

RESOLUTION 2019-108

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO GRANT TO THE NORTHEAST OHIO REGIONAL SEWER DISTRICT ("NEORS") A PERMANENT SUBTERRANEAN RIGHT-OF-WAY AND EASEMENT TO ACCESS AND MAINTAIN THE WESTERLY STORAGE TUNNEL ON PARCELS KNOWN AS CUYAHOGA COUNTY PERMANENT PARCEL NUMBERS 007-11-019 AND 007-11-020, LOCATED AT THE INTERSECTION OF COLUMBUS ROAD AND ABBEY AVENUE, CLEVELAND, OHIO, FOR THE PRICE OF \$10,150.00

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA") is the owner of record of the property known as Cuyahoga County Permanent Parcel Numbers 007-11-019 and 007-11-020 at the intersection of Columbus Road and Abbey Avenue 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 Westerly Storage 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 permanent subterranean right-of-way and easement; and

WHEREAS, the permanent right-of-way and easement covers 0.1662 acres or 7,240 square feet of the Property; and

WHEREAS, the permanent 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 permanent 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 General Manager, Chief Executive Officer is hereby authorized to grant a permanent subterranean right-of-way and easement to the Northeast Ohio Regional Sewer District ("NEORS") under Permanent Parcel Numbers 007-11-019 and 007-11-020, located at the intersection of Columbus Road and Abbey Avenue (the "Property"), Cleveland, Ohio for the price of \$10,150.00.

Section 2. That the General Manager, Chief Executive Officer is hereby authorized to execute all documents required to grant the permanent right-of-way and easement to NEORS and allow access to the Property.

Section 3. That the funds received for granting this permanent 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: November 19, 2019

  
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
Interim Secretary-Treasurer



Greater Cleveland Regional Transit Authority  
**STAFF SUMMARY AND COMMENTS**

TITLE/DESCRIPTION: EASEMENT: GRANT OF PERMANENT SUBTERRANEAN EASEMENT TO THE NEORSD FOR THE WESTERLY STORAGE TUNNEL PROJECT ON PPNs 007-11-019 AND 007-11-020 IN CLEVELAND, OH.		Resolution No: 2019-108
GRANTEE: NORTHEAST OHIO REGIONAL SEWER DISTRICT		Date: November 14, 2019
AMOUNT: \$10,150.00		Initiator: Programming and Planning
Action Request:		
X Approval	Review/Comment	Information Only Other _____

- 1.0 PURPOSE/SCOPE: This resolution seeks Board approval to grant a permanent 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 Westerly Storage Tunnel (the "Tunnel") under GCRTA property known as PPNs 007-11-019 and 007-11-020 located at the intersection of Columbus Road and Abbey Avenue, Cleveland, OH.
- 2.0 DESCRIPTION/JUSTIFICATION: The easement for this Tunnel project consists of 0.1662 acres or 7,240 square feet at a depth of one hundred eighty 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 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 Real Estate Policies of the GCRTA specify that the Board of Trustees must approve any permanent easement with a value equal to or in excess of \$2,500.00. The easement described herein is a permanent easement under Chapter 470 of GCRTA's Code of Rules and Regulations.
- 6.0 ECONOMIC IMPACT: The value of the easement was determined by a certified appraisal and appraisal review to be \$10,150.00. 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: Staff recommends the Board of Trustees approve the resolution to authorize granting the Permanent Right-of-way and Easement to the NEORSD.
- 9.0 ATTACHMENTS: A. Draft Easement  
B. Easement Location Map  
C. Easement Legal Description

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

  
for General Manager, Chief Executive Officer



## Attachment A

### DRAFT

#### SEWER EASEMENT

Part PPN: A-14P (007-11-019 & 007-11-020)

#### KNOW ALL MEN BY THESE PRESENTS:

That the Greater Cleveland Regional Transit Authority, a regional transit authority organized and existing as a political subdivision of the State of Ohio under Chapter 306 of the Ohio Revised Code, acting pursuant to Resolution No. 2019- \_\_\_\_, adopted by its Board of Trustees on \_\_\_\_\_, 2019 the GRANTOR herein, claiming title by or through an instrument recorded in Volume 2330, Page 12 and Volume 88-5651, Page 70, Cuyahoga County Records, for and in consideration of the sum of Ten Thousand One Hundred Fifty Dollars (\$10,150.00), 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 \_\_\_\_\_ 201\_\_\_\_, 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 subterranean access, to and from the herein described premises for the purposes 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, so long as said use does not interfere with the structural integrity of said sanitary sewers and appurtenances.

