

EMERGENCY

CHM

- 2023

AUTHORIZING the City Manager to execute a Grant of Easement in favor of Duke Energy Ohio, Inc., granting utility easements across portions of City-owned property generally located along Beechmont Avenue and Canoe Court in the Linwood and Mt. Washington neighborhoods of Cincinnati.

WHEREAS, the City of Cincinnati owns certain real property generally located along Beechmont Avenue in Linwood and Canoe Court in Mt. Washington (“Properties”), as more particularly described and depicted in the Grant of Easement attached to this ordinance as Attachment A and incorporated herein by reference (“Easement”), which Properties are under the management and control of Cincinnati Board of Park Commissioners (“Park Board”); and

WHEREAS, Duke Energy Ohio, Inc., an Ohio corporation (“Grantee”), has requested certain utility easements upon portions of the Properties to upgrade and replace existing underground gas pipelines, as more particularly described and depicted in the Easement; and

WHEREAS, the City Manager, in consultation with the Park Board, has determined that granting the Easement to Grantee (i) is not adverse to the City’s retained interest in the Properties, and (ii) will not unreasonably interfere with the City’s use of the Properties for park or other municipal purposes; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-5, the City has determined that eliminating competitive bidding is in the best interest of the City in connection with granting the Easement to Grantee because, as a practical matter, no one other than Grantee, a public utility regulated by the Public Utility Commission of Ohio, would have any use for the Easement; and

WHEREAS, the collective fair market value of the Easement, as determined by a professional appraisal by the City’s Real Estate Services Division, is \$38,478, which Grantee has agreed to pay; and

WHEREAS, the Park Board approved granting the Easement to Grantee at its regular meeting on September 21, 2023; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the Easement at its meeting on October 20, 2023; 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 Easement, in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference (“Easement”), in favor of Duke Energy Ohio, Inc., an Ohio corporation (“Grantee”), pursuant to which the City will grant to Grantee certain utility easements upon portions of City-owned real property located along Beechmont Avenue and Canoe Court in the Linwood and Mt. Washington neighborhoods (“Properties”) to upgrade and replace existing underground gas pipelines, as more particularly described and depicted on Attachment A.

Section 2. That granting the Easement to Grantee (i) is not adverse to the City’s retained interest in the Properties, and (ii) will not unreasonably interfere with the City’s use of the Properties for park or other municipal purposes.

Section 3. That it is in the best interest of the City to grant the Easement without competitive bidding because, as a practical matter, no one other than Grantee, a public utility regulated by the Public Utility Commission of Ohio, would have any use for the Easement.

Section 4. That the fair market value of the Easement, as determined by appraisal by the City’s Real Estate Services Division, is \$38,478, which Grantee has agreed to pay.

Section 5. That the proceeds from the Easement 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 Easement, and that the City’s Finance Director is hereby authorized to deposit amounts in excess thereof, if any, into Park Board Permanent Improvement Fund 752.

Section 6. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance and to fulfill the terms of the

Easement, including, without limitation, executing any and all ancillary agreements, plats, and other real estate documents, as deemed necessary or appropriate by the City Manager.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need for the City to grant the Easement to Grantee so that Grantee may begin construction without delay, thereby avoiding any unnecessary or costly delay in upgrading its utility services for the benefit of the City.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____

Clerk