

RESOLUTION NO. 2025-66

**AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT
AUTHORITY TO ENTER INTO A TEMPORARY RIGHT OF ENTRY
AGREEMENT FOR THE CONSTRUCTION OF SEWER INFRASTRUCTURE
ON AUTHORITY PROPERTY (KINGSBURY RUN CONSOLIDATION SEWER
PROJECT)**

WHEREAS, the Greater Cleveland Regional Transit Authority ("Authority") owns a parcel of land located in and around its Kingsbury Yard in the City of Cleveland, identified by Permanent Parcel Number 125-13-001 (the "Kingsbury Property"); and

WHEREAS, the Authority owns a parcel of land adjacent to the Kingsbury Property located in the vicinity of East 67th Street and Berwick Avenue in the City of Cleveland, identified by Permanent Parcel Number 124-21-007 ("Berwick Property"); and

WHEREAS, the Authority owns two parcels of land located at the foot of Grand Avenue in the City of Cleveland, identified by Permanent Parcel Numbers 124-22-009 and 124-23-011 ("Grand Avenue Property"); and

WHEREAS, the Northeast Ohio Regional Sewer District ("NEORS") has initiated the Kingsbury Run Consolidation Sewer Project ("KRCS Project") to construct new sewer lines, new relief sewers, and new and rehabilitated flow regulator structures in an area that includes the land set forth above; and

WHEREAS, NEORS's general contractor, Triad Super Joint Venture ("Triad"), an Ohio general partnership, has requested access to the Kingsbury Property, the Berwick Property and the Grand Avenue Property for the purpose of constructing the access roads, sewer lines, relief sewers, and flow regulator structures for the KRCS Project; and

WHEREAS, the Authority has negotiated acceptable terms and conditions with Triad governing access to the Authority's real property for construction activities; and

WHEREAS, the grant of the proposed Temporary Right of Entry Agreement ("Agreement") is consistent with the Authority's real estate policies.

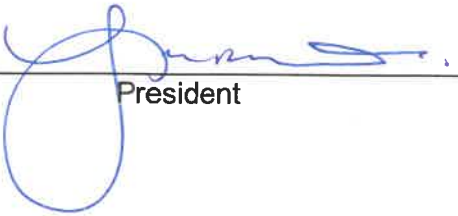
NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the General Manager, Chief Executive Officer is hereby authorized to execute the Temporary Right of Entry Agreement with Triad for the term commencing upon full execution of the Agreement and ending on December 31, 2028.


Section 2. That the General Manager, Chief Executive Officer is hereby authorized to approve up to two (2) additional six-month terms as necessary and advisable for the satisfactory completion of construction work.

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

Adopted: May 20, 2025



President

Attest: 

Secretary-Treasurer



TITLE/DESCRIPTION:		Resolution No.: 2025-66
CONTRACT:	TEMPORARY RIGHT OF ENTRY AGREEMENT FOR THE CONSTRUCTION OF SEWER INFRASTRUCTURE ON AUTHORITY REAL PROPERTY (KINGSBURY RUN CONSOLIDATION SEWER PROJECT)	Date: May 15, 2025
LICENSEE:	TRIAD SUPER JOINT VENTURE	Initiator: Engineering & Project Management
TERM:	TERM ENDING DECEMBER 31, 2028, PLUS TWO 6-MONTH EXTENSION TERMS	
ACTION REQUEST:		
<input checked="" type="checkbox"/> Approval Review/Comment Information Only Other _____		

- 1.0 **PURPOSE/SCOPE:** This resolution authorizes the Greater Cleveland Regional Transit Authority ("Authority") to enter into a Temporary Right of Entry Agreement with Triad Super Joint Venture ("Triad"), an Ohio general partnership, as general contractor for the Northeast Ohio Regional Sewer District ("NEORS"). The purpose of this agreement is to permit entry upon Authority property for the construction of access roads, sewer lines, relief sewers, and flow regulator structures required for the Kingsbury Run Consolidation Sewer Project ("KRCS Project").
- 2.0 **DESCRIPTION/JUSTIFICATION:** NEORS's KRCS Project is part of Project Clean Lake, a \$3 billion, 25-year program that NEORS began in 2011 to meet Clean Water Act standards and address water quality issues. The KRCS Project will reduce wet weather combined sewer overflows released into the Cuyahoga River by about 260 million gallons in a typical year. The KRCS Project encompasses over 6,400 linear feet of new sewer lines, hundreds of feet of new relief sewers, and new and rehabilitated flow regulator structures. The project area spans from the Opportunity Corridor near Kinsman Road south to the Southerly Wastewater Treatment Plant in Cuyahoga Heights. It includes the Kinsman and Broadway/Slavic Village neighborhoods and the suburbs of Newburgh Heights and Cuyahoga Heights. Construction in these areas is expected to continue until mid-2028.

