

# City of Cincinnati

CHM

*AWB*

## An Ordinance No. \_\_\_\_\_

- 2022

**AUTHORIZING** the City Manager to execute a *Grant of Easement* in favor of Fountain Place, LLC, pursuant to which the City of Cincinnati will grant an easement for an outdoor patio and dining area and associated amenities upon a portion of Vine Street in the Central Business District.

WHEREAS, Fountain Place, LLC, an Ohio limited liability company (“Grantee”), holds title to certain real property located at 505 Vine Street in the Central Business District, which property contains the Foundry building, formerly known as the Macy’s-anchored Fountain Place building; and

WHEREAS, Grantee recently renovated the Fountain Place building into a 3.5-story mixed-use structure containing approximately 150,000 square feet of office space and 35,000 square feet of street-level retail and restaurant space (“Project”); and

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

WHEREAS, Grantee has requested an easement from the City to facilitate the construction, operation, and maintenance of an outdoor patio and dining area and associated amenities along the Vine Street frontage of the Foundry building, as more particularly described in the *Grant of Easement* attached to this ordinance as Attachment A and incorporated herein by reference; and

WHEREAS, the City Manager, in consultation with DOTE, has determined (i) that granting the easement to Grantee is not adverse to the City’s retained interest in the Property and (ii) that granting the easement will not have an adverse effect on the usability or accessibility of any existing transportation facilities located within the public right-of-way; and

WHEREAS, pursuant to Cincinnati Municipal Code Sec. 331-5, the City 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 an appraisal that the fair market value of the easement is approximately \$24,000, however, the City has agreed to grant the easement to Grantee for less than its fair market value, namely, \$1.00, because the City will receive benefits from the Project that equal or exceed the fair market value of the easement because the Project will stimulate economic activity and growth in the Central Business District in and around Fountain Square; 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 May 6, 2022; 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 favor of Fountain Place, LLC, an Ohio limited liability company (“Grantee”), the owner of the property located at 505 Vine Street in the Central Business District in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will grant to Grantee an easement to construct, operate, and maintain an outdoor patio and dining area and associated amenities upon the Vine Street public right-of-way (“Property”).

Section 2. That granting the easement to Grantee (i) is not adverse to the City’s retained interest in the Property and (ii) will not have an adverse effect on the usability or accessibility of any existing transportation facilities located within the 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 Grantee, an adjoining property owner, would have any use for the easement.

Section 4. That the fair market value of the easement, as determined by a professional appraisal by the City’s Real Estate Services Division, is approximately \$24,000, however, the City has agreed to grant the easement to Grantee for less than its fair market value, namely, \$1.00, because the City will receive benefits from the Project that equal or exceed the fair market value of the easement because the Project will stimulate economic activity and growth in the Central Business District in and around Fountain Square.

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 *Grant of 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 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: \_\_\_\_\_, 2022

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk