

# City of Cincinnati

CHM

BWB

## An Ordinance No. 469

- 2021

**AUTHORIZING** the City Manager to execute a *Grant of Easement* in favor of HTS Properties LLC, pursuant to which the City of Cincinnati will grant a driveway encroachment easement upon property known as Bercliff Avenue in Northside.

WHEREAS, HTS Properties LLC, an Ohio limited liability company ("Grantee"), owns certain real property located at 1448 Bercliff Avenue in Northside; and

WHEREAS, the City of Cincinnati owns property adjoining Grantee's property identified as Hamilton County, Ohio Auditor's Parcel Identification No. 221-0021-0028-90 (the "Property"), which Property is known as Bercliff Avenue and is under the management of the City's Department of Transportation and Engineering ("DOTE"); and

WHEREAS, Grantee desires to build a single-family home and has requested a driveway encroachment easement from the City to improve and use an unimproved portion of Bercliff Avenue, as more particularly depicted and 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 on the Property; 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 \$540, which Grantee has agreed to pay; 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 15, 2021; 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 HTS Properties LLC, an Ohio limited liability company ("Grantee"), owner of the

property located at 1448 Bercliff Avenue in Northside, 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 permit the improvement and use of pavement for a driveway, curbs, gutters, and apron on, under, over, and across a portion of Bercliff Avenue identified as Hamilton County, Ohio Auditor's Parcel Identification No. 221-0021-0028-90 (the "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 on the Property.

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 appraisal by the City's Real Estate Services Division, is approximately \$540, which Grantee has agreed to pay.

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.

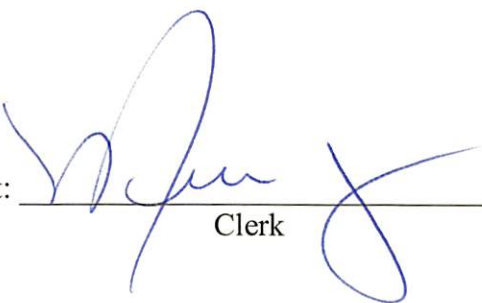
Section 6. That the City's Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, "Street Improvements," in which "YY"


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 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: December 8, 2021

Attest:   
Clerk

  
John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 409-2021  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 2-7-2021  
Melissa Harty  
CLERK OF COUNCIL