The location of the construction is in and around the Authority's Kingsbury Yard, as illustrated on the attached Location Map. Kingsbury Yard is the Authority's primary storage and staging area for large and heavy rail components and includes a spur track connecting to the rest of the Authority's rail system. The Board of Trustees has previously approved two (2) permanent and one (1) temporary easement to be granted to NEORS for the work to be performed under this Temporary Right of Entry Agreement.

The following terms and conditions are incorporated into the Temporary Right of Entry Agreement:

- The term of the agreement commences upon full execution thereof and ends December 31, 2028.
- The term may be extended for two (2) additional periods of six (6) months each with prior written consent of the Authority.
- Construction will be in accordance with the construction plans provided by NEORS.
- Licensee may not interfere with the operations or property of the Authority.
- All activities are open to inspection and control of the Deputy General Manager-Engineering & Project Management.

- 3.0 PROCUREMENT BACKGROUND: Does not apply.
- 4.0 AFFIRMATIVE ACTION/DBE BACKGROUND: Does not apply.
- 5.0 POLICY IMPACT: The Temporary Right of Entry Agreement is consistent with the real estate policies of the Authority. Such agreements for a term longer than three (3) years require the approval of the Board of Trustees.
- 6.0 ECONOMIC IMPACT: Does not apply.
- 7.0 ALTERNATIVES: The Authority can decline to approve the Temporary Right of Entry Agreement. Declining to approve the Temporary Right of Entry Agreement would prevent NEORSD's contractor from accessing the property where the construction is to take place.
- 8.0 RECOMMENDATION: This resolution was discussed at the May 6, 2025 Audit, Safety Compliance and Real Estate Committee meeting and recommended for consideration by the full Board of Trustees. It is recommended that this resolution be adopted.
- 9.0 ATTACHMENTS:
A. Location Maps B. Draft Temporary Right of Entry Agreement

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



General Manager, Chief Executive Officer

ATTACHMENT "A"