GRANTEE agrees to hold harmless GRANTOR and GRANTOR's agents, representatives, employees, tenants, invitees, licensees, lessees, sublessees and assigns from and against all GRANTEE claims, actions, judgments, costs, penalties, liabilities, damages losses and expenses, including but not limited to attorney's fees and workers' compensation benefits, for GRANTEE's proportionate share and the proportionate share of any entity employed or contracted by GRANTEE arising out of or resulting from the use or exercise of the rights and privileges herein conferred.

GRANTEE shall procure and maintain at its sole cost and expense Commercial General Liability insurance for bodily injury and property damage coverage of at least \$10,000,000 per occurrence or claim and a general aggregate limit of at least \$10,000,000. Such insurance shall cover all of GRANTEE's operations both at and away from the project site. Such insurance shall not have any exclusion for Cross Liability or Cross-Suits. In addition the insurance shall not have any exclusion for Explosion, Collapse and Underground perils (xcu) and for construction or demolition work within 50 feet of railroad tracks, the contractual liability exclusion for liability assumed shall be deleted.

- a. This insurance shall include coverage for, but not be limited to:
  - Premises and operations.
  - Products and completed operations.
  - Personal injury.
  - Advertising injury.

b. Such insurance shall include the following endorsements:

- Additional Insured.
- Separation of Insureds Clause.
- Primary and Non-Contributory wording.
- Waiver of Subrogation.

Products and completed operations insurance shall be maintained for the duration of this Easement. GRANTOR will accept any combination of primary CGL along with Excess or Umbrella policies to meet the minimum coverage requirements contained herein.

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.

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**GREATER CLEVELAND REGIONAL  
TRANSIT AUTHORITY**

\_\_\_\_\_  
India L. Birdsong  
General Manager, Chief Executive Officer

APPROVED AS TO LEGAL FORM:

By \_\_\_\_\_  
Sheryl King Benford, General Counsel  
Deputy General Manager for Legal Affairs

STATE OF OHIO                    )  
  ) SS.  
COUNTY OF CUYAHOGA )

BEFORE ME, a Notary Public, in and for said County and State, came the Greater Cleveland Regional Transit Authority by India L. Birdsong, its General Manager, Chief Executive Officer, who acknowledged that she did sign the foregoing instrument and that the same is the free act and deed of said political subdivision 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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

The legal form of this instrument is approved.

Date: \_\_\_\_\_, 2019

\_\_\_\_\_  
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



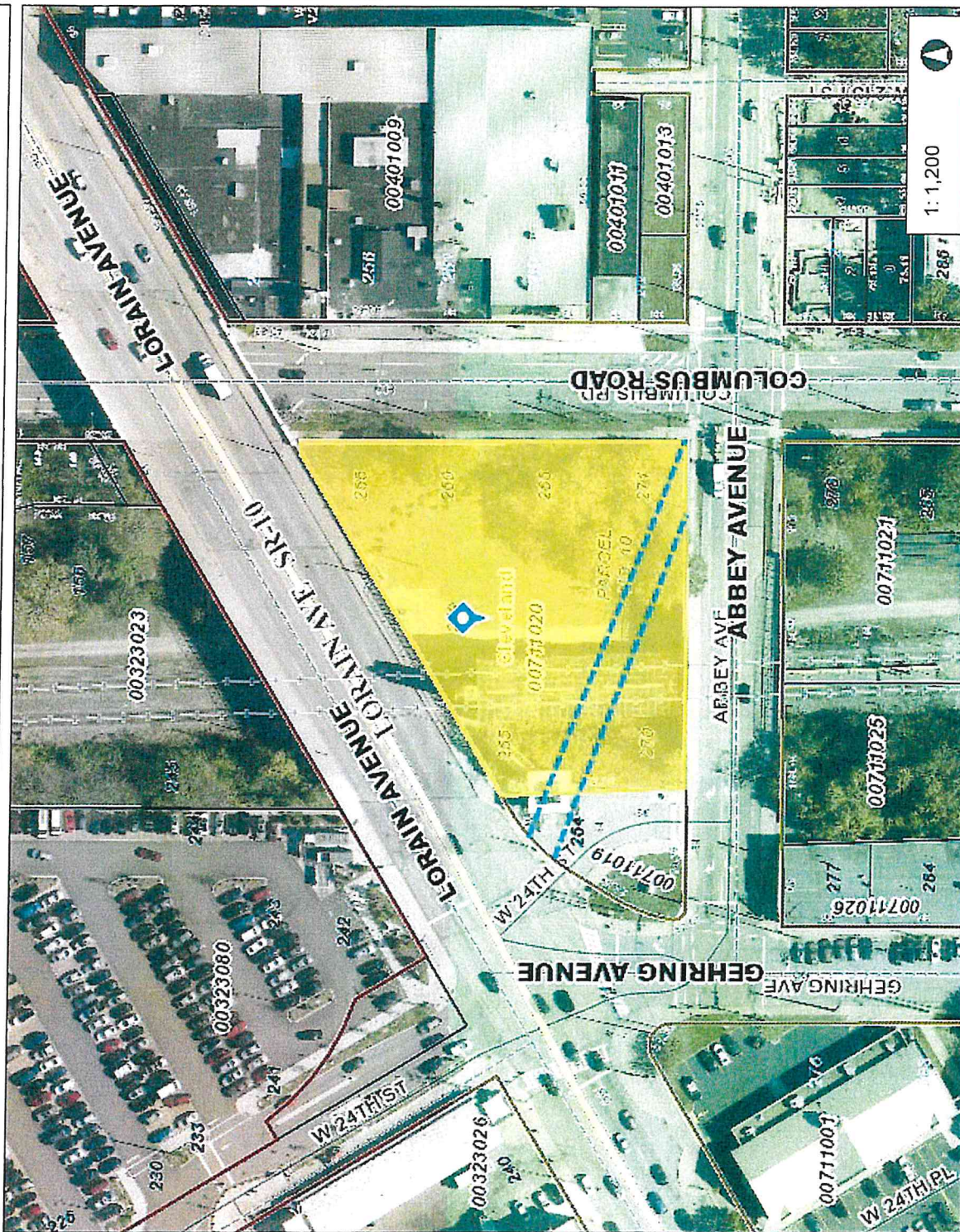
This instrument prepared by:

