 feet to the East line of Vine Street and the northwest corner of Registered Land Certificate No. 14138; thence northwardly along the East line of Vine Street a distance of 117.50 feet, more or less to the place of beginning.

The above property is also described as follows:

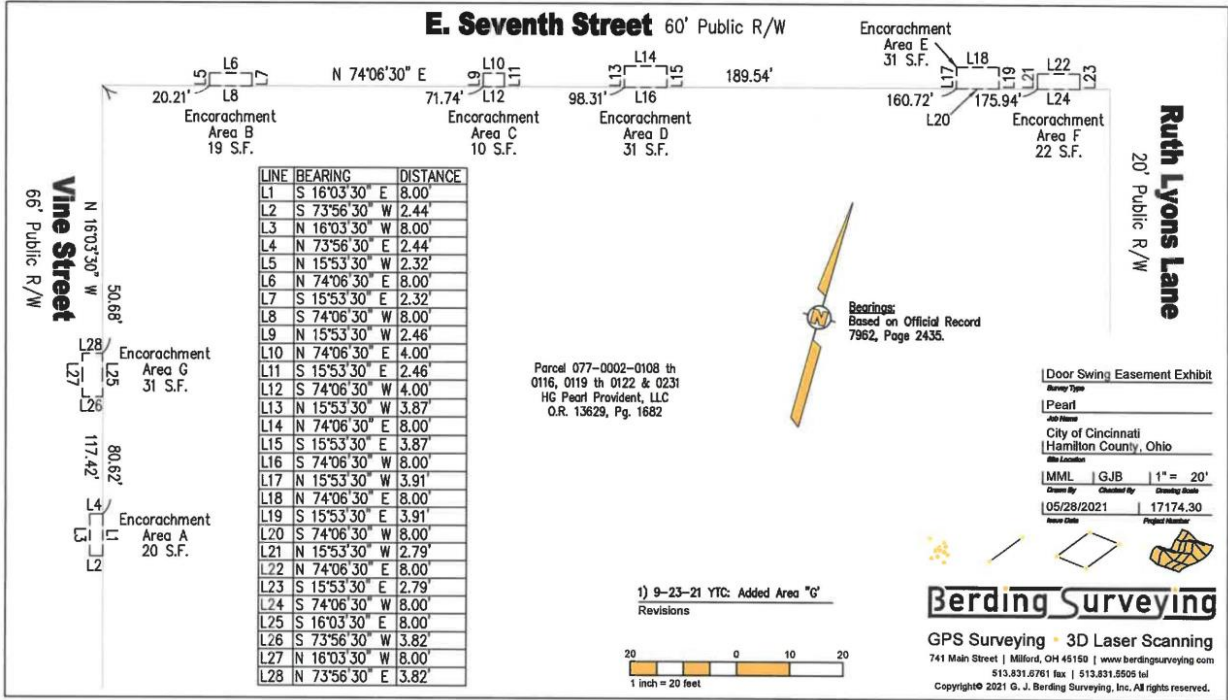
Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, being all of Lots 17, 18, 24, 25 and 26 and part of Lots 23 and 27 of John S. Gano Subdivision, as recorded in Deed Book M. Volume 1, Page 689 of the Hamilton County Ohio Records, described as follows:

Beginning at the intersection of the south line of Seventh Street with the east line of Vine Street thence North 74°06'30" East, along the South line of Seventh Street, a distance of 189.53 feet to the west line of Ruth Lyons Lane (formerly Lodge Street); thence South 16°03'30" East, along the west line of Ruth Lyons Lane, a distance of 188.24 feet, to the north line of Gano Street; thence South 74°06'30" West, along the north line of Gano Street, a distance of 73.17 feet, to the east line of Registered Land No. 148881 (formerly Registered Land No. 14138); thence North 16°00' West, along the east line of Registered Land No. 148881 and No. 121267, a distance of 70.83 feet, to the northeast corner of Registered Land No. 121267 (formerly Registered Land No. 14138); thence South 74°06' West, along the north line of Registered Land No. 121267, a distance of 116.45 feet, to the northwest corner of Registered Land No. 121267 and the east line of Vine Street; thence North 16°03'30" West, along the east line of Vine Street, a distance of 117.42 feet, to the place of beginning.