NEORS Kingsbury Work Sites - Triad Super JV

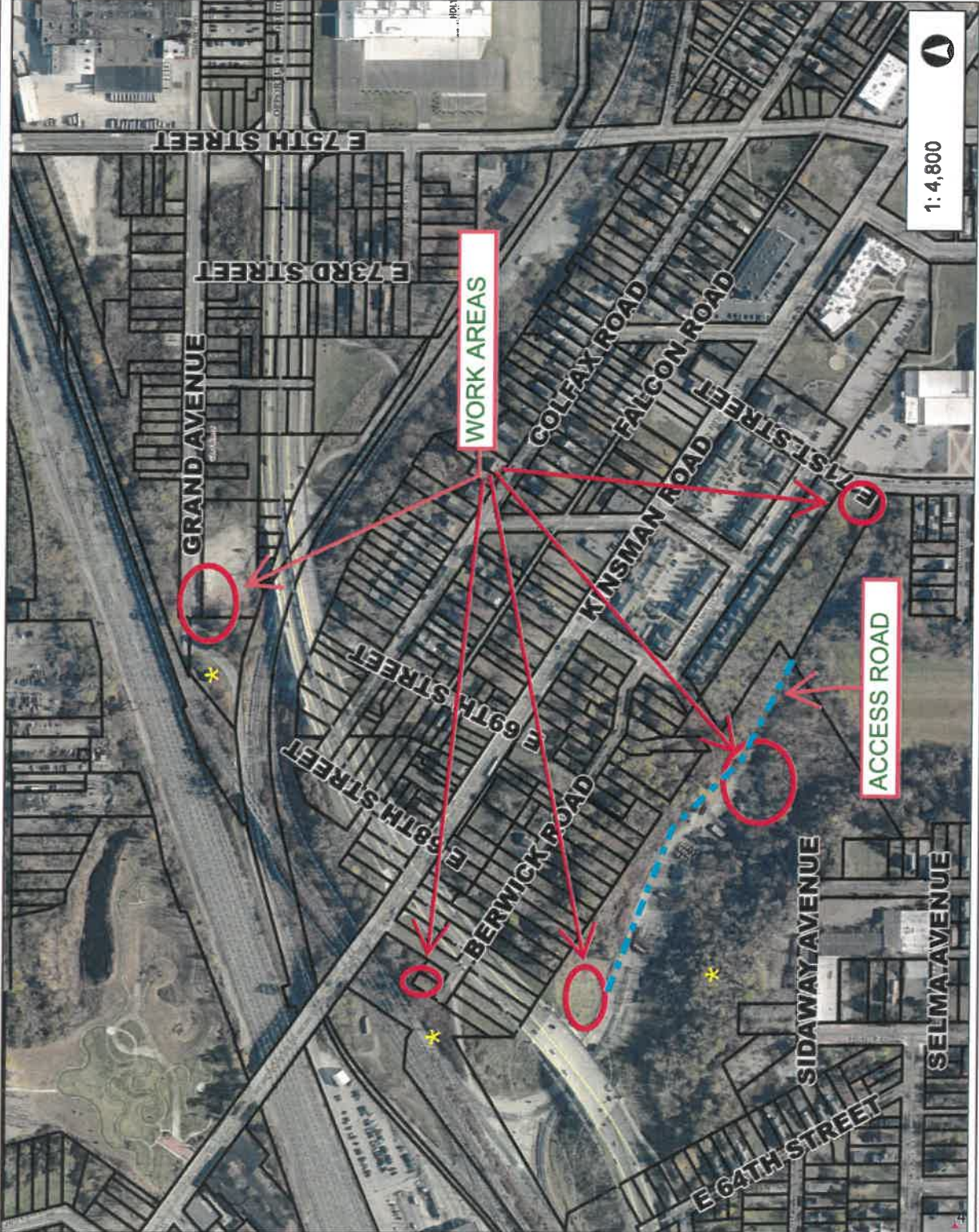


Date Created: 3/19/2025

Legend

- Municipalities
- Platted Centerline
- Parcel
- Private Road

***=GCRTA parcels**



1: 4,800



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.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

ATTACHMENT "B"

TROE Triad Super-NEORS Kingsbury Ph II construction 2025-05-02

TEMPORARY RIGHT OF ENTRY AGREEMENT

THIS TEMPORARY RIGHT OF ENTRY AGREEMENT ("Agreement"), made this _____ day of _____, 2025 (the "Effective Date"), by and between the GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY ("Licensor") a political subdivision of the State of Ohio having an office located at 1240 W. 6th St., Cleveland, Ohio 44113 and TRIAD SUPER JOINT VENTURE ("Licensee"), an Ohio general partnership with a business address at 9715 Clinton Rd., Brooklyn, Ohio, 44144, collectively, "the Parties."

Licensor hereby permits Licensee to enter upon property owned or controlled by Licensor located at:

- 1) 6880 Sidaway Ave., Cleveland, Cuyahoga County, Ohio and being known as Cuyahoga County Permanent Parcel Number ("PPN") 125-13-001,
- 2) 0 Grand Ave., Cleveland, Cuyahoga County, Ohio and being known as PPN 124-22-009
- 3) 0 Grand Ave., Cleveland, Cuyahoga County, Ohio and being known as PPN 124-22-011, and
- 4) 0 Kinsman Rd., Cleveland, Cuyahoga County, Ohio and being known as PPN 124-21-007

(the "Property"), and being located substantially as shown upon the print marked **Exhibit "A"**, attached hereto and made a part hereof.