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

Date Created: 12/31/2018

### Legend

- ☐ Municipalities
- ☒ Point Parcels
- ☐ Air Parcels
- ☐ Right Of Way
- ☐ Platted Centerlines
- ☐ Parcels



1:1,200

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Projection:  
WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Cuyahoga County —

# Enterprise GIS

PUTTING CUYAHOGA COUNTY ON THE MAP



**Permanent Subterranean Easement WST A-14P  
Across Parcel Nos. 007-11-019 & 007-11-020  
0.1662 Acre (7,240 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 Sublot Nos. 255, 259, 260, 264, 265, 266, 270 and 271 in the Willeyville Allotment of part of Original Brooklyn Township Lot Nos. 69 and 70, as recorded in Volume 2, Page 12 of the Cuyahoga County Map Records. Also, being part of the land conveyed to the Greater Cleveland Regional Transit Authority as recorded in Volume 90-2330, Page 12 of the Cuyahoga County Records and Volume 85651, Page 70 of the Cuyahoga County Records, being more definitely described as follows;

Beginning at the intersection of the northerly right of way of Abbey Avenue (66.00 feet wide) and the westerly right of way of Columbus Road (80.00 feet wide);

Thence, along the northerly right of way of Abbey Avenue, South 89° 25' 44" West, 101.19 feet;

Thence, leaving the northerly right of way of Abbey Avenue, along the arc of a curve which deflects to the right, 200.29 feet to the southerly right of way of Lorain Avenue (100.00 feet wide), said curve having a radius of 1015.00 feet, a central angle of 11° 18' 22", and a chord of 199.96 feet which bears North 65° 09' 17" West;

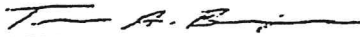
Thence, along the southerly right of way of Lorain Avenue, along the arc of a curve which deflects to the right, 30.46 feet, said curve having a radius of 130.00 feet, a central angle of 13° 25' 27", and a chord of 30.39 feet which bears North 39° 32' 08" East;

Thence, leaving the southerly right of way of Lorain Avenue, along the arc of a curve which deflects to the left, 284.83 feet to the westerly right of way of Columbus Road, said curve having a radius of 985.00 feet, a central angle of 16° 34' 05", and a chord of 283.84 feet which bears South 68° 03' 49" East;

Thence, along the westerly right of way of Columbus Road, South 00° 37' 58" East, 0.41 feet to the point of beginning.

Containing within said bounds of land 0.1662 acre of land (7,240 square feet) and having a lower elevation of 354.00 and an upper elevation of 479.00 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.

 3-28-17  
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

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