

RESOLUTION NO. 2016-46

AUTHORIZING THE CEO, GENERAL MANAGER/SECRETARY-TREASURER TO ENTER INTO AN AGREEMENT WITH THE CITY OF SHAKER HEIGHTS TO AMEND THE LOOP AND YARD PERMANENT EASEMENT AND TRANSFER AGREEMENT AND TERMINATE THE RELATED LEASE AGREEMENT

WHEREAS, the Greater Cleveland Regional Transit Authority Board of Trustees passed Resolution Number 1975-47 on September 2, 1975 that authorized the execution of an agreement with the City of Shaker Heights providing for the transfer of transit facilities ("Transfer Agreement") from the City of Shaker Heights ("the City") to the Greater Cleveland Regional Transit Authority("GCRTA"); and

WHEREAS, pursuant to and in furtherance of the Transfer Agreement, the City granted GCRTA a GCRTA Loop and Yard Permanent Easement dated April 8, 1977 and recorded on July 14, 1977; and

WHEREAS, in accordance with the Transfer Agreement, GCRTA and the City also entered into a Lease Agreement dated August 10, 1976 and recorded on September 14, 1976; and

WHEREAS, The City requires GCRTA to make changes to its facilities in order to facilitate joint development in the area; and

WHEREAS, the proposed changes to GCRTA's facilities require the amendment of the Loop and Yard Permanent Easement and the Transfer Agreement, as well as the termination of said lease; and

WHEREAS, the termination of the lease and change to the easement area have been reviewed by GCRTA and will not negatively impact GCRTA bus and rail operations or create any safety hazards.

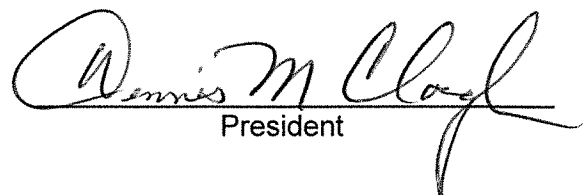
NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the CEO, General Manager/Secretary-Treasurer is hereby authorized to enter into an Agreement with the City of Shaker Heights to amend the Loop and Yard Permanent Easement and Transfer Agreement and terminate the related Lease Agreement.

Section 2. That the CEO, General Manager/Secretary-Treasurer be, and he is hereby authorized, to execute all documents required in furtherance of this action.

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

Adopted: June 14, 2016


President

Attest: 
CEO, General Manager/Secretary-Treasurer



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: ENTERING INTO AN AGREEMENT WITH THE CITY OF SHAKER HEIGHTS TO AMEND THE LOOP AND YARD PERMANENT EASEMENT AND TRANSFER AND TERMINATE THE RELATED LEASE AGREEMENT VENDOR: CITY OF SHAKER HEIGHTS	Resolution No.: 2016-46
	Date: June 9, 2016
	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 enter into an Agreement with the City of Shaker Heights to amend the existing Loop and Yard Permanent Easement and Transfer Agreement and to terminate an existing lease. All of these documents were executed pursuant to the Mass Transfer Agreement between the City of Shaker City and the Greater Cleveland Regional Transit Authority (GCRTA) dated September 5, 1976.

- 2.0 **DESCRIPTION/JUSTIFICATION:** The City of Shaker Heights, with the participation of GCRTA, created a redevelopment plan now called Van Aken District. This plan is now being implemented. This mixed use development plan requires the movement of GCRTA facilities. All of the original easements are tied to the Mass Transfer Agreement and related documents. The Resolution authorizes an amendment to the existing permanent easement to reflect the new GCRTA footprint of 1.0160 acres. The easement has been reviewed by GCRTA staff and will not interfere with the present or future use of the GCRTA 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 Joint Development Policy that encourages GCRTA to make accommodations to create development near transit facilities.

- 6.0 **ECONOMIC IMPACT:** None.

- 7.0 **ALTERNATIVES:** Do not amend the GCRTA Loop and Yard Permanent Easement and Transfer Agreement and terminate the related lease agreement. This will prevent the City of Shaker Heights from moving forward with the proposed joint development project.

- 8.0 **RECOMMENDATION:** Staff recommends that the Board of Trustees approve the resolution authorizing GCRTA to execute the amendment of the Loop and Yard Permanent Easement and Transfer Agreement and to terminate the related lease

agreement. This was discussed by the Planning and Development Committee at their May 12, 2015 meeting and recommended for approval by the Board of Trustees.