This Right of Entry is granted upon the following terms and conditions:

1. The Right of Entry is granted for the purpose of general construction activities, tree cutting and removal and general site preparation for the Northeast Ohio Regional Sewer District's Kingsbury Run Consolidation Sewer Project from the Effective Date through December 31, 2028 (the "Term"). Licensee may extend the Term for two (2) additional six (6) month periods with the prior written consent of Licensor. Specifically, Licensee will be performing the activities on the Property described in the construction plans attached hereto as **Exhibit "B"** and incorporated herein by reference. The following terms and conditions shall be observed by Licensee:
 - a. Licensee shall use all reasonable care and diligence in the work in order to avoid accidents, damage or unnecessary delay to, or interference with, the operation or property of the Licensor, including, without limitation, the catenary structures and equipment installed on the Property.
 - b. Licensee shall conduct its work in a manner satisfactory to Licensor's Deputy General Manager-Engineering and Project Management or his designee and to hold its work open to inspection by Licensor at all times.
2. Licensor shall be given at least ten (10) days advance written notice before entry upon the Property. Notices to Licensor shall be directed to: James Reed, Property Manager, GCRTA, 1240 W. 6th Street, Cleveland, Ohio, 44113 and whose email address is james.reed@gcrt.org. Email notice will serve as written notice, so long as it is accompanied by notice by U.S. Mail or hand-delivery. Activities shall be coordinated through Don Tereba, Engineering Project Manager at GCRTA whose telephone

number is (216) 356-3255 and whose email address is dtereba@gcrta.org.

3. All reasonable care shall be exercised and such precautions taken as Licensor may deem necessary to protect Licensor's facilities and operations and comply with Licensor's specifications as described in Sections 014500, 015010 and 015020, attached hereto as **Exhibit "C"** and made a part hereof. Licensor reserves the right to place inspectors and supervisors for observation purposes during the operations hereunder and the expense thereof, including the expense of any material furnished, shall be promptly paid by Licensee upon receipt of Licensor's invoice therefor. In addition to direct wage and material cost, such expense shall include, but shall not be limited to, cost of supervision, traveling expenses, Ohio Public Employees' Retirement System ("OPERS") contributions, Unemployment taxes, vacation allowances, and all other expenses incidental thereto.
4. To the fullest extent permitted by law and to the full extent of Licensee's intentional, reckless or negligent acts or omissions, the Licensee shall, at its sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless Licensor and its officials, agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses and expenses, including but not limited to attorney's fees and worker's compensation benefits, for Licensee's intentional, reckless or negligent acts or omissions arising out of or resulting from the subject matter of this Agreement, or the acts or omissions of any person or contracted entity directly or indirectly employed or contracted by Licensee.

Nothing herein shall be construed as making Licensee liable for any claims, actions, judgments, costs, penalties, liabilities, damages or losses and expenses caused by the sole negligence and/or misconduct of Licensor.

To the extent that any portion of this provision is found to be in violation of any applicable law, said portion(s) of this provision are stricken but all remaining portions of this provision shall remain in full force and effect.

5. Insurance.
 - a. The Licensee shall obtain and maintain for the Term of this Agreement the following minimum insurance coverages. Such insurance shall protect the Licensee from claims which may arise out of or result from the Licensee's operations under the Right of Entry and for which the Licensee may be legally liable, whether such operations be by the Licensee or by a subcontractor or by anyone employed directly or indirectly by any of them, or by anyone for whose acts any of them may be liable.

Approval by the Licensor: Approval of the insurance by the Licensor shall not relieve or decrease the liability of the Licensee hereunder and shall not affect the obligations of Licensee pursuant to Section 4 of this Agreement. It is to be understood that the Licensor does not in any way represent that the insurance or the limits of insurance specified herein are sufficient or adequate to protect the Licensee's interests or liabilities.

In the event the Licensee neglects, refuses or fails to provide the insurance required under this Agreement, or if such insurance is cancelled for any reason,

the Licensor shall have the right but not the duty to procure the same at Licensee's costs pursuant to the provisions of Section 3 of this Agreement.

Licensor reserves the right to request a copy of all policies and endorsements prescribed herein.

