

RESOLUTION NO. 2012-46

AUTHORIZING THE GENERAL MANAGER/SECRETARY-TREASURER TO ACCEPT A PERMANENT EASEMENT WITH THE CITY OF CLEVELAND FOR THE PLACEMENT AND ACCESS TO TWO (2) BUS SHELTERS IN MARKET SQUARE PARK AT WEST 25TH STREET AND LORAIN AVENUE AS PART OF GCRTA'S TRANSIT WAITING ENVIRONMENT PROGRAM

WHEREAS, the City of Cleveland ("City") is designing and implementing the construction of improvements to the Market Square Park at the intersection of West 25th Street and Lorain Avenue in the City of Cleveland; and

WHEREAS, the City of Cleveland ("City") requires a Permanent Easement for the access and location of these shelters; and

WHEREAS, the GCRTA provides public transportation in the City and is involved in a transit area waiting enhancement program; and

WHEREAS, Market Square Park is a busy bus transfer point within RTA's transit network, providing transfer between multiple bus lines and the W. 25th Street Rapid Transit Station; and

WHEREAS, the GCRTA and the City wish to enhance the safety and aesthetics of waiting areas for transit passengers in the Market Square Park area; and

WHEREAS, the Board of Trustees approved Resolution 2012-24 authorizing the General Manager to enter into an Inter-Agency Agreement with the City of Cleveland to fund the purchase and installation of two (2) bus shelters in Market Square Park on March 20, 2012; and

WHEREAS, the City has agreed to purchase and install two new bus shelters on West 25th Street and Lorain Avenue while causing the improvements to Market Square Park; and

WHEREAS, the City of Cleveland requires that a Permanent Easement be in place for the Authority to access and maintain the shelters.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the Board of Trustees of the Greater Cleveland Regional Transit Authority hereby authorizes the General Manager/Secretary-Treasurer to accept a Permanent Easement with the City of Cleveland for the placement and access to the two (2) bus shelters for the Market Square Park.

Section 2. That the General Manager/Secretary-Treasurer of the Authority is hereby authorized to accept a Permanent Easement in substantially the same form as the document attached hereto as Attachment A.

Section 3. That this Easement does not require any funding.

Section 4. That this resolution shall become effective immediately upon its adoption.

Resolution No. 2012-46
Page 2

Attachment A: Easement

Adopted: May 15, 2012



President

Attest: 

CEO, General Manager/Secretary-Treasurer

Attachment A

EASEMENT

KNOW ALL MEN BY THESE PRESENTS: That, in consideration of valuable consideration, the adequacy and receipt of which is acknowledged, The City of Cleveland, an Ohio political subdivision (which with its successors and assigns is herein called "Grantor"), through its Director of Public Works, under the authority of Ordinance No. 74-12, passed by the Council of the City of Cleveland on April 9, 2012, and Resolution No. _____, adopted by the Board of Control on _____, hereby conveys and grants to the Greater Cleveland Regional Transit Authority, an Ohio political subdivision (which with its successors and assigns is herein called "Grantee") a perpetual, non-exclusive easement (herein called the "Easement"), as described below. The Easement encumbers the real estate described on Exhibit A, which is attached hereto and incorporated herein by reference. The Easement is solely for the purposes of the installation, maintenance and repair of two bus shelters and all related improvements and appliances, in accordance and in compliance with the Inter-Agency Agreement between Grantor and Grantee dated March 20, 2012 and authorized by City of Cleveland Ordinance No. 600-11, passed May 23, 2011 and GCRTA Resolution No. 2012 -024, adopted on March 20, 2012 as well as the ordinances, rules and regulations of the City of Cleveland, Ohio and for ingress and egress to exercise the foregoing rights.

The liability of the Grantor and the Grantee is governed by the provisions of Ohio Revised Code Chapter 2744 and other laws of Ohio. In accordance with those laws, Grantee shall be liable to Grantor for Grantee's own use of the premises that may result in damage, liability or expense caused to the premises by Grantee in accordance with the Revised Code. Grantor agrees that the Grantee shall not be liable to it for normal wear and tear caused to the

premises as a result of the Grantee's use thereof. Grantor shall be liable to Grantee for Grantor's own use of the premises that may result in damage, liability or expense caused to the shelters, signs and underground electrical conduit by Grantor in accordance with the Revised Code. With respect to injury to third parties, Grantor and Grantee shall each bear the risk of and responsibility for any damage or injury to persons or property for which it is legally liable and neither party shall indemnify the other. Neither Grantor nor Grantee shall be liable to the other for the negligence, actions or inactions of any third party.

