

RESOLUTION NO. 2014-116

AUTHORIZING THE GENERAL MANAGER/SECRETARY-TREASURER TO GRANT A PERPETUAL AERIAL EASEMENT TO THE CITY OF CLEVELAND ACROSS LAND KNOWN AS PERMANENT PARCEL NO. 124-23-007, AT THE EAST 79TH STREET RED LINE TRANSIT STATION

WHEREAS, the Greater Cleveland Regional Transit Authority (GCRTA) owns property known as Cuyahoga County Permanent Parcel No. 124-23-007 at the East 79th Street Red Line Transit Station; and

WHEREAS, the City of Cleveland requires property for a public purpose, namely a perpetual aerial easement (approximately 0.0119 acres) to construct, operate, maintain and replace a highway bridge or viaduct, including its substructure and superstructure, above GCRTA property and a temporary construction easement (approximately 0.03 acres) in order to allow the contractor periodic access throughout the 18 month duration of the project at the East 79th Street property; and

WHEREAS, a Notice of Intent To Acquire and Good Faith Offer for GCRTA property at the East 79th Street Red Line Transit Station has been provided to GCRTA; and

WHEREAS, a perpetual aerial easement and temporary construction easement would encumber approximately 0.0419 acres of Permanent Parcel No. 124-23-007 and would not interfere with GCRTA's present or future use of the station or create any safety hazards; and

WHEREAS, as consideration, the City of Cleveland will compensate GCRTA \$200.00 for the perpetual aerial easement and \$200.00 for the temporary construction easement, totaling \$400.00, based upon value analysis completed by a licensed appraiser and the City of Cleveland; and

WHEREAS, the aerial easement will enable the City of Cleveland to improve the parcel by rebuilding the bridge structure above the property; and

WHEREAS, Board Resolution 2010-55 states that the granting of temporary easements for construction for a term less than three (3) years and less than twenty-five thousand dollars (\$25,000) may be authorized by the General Manager/Secretary-Treasurer without approval of the Board of Trustees.

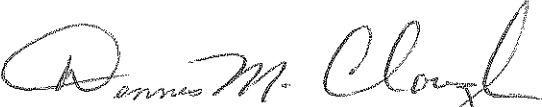
NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the General Manager/Secretary-Treasurer is hereby authorized to grant the perpetual aerial easement to the City of Cleveland over approximately 0.0119 acres of Permanent Parcel No. 124-23-007 at the East 79th Street Red Line Transit Station, for the price of \$200.00.


Section 2. That the General Manager/Secretary-Treasurer be, and hereby is authorized to execute all documents required to grant the perpetual aerial easement.

Section 3. That this resolution shall become effective immediately upon its adoption.

Adopted: November 18, 2014



President

Attest: 

CEO, General Manager/Secretary-Treasurer

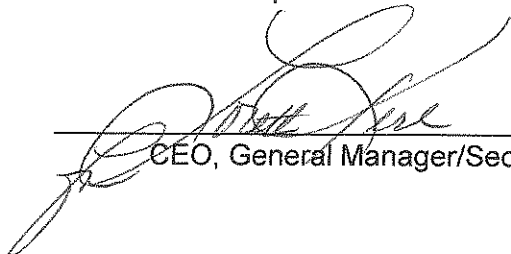


Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION		Resolution No.: 2014- 116
CONTRACT:	GRANT OF PERPETUAL AERIAL EASEMENT FOR PPN 124-23-007	Date: November 13, 2014
VENDOR:	CITY OF CLEVELAND	Initiator: Programming and Planning
AMOUNT:	REVENUE GENERATING: \$200.00	
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: Authorize the General Manager/Secretary-Treasurer to grant a perpetual aerial easement to the City of Cleveland for a 0.0119 acre area above the East 79th Street Red Line Rapid Transit Station in Cleveland, Ohio.
- 2.0 DESCRIPTION/JUSTIFICATION: The City of Cleveland has requested a perpetual aerial easement of approximately 0.0119 acres over Permanent Parcel No. 124-23-007 to construct, operate, maintain and replace a highway bridge or viaduct, including its substructure and superstructure. The aerial easement will not interfere with the present or future use of the RTA parcel or create any safety hazards.
- 3.0 PROCUREMENT BACKGROUND: Not Applicable.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Not Applicable
- 5.0 POLICY IMPACT: This action is compliant with the Board of Trustees Real Estate Policies that specify the Board of Trustees must approve any perpetual easement.
- 6.0 ECONOMIC IMPACT: Based upon value analysis completed by a licensed appraiser, GCRTA has determined that the City of Cleveland's offer of \$200.00 is fair and reasonable.
- 7.0 ALTERNATIVES: Deny the aerial easement.
- 8.0 RECOMMENDATION: Staff recommends that the Board of Trustees approve the resolution to authorize granting the perpetual aerial easement for approximately 0.0119 acres of PPN 124-23-007 to the City of Cleveland.
- 9.0 ATTACHMENTS: Draft Perpetual Easement.

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



CEO, General Manager/Secretary-Treasurer

EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Greater Cleveland Regional Transit Authority, the Grantor(s) herein, in consideration of the sum of \$200.00, to be paid by the City of Cleveland, Ohio, the Grantee herein, does hereby grant, bargain, sell, convey and release to said Grantee, its successors and assigns forever, an easement, which is more particularly described in Exhibit A attached hereto, within the following described real estate:

PARCEL(S): 6-A

PID# 93460

CUY-EAST 79TH STREET

SEE EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Cuyahoga County Current Tax Parcel No. 12423007
Prior Instrument Reference: Vol 13869, Pg 547, Cuyahoga County Recorder's Office.

And the said Grantor(s), for its self and its successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that it is the true and lawful owner(s) of said premises, and lawfully seized of the same in fee simple, and has good right and full power to grant, bargain, sell, convey and release the same in the manner aforesaid, and that the same are free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions, and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules, and regulations; and (d) any and all taxes and assessments not yet due and payable; and that Grantor(s) will warrant and defend the same against all claims of all persons whomsoever.

The property conveyed herein is being acquired by Grantee for a public purpose, namely the establishment, construction, reconstruction, widening, repair or maintenance of a public road.

In the event that the Grantee decides not to use the property conveyed herein for the above-stated purpose, the Grantor(s) has a right under Section 163.211 of the Revised Code to repurchase the property for its fair market value as determined by an independent appraisal made by an appraiser chosen by agreement of the parties or, if the parties cannot agree, an appraiser chosen by an appropriate court. However, this right to repurchase will be extinguished if any of the following occur: (A) Grantor(s) declines to repurchase the property; (B) Grantor(s) fails to repurchase the property within sixty days after Grantee offers the property for repurchase; (C) Grantee grants or transfers the property to any other person or agency; or (D) Five years have passed since the property was appropriated or acquired by Grantee.

IN WITNESS WHEREOF Greater Cleveland Regional Transit Authority has caused its name to be subscribed by _____, its duly authorized _____, and it duly authorized agent on the _____ day of _____, 2014 .

GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY

By: _____

STATE OF OHIO, COUNTY OF CUYAHOGA ss:

BE IT REMEMBERED, that on the _____ day of _____, 2014 , before me the subscriber, a Notary Public in and for said state and county, personally came the above named _____, who acknowledged being the _____ and duly authorized agent of Greater Cleveland Regional Transit Authority, and who acknowledged the foregoing instrument to be the voluntary act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

NOTARY PUBLIC
My Commission expires: _____

This document was prepared by: the City of Cleveland, Ohio.

EXHIBIT A

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Ver. Date 04/29/14

PID 93460

**PARCEL 6-A
CUY-EAST 79TH STREET
PERPETUAL AERIAL EASEMENT
IN THE NAME AND FOR THE USE OF THE
CITY OF CLEVELAND, CUYAHOGA COUNTY, OHIO**

A perpetual easement to construct, operate, maintain and replace a highway bridge or viaduct, including its substructure and superstructure, above the following described property.