At its sole expense, Licensee shall obtain and maintain:

- i. **Commercial General Liability (CGL) Insurance** in the amount of \$6,000,000 combined single limit each occurrence for bodily injury and/or property damage and with a \$8,000,000 annual aggregate. Said policy shall provide coverage to all leased, hired and non-owned vehicles used in connection with the work with limits of \$1,000,000.
- ii. **Statutory Workers' Compensation Coverage** in compliance with all applicable state workers' compensation laws to cover all employees furnishing labor under the terms of this Agreement and under the control of the Licensee. Employers' Liability coverage in the amount of \$1,000,000 per accident / \$1,000,000 per employee for disease will also be included, either under the Workers' Compensation policy or under the Commercial General Liability policy (Stop Gap) referenced under i. above. In Ohio, a copy of a certificate of premium payment from the Industrial commission and Bureau of Workers Compensation, or a copy of the Certificate of Employer's Right to Pay Compensation Directly.
- iii. **Railroad Protective Liability Insurance** naming GCRTA (or the other railroad, as applicable) as an insured and having limits of no less than \$5,000,000 per occurrence and \$10,000,000 in the aggregate to cover bodily injury liability, property damage liability and physical damage to property.

In addition, when this insurance is required, there must also be an endorsement to the Commercial General Liability Insurance Policy which amends the definition of an Insured Contract by deleting the exclusion for work within 50 ft. of a railroad.
- iv. **Contractor's Pollution Liability Insurance** for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of \$5,000,000 per occurrence and \$5,000,000 in the aggregate. This insurance shall include coverage for, but not be limited to, sudden and accidental discharges, gradual discharges, clean-up of pollutants and disposal thereof, as well as mold, asbestos and/or lead in an abatement contract. The policy must be maintained for a period of two (2) years from completion of the work under this Agreement or the Licensee may satisfy this requirement with the purchase of a two (2)-year extended reporting period.
- v. **Professional Liability / Errors & Omissions Insurance** in the amount of \$2,000,000 per claim and \$4,000,000 in the aggregate. The definition of wrongful acts must be applicable to the work performed hereunder.

- vi. **Property Insurance** covering contractors' own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed, and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of GCRTA.

b. General Requirements:

- i. The Licensee shall not commence work herein until it has obtained the required insurance and has received written approval of such insurance by the Licensor. **Licensee shall furnish evidence of such insurance in the form of a certificate (Accord or similar form).**
- ii. Licensor will accept any combination of primary CGL along with Excess or Umbrella policies, as well as primary BAL along with Excess or Umbrella policies, to meet the minimum coverage requirements contained herein.
- iii. The certificate shall provide the following:
 - The policy shall be written on an occurrence basis. If any insurance specified above is written on a "Claims Made" (rather than an "occurrence" basis), then in addition to the coverage requirements stated herein, Licensee shall:
 - Ensure that the Retroactive Date is shown on the policy, and such date shall be before the Effective Date of the Agreement or any work beginning under this Agreement.
 - Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
 - If insurance is cancelled or non-renewed and not replaced with another claims-made policy form with a retroactive date prior to the effective date, Licensee shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.
 - Name the Licensor as an additional insured for all CGL, BAL, and, if applicable, CPL liability coverage for claims arising out of operations in conjunction with this Agreement.
 - Contain a waiver of subrogation in favor of the Licensor.
 - Specify that the insurance is primary and non-contributory as respects any insurance or self-insurance programs maintained by Licensor.
 - Contain a specific reference to this Agreement.
 - Specify all deductibles & Self-Insured Retentions (SIR), as applicable.
 - In the event the insurance should be changed or cancelled, such change or cancellation shall not be effective until 15 days after the Licensor has received written notice of such change or cancellation from the Licensee. Such notice shall be mailed by certified mail, return receipt requested, to the Licensor's Real Estate Manager.

- An insurance company having less than an A-X rating by The A. M. Best Company will not be considered acceptable. All certificates are subject to acceptance by the Licensor. The Licensor shall be entitled to receive a full copy of the insurance policy(ies) upon request and reserves the right to review financial statements and approve any deductibles or SIR.

6. At the termination of this Agreement, the Property shall be restored by Licensee to its original condition, or to a condition satisfactory to Licensor in its sole discretion.

7. No drainage conditions shall be created or allowed to exist which would be adverse to the Property.

8. A minimum clearance of fifteen feet (15') from the centerline of the nearest rail track shall be maintained at all times for any material, equipment or vehicles of Licensee occupying the Property unless authorized in writing by Licensor.

9. The license and permission hereby granted is for the sole benefit of Licensee, and Licensor is to receive no benefit therefrom nor any consideration therefor, except the covenants, promises and agreements set forth in this Agreement.