9.0 ATTACHMENTS: Amendment, Map of Easement Areas, and Legal Description

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



CEO, General Manager/Secretary-Treasurer

**AMENDMENT TO LOOP AND YARD PERMANENT EASEMENT AND OTHER
AGREEMENTS AND TERMINATION OF LEASE AGREEMENT**

THIS AMENDMENT TO LOOP AND YARD EASEMENT AND OTHER AGREEMENTS AND TERMINATION OF LEASE AGREEMENT (this “Agreement”) is entered into as of _____, 2016 (the “Effective Date”) by and between the **CITY OF SHAKER HEIGHTS, OHIO** (the “City”) and the **GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY** (“RTA”).

RECITALS

- A. The City and RTA entered into a certain Mass Transit System Transfer Agreement dated September 5, 1975 (the “Transfer Agreement”).
- B. Pursuant to and in furtherance of the Transfer Agreement, (i) the City granted certain easements to RTA pursuant to a certain Loop and Storage Yard Easement dated April 8, 1977 and recorded on July 14, 1977 in Volume 14493, Page 727 with the Cuyahoga County, Ohio Recorder (the “Easement”), and (ii) the City, as lessor, and RTA, as lessee, entered to that certain Lease Agreement dated August 10, 1976 and recorded on September 14, 1976 in Volume 513, Page 783 with the Cuyahoga County, Ohio Recorder (the “Lease”).
- C. To reflect certain changes to RTA’s facilities within the City of Shaker Heights, the City and RTA wish to (i) amend the Easement and the Transfer Agreement, and (ii) terminate the Lease.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Recitals. The above Recitals are hereby affirmed and incorporated into this Agreement by reference as if fully set forth herein.

2. Termination of Lease. The Lease shall be, and is, hereby terminated and cancelled in its entirety effective as of the Effective Date and the City and RTA hereby forever release and discharge each other from all of their respective obligations and claims arising under, or in connection with the Lease.

3. Amendment to Easement. The section of the Easement entitled “Parcel V.A. 16 – Van Aken Loop and Storage Permanent Easement” is hereby deleted in its entirety and replaced with the following:

Parcel V.A. 16 – Van Aken Loop and Storage Permanent Easement

[legal description to be inserted]

4. Amendments to Transfer Agreement.

a. Schedule A-3 (Excluded Properties) to the Transfer Agreement is hereby amended to delete Paragraph 3 in its entirety and replace it with the following:

3. Center strip of Van Aken Boulevard, from the Cleveland-Shaker Heights corporation line to the intersection of Van Aken-Warrensville Center Road:

This strip has in general a width of 90 feet. An easement only is granted easterly to the intersection with Farnsleigh Road for the use of 42 feet; i.e. 21 feet on each side of the center line as described in Schedule L, Exhibit L-1. Special easements are granted for existing parking areas outside the 42 feet of easement and the Lynnfield station building, as described in Schedule L, Exhibit L-2. A special easement is granted for the storage yard, employee parking, power station, office, and bus roadway between Farnsleigh Road and the northwesterly limit of the National City Bank parking lot as described in Schedule L, Exhibit L-2.

Notwithstanding anything contained herein to the contrary, the easement area for the car storage yard and turning loop

shall be as described in Paragraph B.1. of Schedule L, Exhibit L-2.

- b. Schedule L, Exhibit L-2 (Special Easements Required for Low-Platform Rapid Transit Operated in Shaker Heights) to the Transfer Agreement is hereby amended to delete Paragraph B.1. in its entirety and replace it with the following:

- 1. The Van Aken-Warrensville Center car storage yard and turning loop are essential for operation of the Van Aken Division and main line. An easement shall be granted for transit purposes over the following described area:

[legal description to be inserted]

5. Successors and Assigns. This Agreement shall run with the land and be binding upon and shall inure to the benefit of the successors and assigns of the parties.

6. Conflicts. In the event of a conflict between the provisions of this Agreement and the provisions of the Easement and/or the Transfer Agreement, the provisions of this Agreement shall control.

7. Ratification. Except as expressly amended or modified herein, all of the terms, covenants and conditions of the Easement and the Transfer Agreement, including and incorporating those as amended herein, shall remain unchanged and in full force and effect; and the Easement and the Transfer Agreement, each as herein amended and modified, are hereby ratified and confirmed.

8. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF SHAKER HEIGHTS

By: _____
Earl M. Leiken, Mayor

The legal form of the within instrument is hereby approved.

By: _____
Director of Law

Date: _____, 2016

GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

By: _____
Name: _____
Title: _____

The legal form of the within instrument is hereby approved.

By: _____
Counsel for the RTA

Date: _____, 2016

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

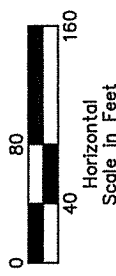
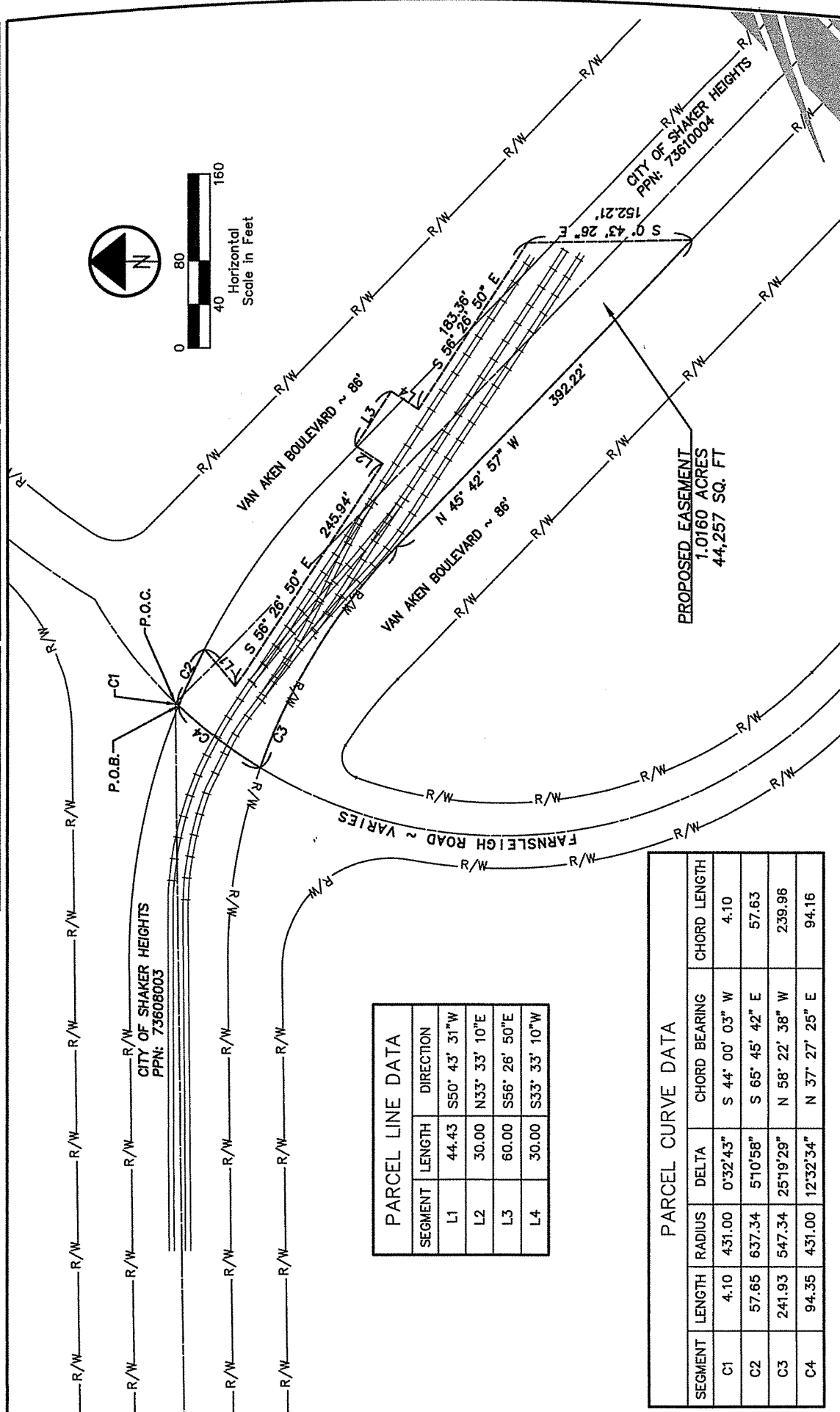
The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Earl M. Leiken, the Mayor of **CITY OF SHAKER HEIGHTS**, on behalf of the municipal corporation.