[Surveyor's description of the premises follows]

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio and known as part of Original Newburgh Township Lot No. 415, and conveyed to Greater Cleveland Regional Transit Authority as recorded on 9-5-1975 in Volume 13869, Page 547 of Cuyahoga County Records and being a parcel of land lying on the left side of the centerline of right of way of East 79th Street (60 feet wide) further bounded and described as follows:

Commencing at an iron pin in monument box found at Station 30+93.41, 0.00 feet left of East 79th Street centerline of right of way; Thence following the East 79th Street centerline of right of way, **North 00 degrees 31 minutes 27 seconds West** a distance of **100.02 feet** to a deflection point at Station 31+93.43, 0.00 feet left of East 79th Street centerline of right of way; Thence, continuing along the East 79th Street centerline of right of way, **North 14 degrees 15 minutes 58 seconds West** a distance of **16.90 feet** to a point at Station 32+10.33, 0.00 feet left of East 79th Street centerline of right of way; Thence, **South 75 degrees 44 minutes 02 seconds West** a distance of **30.00 feet** to a point at the Grantor's southeast property corner and on the westerly right of way line of East 79th Street at Station 32+10.33, 30.00 feet left of East 79th Street centerline of right of way, said point being the **True Point Of Beginning** of the parcel herein described;

1. Thence, following the Grantor's southerly property line, **South 82 degrees 57 minutes 13 seconds West** a distance of **15.12 feet** to a point at Station 32+12.23, 45.00 feet left of East 79th Street centerline of right of way;
2. Thence, **North 14 degrees 15 minutes 58 seconds West** a distance of **34.56 feet** to a point on the Grantor's northerly property line at Station 32+46.79, 45.00 feet left of East 79th Street centerline of right of way;
3. Thence, following the Grantor's northerly property line **North 82 degrees 54 minutes 52 seconds East** a distance of **15.12 feet** to a point at the Grantor's northeast property corner

EXHIBIT A

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and on the westerly right of way line of East 79th Street at Station 32+44.90, 30.00 feet left of East 79th Street centerline of right of way;

4. Thence, following the Grantor's easterly property line and the westerly right of way line of East 79th Street, **South 14 degrees 15 minutes 58 seconds East** a distance of **34.57 feet** to the **True Point Of Beginning** and enclosing an area of 518.5 S.F., more or less, none of which is present road occupied and is from Cuyahoga County Auditor's Permanent Parcel No. 124-23-007.

The bearings referred to herein are project ground and are relative to the Cuyahoga County Regional Geodetic Survey.

The stations referred to herein are from the centerline of right of way of East 79th Street, as found on O.D.O.T. Right of Way Plan CUY-EAST 79TH STREET.

This description was prepared and reviewed in March, 2014 under the supervision of Kiran C. Patel, P.S., Registered Surveyor No. 7554, and is based on a survey made by G & T Associates, Inc., between April 2013 and July 2013 for the City of Cleveland.

**ACKNOWLEDGMENT OF RECEIPT
OF
NOTICE OF INTENT TO ACQUIRE AND GOOD FAITH OFFER**

Re: CUY-EAST 79TH STREET
Parcel Number: 6-A, 6-T
Interest Acquired: Aerial Easement (6-A), Temporary Easement (6-T)

Each of the undersigned acknowledges that a copy of the foregoing Notice of Intent to Acquire and Good Faith Offer was delivered to the undersigned by City of Cleveland, Ohio,. This Acknowledgment of Receipt of Notice of Intent to Acquire and Good Faith Offer does NOT indicate or imply in any way that the undersigned has waived or will waive any objections the undersigned might have, to City of Cleveland, Ohio,'s efforts to acquire the undersigned's property. Furthermore, the undersigned's signature on this Acknowledgment of Receipt of Notice of Intent to Acquire and Good Faith Offer does NOT indicate or imply in any way that the undersigned has accepted or will accept any of the terms, provision or conditions set out in this Good Faith Offer.

For Greater Cleveland Regional Transit Authority

(Date)

(Print owner's name)