

RESOLUTION 2017-84

AUTHORIZING THE CEO, GENERAL MANAGER/SECRETARY-TREASURER TO GRANT TO THE NORTHEAST OHIO REGIONAL SEWER DISTRICT ("NEORS") A PERPETUAL SUBTERRANEAN RIGHT OF WAY AND EASEMENT TO ACCESS AND MAINTAIN THE DOAN VALLEY TUNNEL ON A PARCEL KNOWN AS CUYAHOGA COUNTY PERMANENT PARCEL NUMBER 121-27-006, LOCATED AT THE INTERSECTION OF CEDAR AVENUE AND MURRAY HILL ROAD, CLEVELAND, OHIO, FOR THE PRICE OF FIVE THOUSAND FIVE HUNDRED DOLLARS (\$5,500.00)

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA") is the Owner of record of the property known as Cuyahoga County Permanent Parcel Number 121-27-006 at the intersection of Cedar Avenue and Murray Hill Road in Cleveland, Ohio (the "Property"); and

WHEREAS, the Northeast Ohio Regional Sewer District ("NEORS") wishes to construct a combined sewer overflow control project known as the Doan Valley Tunnel (the "Tunnel"); and

WHEREAS, the NEORS will require entrance to the Property for construction, access and maintenance of the Tunnel by way of a perpetual subterranean right of way and easement; and

WHEREAS, the perpetual right of way and easement covers 0.0383 acres or 1,668 square feet of the Property; and

WHEREAS, the perpetual right of way and easement will not interfere with GCRTA's present or future use of the Property nor create any safety hazards; and

WHEREAS, the fair market value of the perpetual right of way and easement has been determined by a certified appraisal.

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 grant a perpetual subterranean right of way and easement to the Northeast Ohio Regional Sewer District ("NEORS") under Permanent Parcel Number 121-27-006, located at the intersection of Cedar Avenue and Murray Hill Road (the "Property"), Cleveland, Ohio for the price of Five Thousand Five Hundred Dollars (\$5,500.00).

Section 2. That the CEO, General Manager/Secretary-Treasurer is hereby authorized to execute all documents required to grant the perpetual right of way and easement to NEORS and allow access to the Property.

Section 3. That the funds received for granting this perpetual right of way and easement will be deposited in the GCRTA General Fund.

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

Adopted: September 19, 2017



President

Attest: _____



CEO, General Manager/Secretary-Treasurer



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

| | |
|--|---|
| TITLE/DESCRIPTION: EASEMENT: GRANT OF EASEMENT UNDER PPN 121-27-006 FOR THE DOAN VALLEY TUNNEL PROJECT BY NEORSD GRANTEE: NORTHEAST OHIO REGIONAL SEWER DISTRICT AMOUNT: \$5,500.00 | Resolution No.: 2017-84 |
| | Date: September 14, 2017 |
| | 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:** The resolution seeks Board approval to grant a perpetual subterranean right of way and easement to the Northeast Ohio Regional Sewer District ("NEORSD") for the purpose of constructing, maintaining and having access to a new combined sewer overflow control project known as the Doan Valley Tunnel (the "Tunnel") under GCRTA property known as PPN 121-27-006 located at the intersection of Cedar Avenue and Murray Hill Road, Cleveland, OH.
- 2.0 **DESCRIPTION/JUSTIFICATION:** The subterranean easement for this Tunnel project consists of 0.0383 acres or 1,668 square feet at a depth of between ninety and one hundred feet below grade. The Tunnel is twenty-seven feet in diameter. The Tunnel is part of the NEORSD combined sewer overflow project ("CSO") being constructed throughout Cuyahoga County known as "Project Clean Lake". The Tunnel crosses under GCRTA property at many points throughout the county and will require multiple easements when complete. The easement will not interfere with the present or future use of the GCRTA property nor create any safety hazards.
- 3.0 **PROCUREMENT BACKGROUND:** Does Not Apply.
- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** Does Not Apply.
- 5.0 **POLICY IMPACT:** The perpetual right of way and easement on this property is consistent with the Real Estate Policies of the GCRTA that specify the Board of Trustees must approve any permanent easement with a value equal to or in excess of \$2,500.00. The perpetual easement described herein is a permanent easement under Chapter 470 of GCRTA's Codified Rules and Regulations.
- 6.0 **ECONOMIC IMPACT:** The value of the easement was determined by a certified appraisal and appraisal review to be Five Thousand Five Hundred Dollars (\$5,500.00). The funds received for granting this easement will be deposited in the GCRTA General Fund.
- 7.0 **ALTERNATIVES:** The GCRTA can refuse to grant the easement.
- 8.0 **RECOMMENDATION:** This easement request from NEORSD was discussed at the Board's Planning and Development Committee meeting on September 19, 2017. Staff recommends the Board of Trustees approve the resolution to authorize granting the Perpetual Right of Way and Easement to the NEORSD.