Notary Public

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, the _____ of **GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY**, on behalf of such entity.

Notary Public



SEGMENT	LENGTH	DIRECTION
L1	44.43	S50° 43' 31" W
L2	30.00	N33° 33' 10" E
L3	60.00	S56° 26' 50" E
L4	30.00	S33° 33' 10" W

SEGMENT	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	4.10	431.00	0°32'43"	S 44° 00' 03" W	4.10
C2	57.65	637.34	51°0'58"	S 65° 45' 42" E	57.63
C3	241.93	547.34	25°19'29"	N 58° 22' 38" W	239.96
C4	94.35	431.00	12°32'34"	N 37° 27' 25" E	94.16

PROPOSED EASEMENT
 1.0160 ACRES
 44,257 SQ. FT

Legal Description of a
1.0160 Acre Easement Area

Situated in the City of Shaker Heights, County of Cuyahoga and State of Ohio and being part of Original Warrensville Township Lot No. 45, and being further bounded and described as follows:

Commencing at the centerline intersection of Farnsleigh Road (width varies) and Van Aken Boulevard (width varies) as defined on the Centerline Survey Plat recorded in Volume 369, pages 80-82 of Cuyahoga County Map Records; thence along said centerline of Farnsleigh Road and the arc of a curve, said curve having a radius of 431.00 feet, a central angle of $0^{\circ} 32' 43''$, and a chord distance of 4.10 feet which bears South $44^{\circ} 00' 03''$ West, for a distance of 4.10 feet to the **TRUE POINT OF BEGINNING**; thence clockwise along the following eleven (11) courses and distances:

1. Thence along the southerly line of right of way of westbound Van Aken Boulevard and the arc of a curve, said curve having a radius of 637.34 feet, a central angle of $5^{\circ} 10' 58''$, and a chord distance of 57.63 feet which bears South $65^{\circ} 45' 42''$ East, for a distance of 57.65 feet to a point.
2. Thence South $50^{\circ} 43' 31''$ West, for a distance of 44.43 feet to a point.
3. Thence South $56^{\circ} 26' 50''$ East, for a distance of 245.94 feet to a point.
4. Thence North $33^{\circ} 33' 10''$ East, for a distance of 30.00 feet to a point.
5. Thence South $56^{\circ} 26' 50''$ East, for a distance of 60.00 feet to a point.
6. Thence South $33^{\circ} 33' 10''$ West, for a distance of 30.00 feet to a point.
7. Thence South $56^{\circ} 26' 50''$ East, for a distance of 183.36 feet to a point.
8. Thence South $0^{\circ} 43' 26''$ East, for a distance of 152.21 feet to a point on the northerly line of right of way of eastbound Van Aken Boulevard.
9. Thence along said northerly line of right of way, North $45^{\circ} 42' 57''$ West for a distance of 392.22 feet to a point.
10. Thence continuing along said northerly line of right of way and the arc of a curve, said curve having a radius of 547.34 feet, a central angle of $25^{\circ} 19' 29''$, and a chord distance of 239.96 feet which bears North $58^{\circ} 22' 38''$ West, for a distance of 241.93 feet to a point, said point being the intersection of said northerly line of right of way of eastbound Van Aken Boulevard and said centerline of Farnsleigh Road.
11. Thence continuing along said centerline of Farnsleigh Road and the arc of a curve, said curve having a radius of 431.00 feet, a central angle of $12^{\circ} 32' 34''$, and a chord distance of 94.16 feet which bears North $37^{\circ} 27' 25''$ East for a distance of 94.35 feet to the True Point of Beginning, containing 1.0160 acres (44,257 square feet), more or less, and subject to all easements, restrictions and covenants of record. This description was prepared under the direct supervision of Joeseeph R. Ciuni. P.S. 7394, and is based on a survey performed by Neff and Associates in February of 2016.

The basis of bearing is the centerline of Van Aken Boulevard (North $45^{\circ} 42' 57''$ West as shown on the Centerline Survey Plat recorded in Volume 369, Pages 80-82 of Cuyahoga County Map Records).