
[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF EASEMENT

(encroachment upon a portion of Auditor's Parcel No. 94-06-46)

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 **CURE PROPERTIES, LLC**, an Ohio limited liability company, with a tax mailing address of 1805 Dalton Street, Cincinnati, OH 45214 ("**Grantee**").

Recitals:

A. By virtue of a *Limited Warranty Deed* recorded on July 28, 2021, in OR 14468, Page 3066, Hamilton County, Ohio Records, Grantee holds title to certain real property located at 213 Goethe Street, Cincinnati, OH 45202, as more particularly described on Exhibit A (*Legal Description – Benefitted Properties*) hereto (the "**Benefitted Property**").

B. By virtue of a *Deed* recorded on December 29, 1905, in Deed Book 940, Page 382, Hamilton County, Ohio Records, the City owns certain real property commonly known as a portion of the Main Street Steps, and more particularly identified as Lot 46 in Dorsey's Blue Plat Subdivision, as recorded in Deed Book 82, Page 418, Hamilton County, Ohio Records, also identified as Hamilton County, Ohio Auditor's Parcel No. 094-0006-0046, as described on Exhibit B (*Legal Description-the Property*) and depicted on Exhibit C (*Survey*) hereto (the "**Property**"). The Property is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant easement for a step and walkway encroachment in and across a portion of the Property (the "**Encroachment**").

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

E. The City's Real Estate Services Division has determined that the fair market value of the easement, as determined by professional appraisal, is \$200, which Grantee has agreed to pay.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easement at its meeting on August 19, 2022.

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, a non-exclusive encroachment easement as an appurtenance to and for the benefit of the Benefitted Property to use, maintain, repair, reconstruct, replace, and remove a step and walkway upon a portion of the Property, as more particularly identified and depicted on Exhibit C and described on Exhibit D (Legal Description—Easement) hereto (the “**Easement**” or the “**Easement Area**”, as applicable). Once installed, Grantee shall not make any alterations, additions, enlargements, or modifications to the Encroachment within the Easement Area without the prior written consent of the City. Grantee acknowledges and agrees that it has conducted its own due diligence to familiarize itself with the condition and characteristics of the Easement Area. The City has not made any representations or warranties concerning the title, condition, or characteristics of the Easement Area or the suitability or fitness of the Easement Area for any purpose. Grantee acknowledges and agrees that it is not relying upon any such representations or warranties from the City. Without limitation of the foregoing, under no circumstances shall the City be responsible or liable for any pre-existing environmental conditions affecting the Easement Area.

2. Permitted Use. Grantee, its agents, tenants, licensees, and invitees shall have the non-exclusive right to use the Easement Area for the sole and limited purpose of pedestrian ingress and egress across the Property to the adjoining public rights-of-way. Grantee shall not use or permit the use of the Easement Area in any manner that is inconsistent with the rights granted herein or in a manner that impairs or unreasonably interferes with the rights of the City or others permitted by the City to the full use and enjoyment of the Property, as determined by the City.

3. Termination. Notwithstanding anything herein to the contrary, the Easement shall automatically terminate (i) upon the complete or respective partial demolition, without rebuilding within 1 year of such demolition, of the Encroachment within the Easement Area, such that the Easement would be rendered unnecessary; (ii) upon written notice from the City if the City determines that it needs the Easement Area or any portion thereof for a municipal purpose, including, without limitation, to comply with Americans with Disabilities Act (“**ADA**”) regulations or accessibility standards; or (iii) upon written notice from the City if the City determines that the Encroachment is creating a public safety issue, such as noncompliance with ADA accessibility regulations, or contributing to adverse impacts on the usability or accessibility of the Main Street Steps, if Grantee does not abate or begin to take efforts to mitigate the public safety issue in a timely manner consistent with the degree of harm posed by the public safety issue.

4. Maintenance and Repairs. At no cost to the City, Grantee shall maintain the Encroachment 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 Easement Area (“**Third-Party Utility Lines**”). In connection with Grantee’s maintenance, repair, and use of the Encroachment, 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 construction, maintenance, repair, reconstruction, or removal of the Encroachment 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; Indemnification. At all times, and in addition to whatever other insurance and bond requirements 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 Easement Area. 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 Encroachment, 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, construction, maintenance, repair, and all other matters associated with the Encroachment.

6. Access by City Departments. Grantee shall ensure continuous, unrestricted access to the Easement Area (24 hours/day, 7 days/week, 52 weeks/year) for DOTE for inspection and any other purpose, and for the City's Police and Fire Departments.