10. No explosives of any kind shall be used on the Property.

11. No debris will be buried in or burned upon the Property.

12. This Agreement (a) shall not be assigned or transferred by Licensee, (b) may be terminated at will by Licensor or Licensee, and (c) shall terminate automatically at the close of business on December 31, 2028 unless the term is extended as provided herein; however, that termination shall not relieve Licensee of any obligation or liability incurred prior to such termination.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Temporary Right of Entry Agreement in duplicate as of the date first hereinabove written.

**THE GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY**

By: _____
India L. Birdsong Terry
General Manager, Chief Executive Officer

Date: _____, 20__

APPROVED AS TO LEGAL FORM

Janet E. Burney, General Counsel
Deputy General Manager for Legal Affairs

TRIAD SUPER JOINT VENTURE
An Ohio general partnership

By: The Triad Engineering & Contracting Co.
An Ohio corporation,
Its: Partner

By: _____

Name (Printed): _____

Title: _____

Date: _____, 20__

EXHIBIT "A" (1 OF 4)

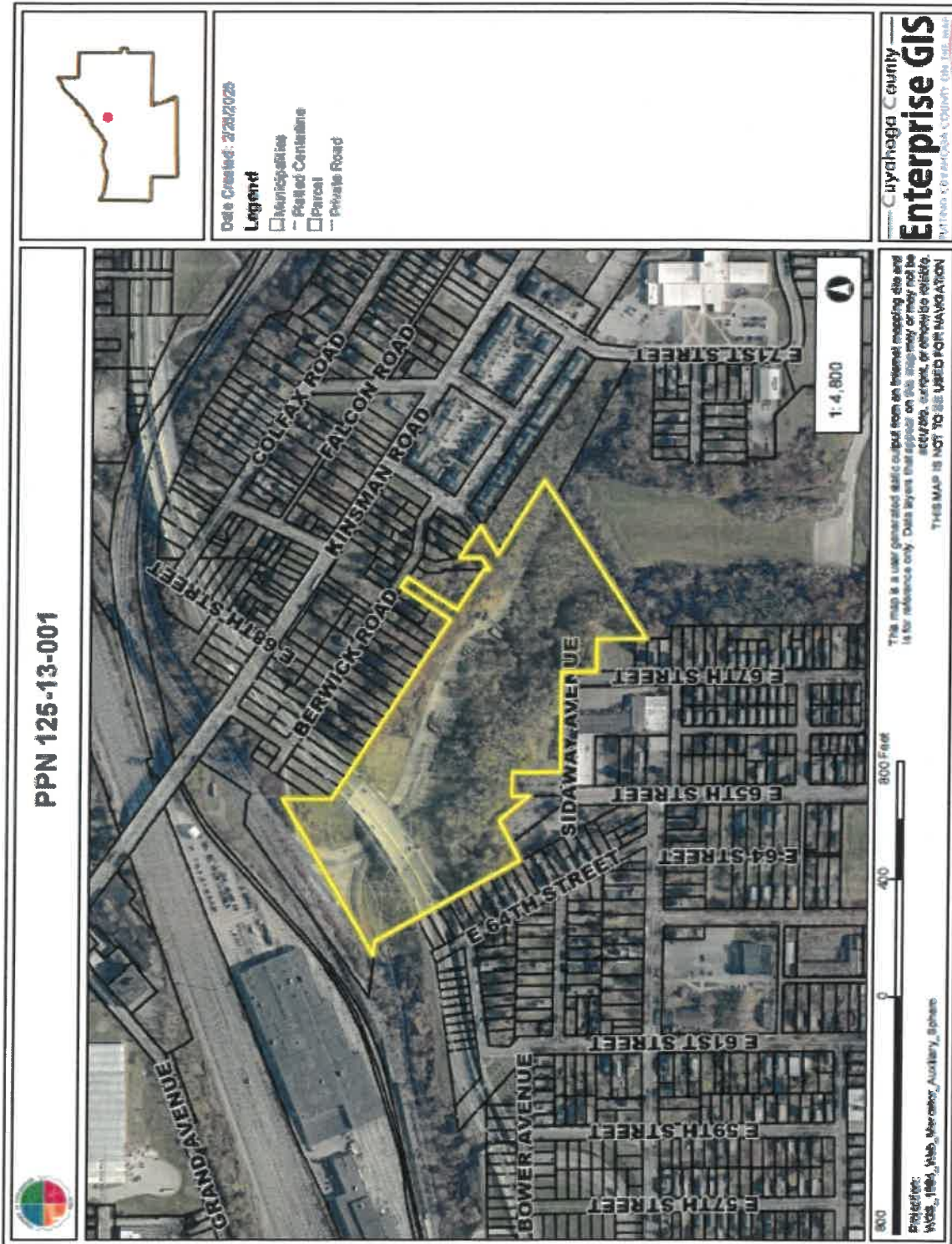
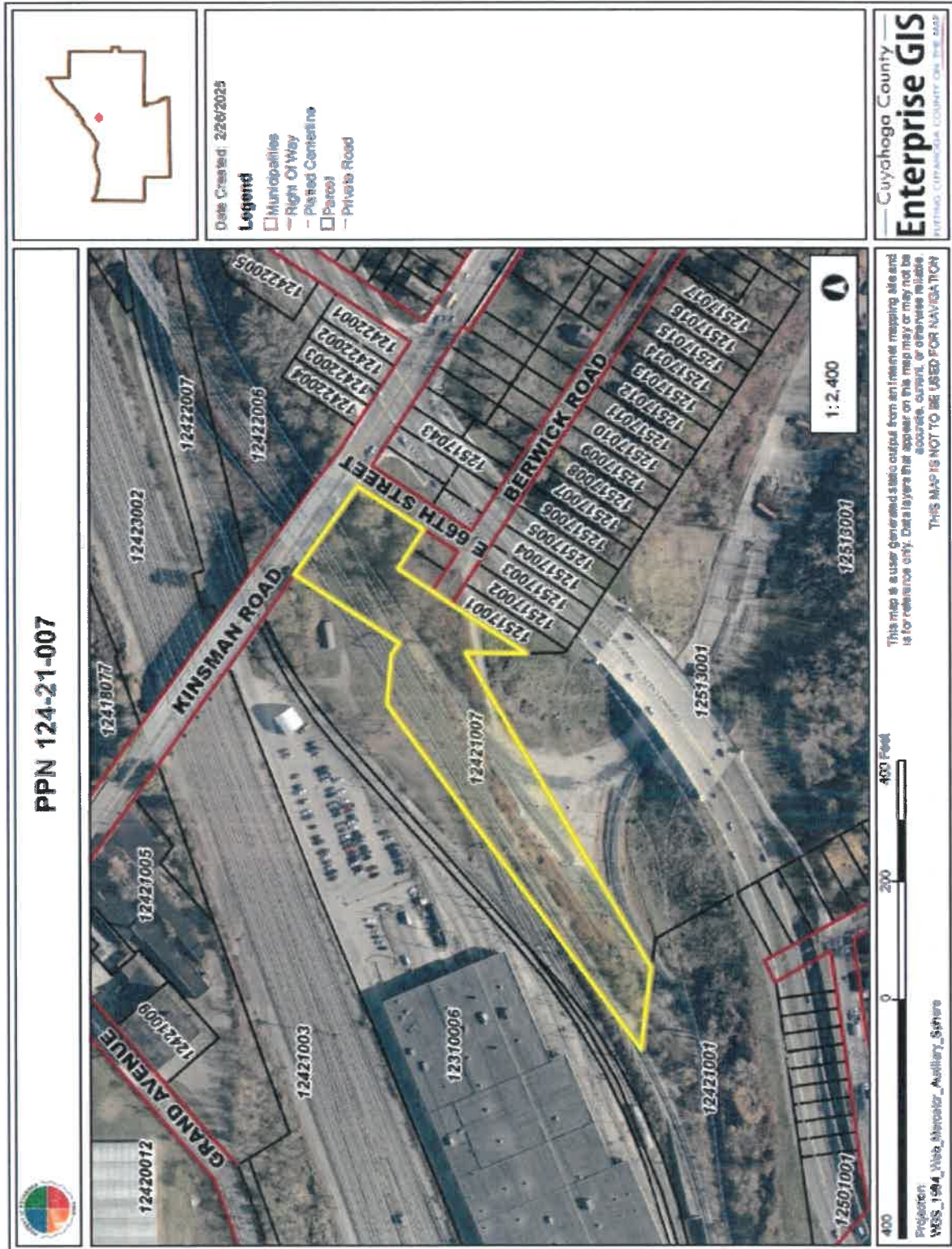