- 9.0 ATTACHMENTS: A. Draft Easement
B. Easement Legal Description
C. Easement Location Map

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



CEO, General Manager/Secretary-Treasurer

DRAFT

EASEMENT FOR ACCESS
AND MAINTENANCE OF THE
DOAN VALLEY TUNNEL
PARCEL 35

KNOW ALL MEN BY THESE PRESENTS:

That Greater Cleveland Regional Transit Authority , the GRANTOR herein, claiming title by or through instrument recorded in Volume 13869, Pg. 547 of Cuyahoga County Records, for and in consideration of the sum of Five Thousand Five Hundred Dollars (\$5,500.00), and other valuable consideration received in full satisfaction, does hereby give, grant, bargain and convey, to the NORTHEAST OHIO REGIONAL SEWER DISTRICT, a regional sewer district organized and existing as a political subdivision of the State of Ohio under Chapter 6119 of the Ohio Revised Code, acting pursuant to Resolution No. _____, adopted by its Board of Trustees on _____, 2017, the GRANTEE herein, the perpetual right of way and easement, for the purposes hereinafter mentioned, under the premises described in Exhibit "A" and shown on Exhibit "B," attached hereto and made a part hereof.

The easement and rights herein granted shall include the right of uninterrupted access, to and from the herein described premises for the purpose of installing, constructing, reconstructing, operating, repairing, inspecting and maintaining public sanitary sewers together with appurtenances.

Whenever work and/or maintenance of any kind is performed on the premises pursuant to the rights granted in this easement, the GRANTEE shall bear all responsibility for the prompt restoration, at the GRANTEE'S sole cost and expense, of the premises and their environs to their original condition.

The GRANTOR hereby reserves the right to the use of said premises within the limits of the above described permanent easement for purposes which are not herein expressly prohibited by, and are not inconsistent with, the easement and rights herein granted.

TO HAVE AND TO HOLD the above granted permanent easement, rights and right-of-way and its appurtenances to said GRANTEE, and to its successors and assigns forever.

And the GRANTOR, also binding successors and assigns, covenants with the said GRANTEE, and its successors and assigns, that, at and until the sealing of these presents, the GRANTOR is well seized of the above described premises as a good and indefeasible estate in fee simple, has good right to bargain and grant in the same manner and forms as above written, and will warrant and defend said premises with appurtenances thereunto belonging to the GRANTEE, its successors and assigns, against all lawful claims and demands whatsoever for the purposes herein described. Further, the undersigned warrants that he/she is the duly authorized, empowered, and acting agent of GRANTOR for the purpose of executing and delivering to GRANTEE all necessary instruments to effect a good and sufficient conveyance of said

easement from GRANTOR to GRANTEE for the hereinabove mentioned consideration.

The GRANTEE acknowledges and agrees that the GRANTOR shall not be liable or responsible to the GRANTEE, or any other person claiming by or through the GRANTEE, and the GRANTEE hereby expressly waives any and all claims for damage to person or property for any matter whatsoever.

IN WITNESS WHEREOF, this instrument is executed this _____ day of _____, 2017.

**GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY**

By: _____
Joseph A. Calabrese, CEO
General Manager/Secretary-Treas.

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

General Counsel, Deputy General
Manager for Legal Affairs

STATE OF _____)
) SS.
COUNTY OF _____)

BEFORE ME, a Notary Public, in and for said County and State, came the Greater Cleveland Regional Transit Authority, by _____, its _____, who acknowledge that they did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal at _____, Ohio, this _____ day of _____, 2017.

NOTARY PUBLIC

The legal form of this instrument is approved.

Date: _____, 20____.

Eric Luckage
Chief Legal Officer
Northeast Ohio Regional Sewer District

NORTHEAST OHIO REGIONAL SEWER DISTRICT

BY: _____
Kyle Dreyfuss-Wells
Chief Executive Officer

AND: _____
Darnell Brown
President, Board of Trustees

This instrument prepared by:

Julie A. Blair
Assistant General Counsel
Northeast Ohio Regional Sewer District
3900 Euclid Avenue
Cleveland, Ohio 44115
(216) 881-6600

**Permanent Subterranean Easement DVT-P35
Across Parcel No. 121-27-006
0.0383 Acre (1668 Square Feet)
Page 1 of 1**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original 100 Acre Lot No. 411. Also being part of the land conveyed to the Greater Cleveland Regional Transit Authority as recorded in Deed Volume 13869, Page 547 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the centerline of Murray Hill Road (60 feet wide) and the centerline of Cedar Avenue (width varies);

Thence, along the centerline of Cedar Avenue, North 82° 49' 57" West, 545.66 feet;

Thence, leaving the centerline of Cedar Avenue, South 07° 10' 03" West, 70.50 feet to the southerly right of way of Cedar Avenue and the **True Point of Beginning** for the easement herein described;

Thence, continuing along the southerly right of way of Cedar Avenue, South 28° 55' 18" West, 40.46 feet;

Thence, leaving the southerly right of way of Cedar Avenue, along the southeasterly line of said land conveyed to GCRTA, South 28° 55' 18" West, 117.36 feet;

Thence, leaving GCRTA's southeasterly line, North 20° 52' 01" East, 150.88 feet to the southerly right of way of Cedar Avenue;

Thence, along the southerly right of way of Cedar Avenue, South 82° 49' 57" East, 22.76 feet to the point of beginning.