# EXHIBIT B

to Grant of Easement

Survey Plat



**EXHIBIT C**

to Grant of Easement

*Legal Description – Out-Swinging Door Easements*

**Description for: Door Swing Encroachment Easement AREA A**

**Location: E. Seventh St. & Vine St. City of Cincinnati, Hamilton County, Ohio**

Situated in The City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

**BEGINNING** in the east line of Vine Street, South 16°03'30" East, 80.62 feet from the intersection of the south line of East Seventh Street and the east line of Vine Street;

Thence along the east line of said Vine Street, South 16°03'30" East, 8.00 feet;

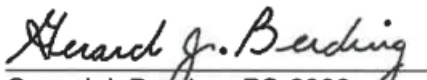
Thence through the right of way of said Vine Street the following three (3) courses:

1. South 73°56'30" West, 2.44 feet,
2. North 16°03'30" West, 8.00 feet,
3. North 73°56'30" East, 2.44 feet to the **POINT OF BEGINNING**.

**CONTAINING 20 SQUARE FEET.**

Bearings based on Official Record 7962, Page 2435 as recorded at the Hamilton County Recorder's Office.

Based on an easement exhibit prepared by G.J. BERDING SURVEYING, INC.

  
Gerard J. Berding, PS 6880

05-28-2021  
Date





**EXHIBIT C (Cont.)**

**Description for: Door Swing Encroachment Easement AREA B**

**Location: E. Seventh St. & Vine St. City of Cincinnati, Hamilton County, Ohio**

Situated in The City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

**BEGINNING** in the south line of East Seventh Street, North 74°06'30" East, 20.21 feet from the intersection of the south line of East Seventh Street and the east line of Vine Street;

Thence through the right of way of said East Seventh Street the following three (3) courses:

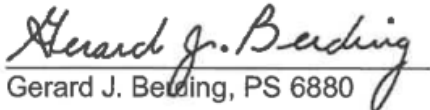
1. North 15°53'30" West, 2.32 feet,
2. North 74°06'30" East, 8.00 feet,
3. South 15°53'30" East, 2.32 feet to the south line of aforesaid East Seventh Street;

Thence along the south line of East Seventh Street, South 74°06'30" West, 8.00 feet to the **POINT OF BEGINNING.**

**CONTAINING 19 SQUARE FEET.**

Bearings based on Official Record 7962, Page 2435 as recorded at the Hamilton County Recorder's Office.

Based on an easement exhibit prepared by G.J. BERDING SURVEYING, INC.

  
Gerard J. Berding, PS 6880

05-28-2021  
Date



EXHIBIT C (Cont.)

**Description for: Door Swing Encroachment Easement AREA C**

**Location: E. Seventh St. & Vine St. City of Cincinnati, Hamilton County, Ohio**

Situated in The City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

**BEGINNING** in the south line of East Seventh Street, North 74°06'30" East, 71.74 feet from the intersection of the south line of East Seventh Street and the east line of Vine Street;

Thence through the right of way of said East Seventh Street the following three (3) courses:

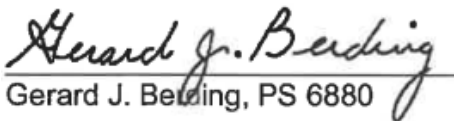
1. North 15°53'30" West, 2.46 feet,
2. North 74°06'30" East, 4.00 feet,
3. South 15°53'30" East, 2.46 feet to the south line of aforesaid East Seventh Street;

Thence along the south line of East Seventh Street South 74°06'30" West, 4.00 feet to the **POINT OF BEGINNING.**

**CONTAINING 10 SQUARE FEET.**

Bearings based on Official Record 7962, Page 2435 as recorded at the Hamilton County Recorder's Office.

Based on an easement exhibit prepared by G.J. BERDING SURVEYING, INC.

  
Gerard J. Berding, PS 6880

05-28-2021  
Date



EXHIBIT C (Cont.)

