

City of Cincinnati

CHM *AWB*

An Ordinance No. 17 - 2021

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easement* in favor of the Port of Greater Cincinnati Development Authority and NAP 8 & Main LLC pursuant to which the City of Cincinnati will grant an aerial encroachment easement for a projecting canopy located at 721 Main Street that encroaches upon a portion of the Main Street public right-of-way in the Central Business District of Cincinnati.

WHEREAS, the Port of Greater Cincinnati Development Authority, an Ohio port authority (“Port Authority”), owns certain real property located at 721 Main Street in the Central Business District of Cincinnati, which property the Port Authority leases to NAP 8 & Main LLC, an Ohio limited liability company (“Developer,”) via a long-term lease, and that Developer together with the Port Authority shall be collectively designated as “Grantees;” and

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

WHEREAS, the Grantees have requested an aerial encroachment easement from the City, as more particularly depicted and described in the *Grant of Encroachment Easement* attached to this ordinance as Attachment A and incorporated by reference, for a projecting canopy that encroaches upon a portion of the Main Street public right-of-way; and

WHEREAS, the City Manager, in consultation with DOTe, has determined that granting the easement to the Grantees is not adverse to the City’s retained interest in the public right-of-way; and

WHEREAS, pursuant to Section 331-5 of the Cincinnati Municipal Code, 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 easement is approximately \$570, which has been deposited with the City Treasurer; 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 December 20, 2019; 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 Easement* in favor of the Port of Greater Cincinnati Development Authority, an Ohio port authority (“Port Authority”) and NAP 8 & Main LLC, an Ohio limited liability company (“Developer”), collectively designated as “Grantees,” as the respective owner and long-term lessee of the real property located at 721 Main Street in Cincinnati, in substantially the form attached to this ordinance as Attachment A and incorporated by reference herein, pursuant to which the City of Cincinnati will grant to the Grantees an aerial encroachment easement over a portion of the Main Street public right-of-way for a projecting canopy that encroaches upon the public right-of-way.

Section 2. That granting the easement to the Grantees is not adverse to the City’s retained interest in the Main Street public right-of-way.

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 the Grantees 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 approximately \$570, which has been deposited with the City Treasurer.

Section 5. That the proceeds from the grant of 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 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 Easement*, 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.

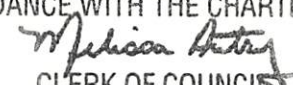
Passed: January 21, 2021



John Cranley, Mayor

Attest: 

Clerk

I HEREBY CERTIFY THAT ORDINANCE NO. 17-2021
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 2-2-2021

CLERK OF COUNCIL