Containing within said bounds of land 0.0383 acre of land (1668 square feet) and having a lower elevation of 616.00 and an upper elevation of 642.00 as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor No. 7730 in January, 2016. Bearings are based on Ohio State Plane, North Zone NAD83(2011) Grid North. Elevations are based on the NAVD88 vertical datum.

T. A. Bixler 6-3-16

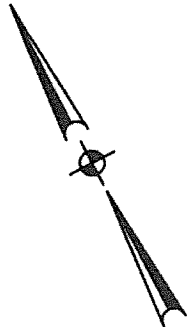
Trevor A. Bixler, P.S.
Professional Surveyor, Ohio No. 7730
KS ASSOCIATES
Civil Engineers + Surveyors
260 Burns Road, Suite 100
Elyria, OH 44035
440 365 4730



**PERMANENT SUBTERRANEAN
EASEMENT**

ACROSS PARCEL NO.
121-27-006

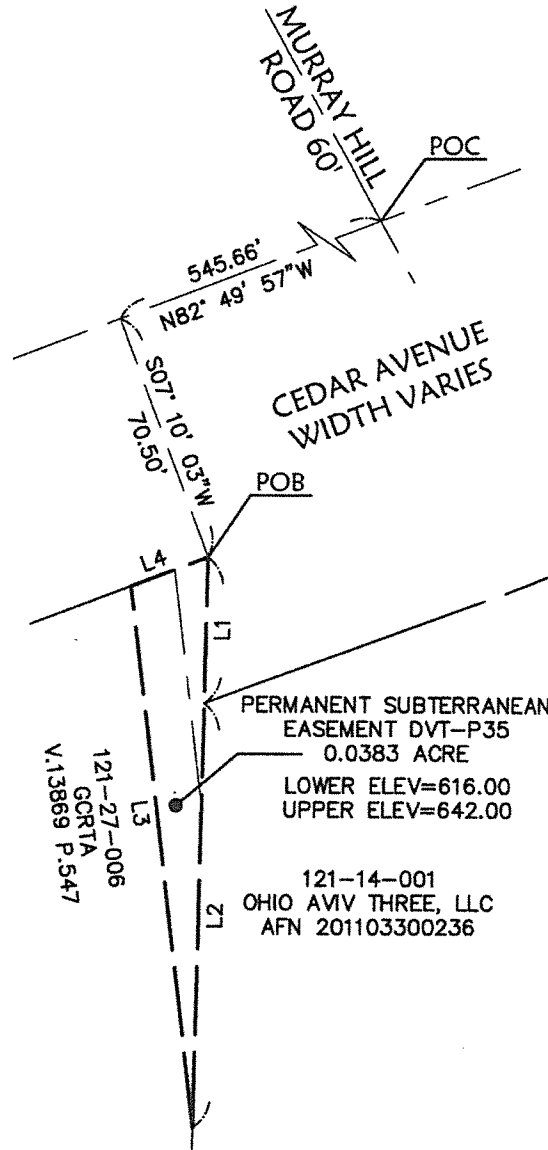
PART OF ORIGINAL 100 ACRE LOT NO. 411
CITY OF CLEVELAND
COUNTY OF CUYAHOGA,
STATE OF OHIO



SCALE: 1"=50'
JUNE, 2016

ELEVATIONS ARE BASED ON
THE NAVD88 VERTICAL DATUM

| LINE TABLE | | |
|------------|-------------|---------|
| LINE | BEARING | LENGTH |
| L1 | S28°55'18"W | 40.46' |
| L2 | S28°55'18"W | 117.36' |
| L3 | N20°52'01"E | 150.88' |
| L4 | S82°49'57"E | 22.76' |



ABBREVIATIONS

AFN AUTOMATIC FILE NUMBER
CCMR CUYAHOGA COUNTY MAP RECORDS
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT



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260 Burns Road, Suite 100
Elyria, OH 44035
P 440 365 4730
F 440 365 4790
www.ksassociates.com

KS ASSOCIATES

T. A. Bixler 6-3-16

TREVOR A. BIXLER
PROFESSIONAL SURVEYOR, OHIO NO. 7730