7. No Liens. Grantee shall not permit any mechanics liens to attach to the Easement Area in connection with the construction, installation, use, operation, maintenance, repair, reconstruction, removal, or replacement of the Encroachment.

8. Default. If Grantee, its successors-in-interest, or assigns fail to perform any required work under this instrument and fail 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 respective 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.

9. 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.

10. 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.

11. 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.

12. Coordinated Report Conditions (CR #13-2022). The following additional conditions shall apply:

a. DOTE:

- i. Grantee shall repair at its sole cost any damage to existing City-owned walk and stairs due to construction of proposed new walk and retaining walls. All such repairs shall comply with City standards.
- ii. Grantee shall provide an expansion joint between the existing and proposed walk and steps.
- iii. A DOTE street opening permit, obtained by a DOTE-licensed street contractor, is required for all private improvements on the Property. All improvements on the Property must be built to City standards, policies, and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application

13. 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.

14. Exhibits. The following exhibits are attached hereto and made a part hereof:
- Exhibit A – *Legal Description - Benefitted Property*
 - Exhibit B – *Legal Description – the Property*
 - Exhibit C – *Survey*
 - Exhibit D – *Legal Description—Easement*

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: _____

Date: _____, 2022

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:

CURE PROPERTIES, LLC,
an Ohio 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 **CURE PROPERTIES, LLC**, an Ohio 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

Property Address: 213 Goethe Street
Auditor's Parcel No.: 094-0006-0317

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

COMMENCING at the intersection of the south line of Goethe Street and the west line of Sycamore Street;

Thence with the south line of said Goethe Street, South 86°20'36" West, 265.00 feet to the northwest corner of a tract conveyed to WDC, LLC in Official Record 12749, Page 1535 of the Hamilton County Recorder's Office AND the **POINT OF BEGINNING**, being referenced by a set cross notch North 03°02'10" West, 3.00 feet;

Thence with the lines of said WDC, LLC, the following six (6) courses:

1. South 03°02'10" East, 60.00 feet to a set iron pin and cap;
2. South 86°20'36" West, 33.00 feet to a set iron pin and cap;
3. South 03°02'10" East, 15.00 feet to a set iron pin and cap;
4. South 86°20'36" West, 33.00 feet to a set iron pin and cap;
5. North 03°02'10" West, 11.00 feet to a set iron pin and cap;
6. South 86°20'36" West, 33.00 feet to a set iron pin and cap in the east line of a tract conveyed to the City of Cincinnati in Deed Book 940, Page 382;

Thence with the east line of said City of Cincinnati, North 03°02'10" West, 64.00 feet to the south line of aforesaid Goethe Street, being referenced by a set cross notch North 03°02'10" West, 3.00 feet;

Thence with the south line of said Goethe Street, North 86°20'36" East, 99.00 feet to the **POINT OF BEGINNING**.

CONTAINING 0.1507 ACRES. Together with and subject to all easements of record.