The Easement shall run with the land and inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns.

IN WITNESS WHEREOF, Grantors have set their hands as of the ____ day of _____, 2012 at _____, Ohio.

IN WITNESS THEREOF, each party to this agreement has caused it to be executed at Cleveland, Ohio, on the date(s) indicated below.

Witnesses:

Grantor: **CITY OF CLEVELAND**
500 Lakeside Ave.
Cleveland, Ohio 44114

By: _____ Date
Michael E. Cox, Director
Department of Public Works

STATE OF OHIO :
SS
COUNTY OF :

BEFORE ME, a Notary Public in and for said county and state, personally appears the above named Michael E. Cox, the Director of the Department of Public Works, City of Cleveland, a political subdivision of the State of Ohio, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed, personally and as such officer, and the free act and deed of said political subdivision.

Notary Public

The legal form and correctness
of the within instrument is
hereby approved.

BARBARA A. LANGHENRY
Director of Law

By: _____
Assistant Director of Law

The Greater Cleveland Regional Transit Authority, by and through its General
Manager/Secretary-Treasurer, does hereby accept the within easement and all the terms and
conditions thereof this _____ day of _____, 2012.

Grantee: **GREATER CLEVELAND
REGIONAL TRANSIT
AUTHORITY**
1240 West 6th Street
Cleveland, Ohio 44113-1331

Witnesses:

By: _____ Date
Joseph A. Calabrese
CEO, General Manager and
Secretary-Treasurer

The legal form and correctness
of the within instrument is
hereby approved.

Sheryl King Benford
Deputy General Manager-Legal Affairs

This Instrument Prepared by:

Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
(216) 566-5100



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: PERMANENT EASEMENT FOR TWO BUS SHELTERS AT MARKET SQUARE PARK VENDOR: CITY OF CLEVELAND AMOUNT: \$0.00	Resolution No.: 2012-46
	Date: May 10, 2012
	Initiator: Programming and Planning
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 **PURPOSE/SCOPE:** This resolution authorizes the General Manager/Secretary-Treasurer to accept a permanent easement with the City of Cleveland required for the placement of two (2) bus shelters and related improvements and appliances, including two signs and conduit in Market Square Park. This is being done as part of the Transit Waiting Environment Program (TWE) in cooperation with the City of Cleveland as a part of the Market Square Improvement Project. It is a vital piece of the upgrade of the park being completed to celebrate the West Side Market's 100th birthday. The permanent easement is required by City of Cleveland Ordinance and by GCRTA's Real Estate Policy.

- 2.0 **DESCRIPTION/JUSTIFICATION:** The City of Cleveland ("City") is making improvements to the Market Square Park at the intersection of West 25th Street and Lorain Avenue in the City of Cleveland. GCRTA is working with the City to enhance the safety and aesthetics of waiting areas for transit passengers in the Market Square Park area. The GCRTA Board of Trustees approved an Inter-Agency Agreement with the City of Cleveland to fund the purchase and installation of the shelters in the park on March 20, 2012. This is a companion resolution that allows GCRTA to have a permanent easement in the area occupied by these shelters. The need for this easement was described during the Inter-Agency Agreement approval process. The GCRTA Real Estate policy requires all permanent easements to be approved by the Board of Trustees.

- 3.0 **PROCUREMENT BACKGROUND:** Does Not Apply.

- 4.0 **AFFIRMATIVE ACTION/DBE BACKGROUND:** Does Not Apply.

- 5.0 **POLICY IMPACT:** The approval of this Permanent Easement is required by GCRTA's Real Estate Policy. The easement is required by the City of Cleveland as it is a use of public property. In addition, the project is also consistent with GCRTA's Transit Waiting Environment program and will enhance the safety and aesthetics of the waiting area at West 25th Street and Lorain Avenue in the City of Cleveland.

- 6.0 **ECONOMIC IMPACT:** Does Not Apply.

- 7.0 ALTERNATIVES: The City of Cleveland requires the easement. If this resolution were not approved, RTA would not be able to accept a Permanent Easement in this Park for access to maintain these Shelters.
- 8.0 RECOMMENDATION: Market Square is a very important bus transfer point for RTA and is proximate to the W. 25th Street Rapid Transit Station. The staff recommends the approval of this Permanent Easement to the Board of Trustees.
- 9.0 ATTACHMENTS: None.

Recommended and certified as appropriate
to the availability of funds, legal form and
conformance with the Procurement requirements.



CEO, General Manager/Secretary-Treasurer