**Description for: Door Swing Encroachment Easement AREA D**

**Location: E. Seventh St. & Vine St. City of Cincinnati, Hamilton County, Ohio**

Situated in The City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

**BEGINNING** in the south line of East Seventh Street, North 74°06'30" East, 98.31 feet from the intersection of the south line of East Seventh Street and the east line of Vine Street;

Thence through the right of way of said East Seventh Street the following three (3) courses:

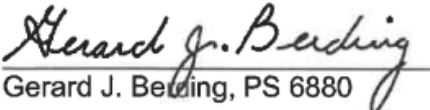
1. North 15°53'30" West, 3.87 feet,
2. North 74°06'30" East, 8.00 feet,
3. South 15°53'30" East, 3.87 feet to the south line of aforesaid East Seventh Street;

Thence along the south line of East Seventh Street, South 74°06'30" West, 8.00 feet to the **POINT OF BEGINNING**.

**CONTAINING 31 SQUARE FEET.**

Bearings based on Official Record 7962, Page 2435 as recorded at the Hamilton County Recorder's Office.

Based on an easement exhibit prepared by G.J. BERDING SURVEYING, INC.

  
Gerard J. Berding, PS 6880

05-28-2021  
Date



**EXHIBIT C (Cont.)**

**Description for: Door Swing Encroachment Easement AREA E**

**Location: E. Seventh St. & Vine St. City of Cincinnati, Hamilton County, Ohio**

Situated in The City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

**BEGINNING** in the south line of East Seventh Street, North 74°06'30" East, 160.72 feet from the intersection of the south line of East Seventh Street and the east line of Vine Street;

Thence through the right of way of said East Seventh Street the following three (3) courses:

1. North 15°53'30" West, 3.91 feet,
2. North 74°06'30" East, 8.00 feet,
3. South 15°53'30" East, 3.91 feet to the south line of aforesaid East Seventh Street;

Thence along the south line of East Seventh Street, South 74°06'30" West, 8.00 feet to the **POINT OF BEGINNING.**

**CONTAINING 31 SQUARE FEET.**

Bearings based on Official Record 7962, Page 2435 as recorded at the Hamilton County Recorder's Office.

Based on an easement exhibit prepared by G.J. BERDING SURVEYING, INC.

  
Gerard J. Berding, PS 6880

05-28-2021  
Date



**EXHIBIT C (Cont.)**

**Description for: Door Swing Encroachment Easement AREA F**

**Location: E. Seventh St. & Vine St. City of Cincinnati, Hamilton County, Ohio**

Situated in The City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

**BEGINNING** in the south line of East Seventh Street, North 74°06'30" East, 175.94 feet from the intersection of the south line of East Seventh Street and the east line of Vine Street;

Thence through the right of way of said East Seventh Street the following three (3) courses:

1. North 15°53'30" West, 2.79 feet,
2. North 74°06'30" East, 8.00 feet,
3. South 15°53'30" East, 2.79 feet to the south line of aforesaid East Seventh Street;

Thence along the south line of East Seventh Street, South 74°06'30" West, 8.00 feet to the **POINT OF BEGINNING**.

**CONTAINING 22 SQUARE FEET.**

Bearings based on Official Record 7962, Page 2435 as recorded at the Hamilton County Recorder's Office.

Based on an easement exhibit prepared by G.J. BERDING SURVEYING, INC.

  
Gerard J. Berding, PS 6880

05-28-2021  
Date



EXHIBIT C (Cont.)

**Description for: Door Swing Encroachment Easement AREA G**

**Location: E. Seventh St. & Vine St. City of Cincinnati, Hamilton County, Ohio**

Situated in The City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

**BEGINNING** in the east line of Vine Street, South 16°03'30" East, 50.68 feet from the intersection of the south line of East Seventh Street and the east line of Vine Street;

Thence along the east line of said Vine Street, South 16°03'30" East, 8.00 feet;

Thence through the right of way of said Vine Street the following three (3) courses:

1. South 73°56'30" West, 3.82 feet,
2. North 16°03'30" West, 8.00 feet,
3. North 73°56'30" East, 3.82 feet to the **POINT OF BEGINNING**.

**CONTAINING 31 SQUARE FEET.**

Bearings based on Official Record 7962, Page 2435 as recorded at the Hamilton County Recorder's Office.

Based on an easement exhibit prepared by G.J. BERDING SURVEYING, INC.

  
Gerard J. Berding, PS 6880

09-23-2021  
Date