EXHIBIT B

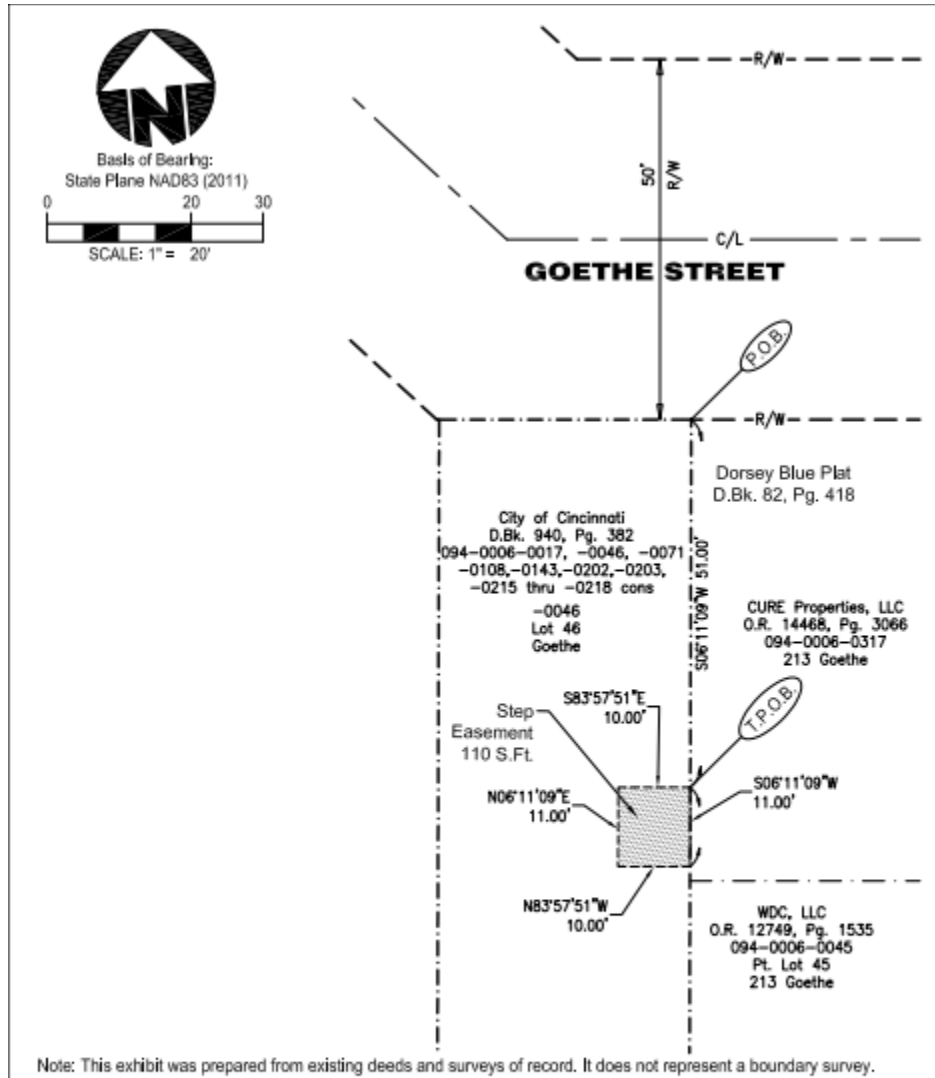
to Grant of Easement

LEGAL DESCRIPTION—THE PROPERTY

Property Address: N/A
Auditor's Parcel No.: 094-0006-0046
Prior Instrument Reference: Deed Book 940, Page 382, Hamilton County, Ohio Records

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, City of Cincinnati, Hamilton County, Ohio and being Lot 46 of Dorsey's Blue Plat Subdivision as recorded in Deed Book 82, Page 418, Hamilton County, Ohio Records.

EXHIBIT C
to Grant of Easement
SURVEY



Drawing:	20-0242 ES	GOETHE STREET CITY OF CINCINNATI LOT 46 SECTION 13, TOWN 3, F. RANGE 2 BTM THE CITY OF CINCINNATI HAMILTON COUNTY, OHIO EASEMENT EXHIBIT	 www.bayerbecker.com 1404 Race Street, Suite 204 Cincinnati, OH 45202 - 513.834.6151
Scale:	1"=20'		
Drawn by:	J.O.I.		
Checked By:	DDS		
Issue Date:	2-10-22		

EXHIBIT D
to Grant of Easement
LEGAL DESCRIPTION-EASEMENT

Description: Goethe Street
Step Easement

Date: February 10, 2022

Location: City of Cincinnati
Hamilton County, Ohio



Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, City of Cincinnati, Hamilton County, Ohio being a Step Easement over part of the City of Cincinnati land as recorded in Deed Book 940, Pg. 382 and being part of Lot 46 of Dorsey Blue Plat as recorded in Deed Book 82, Page 418 and being further described as follows:

Begin at a point found by measuring from the northeast corner of said Lot 46, said corner being on the south right of way of Goethe Street (50') and being the northwest corner of CURE Properties, LLC as recorded in Official Record 14468, Page 3066; thence, departing the south right of way of said Goethe Street and with the west line of said CURE Properties, LLC, South 06° 11' 09" West, 51.00 feet to the true point of beginning;

thence, from the True Point of Beginning thus found, and continuing with said CURE Properties, LLC, South 06° 11' 09" West, 11.00 feet;

thence, departing said CURE Properties, LLC and through the lands of said City of Cincinnati land the following three courses: North 83° 57' 51" West, 10.00 feet;

thence, North 06° 11' 09" East, 11.00 feet;

thence, South 83° 57' 51" East, 10.00 feet to the True Point of Beginning containing 110 square feet.

Basis of Bearings: NAD83(2011) Ohio State Plane Coordinates, South Zone (3402).

The above description was prepared from an easement exhibit made on February 10, 2022 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.