EXHIBIT "A" (2 OF 4)



EXHIBIT "A" (4 OF 4)



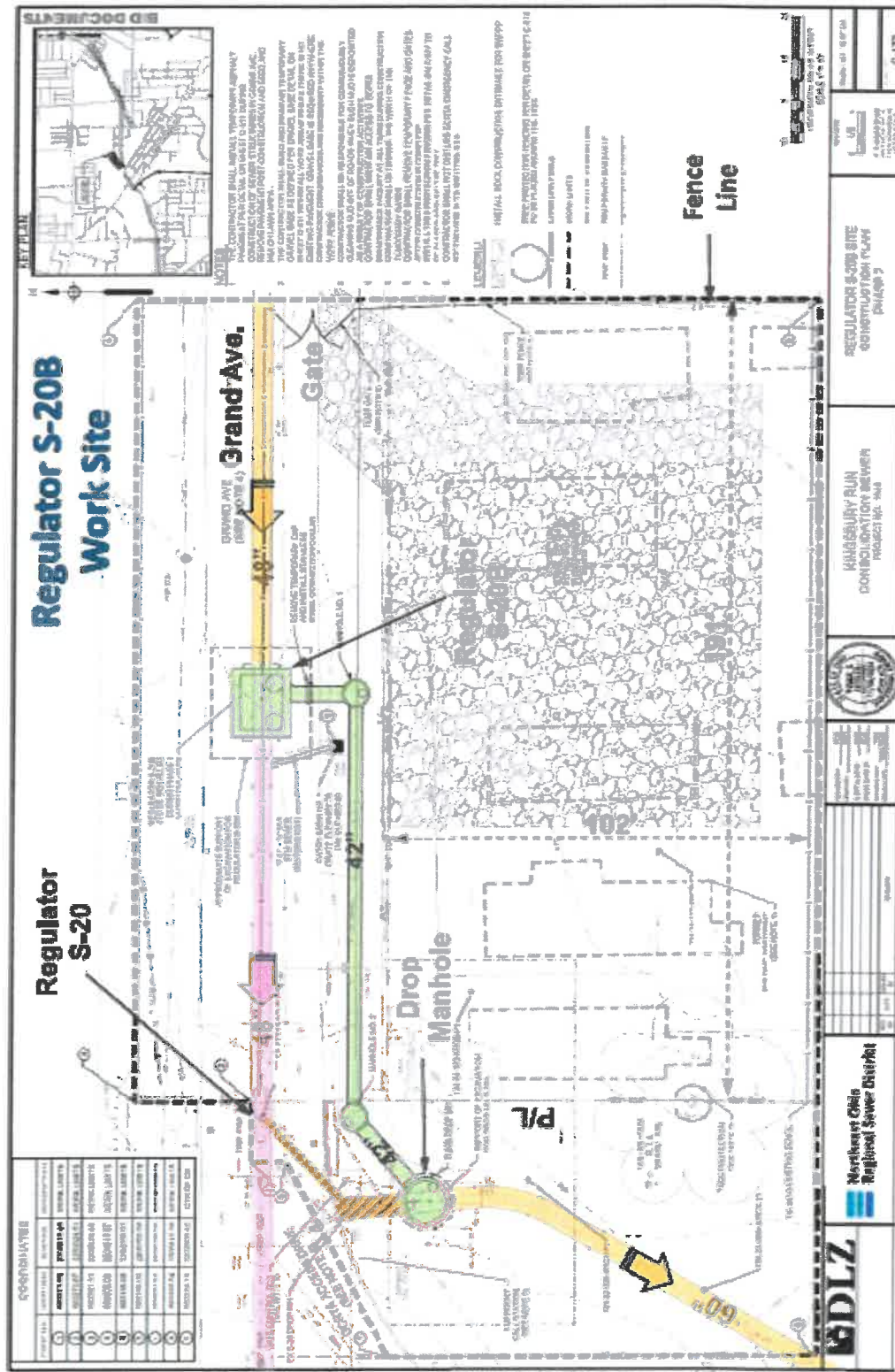


EXHIBIT "B" (2 OF 4)

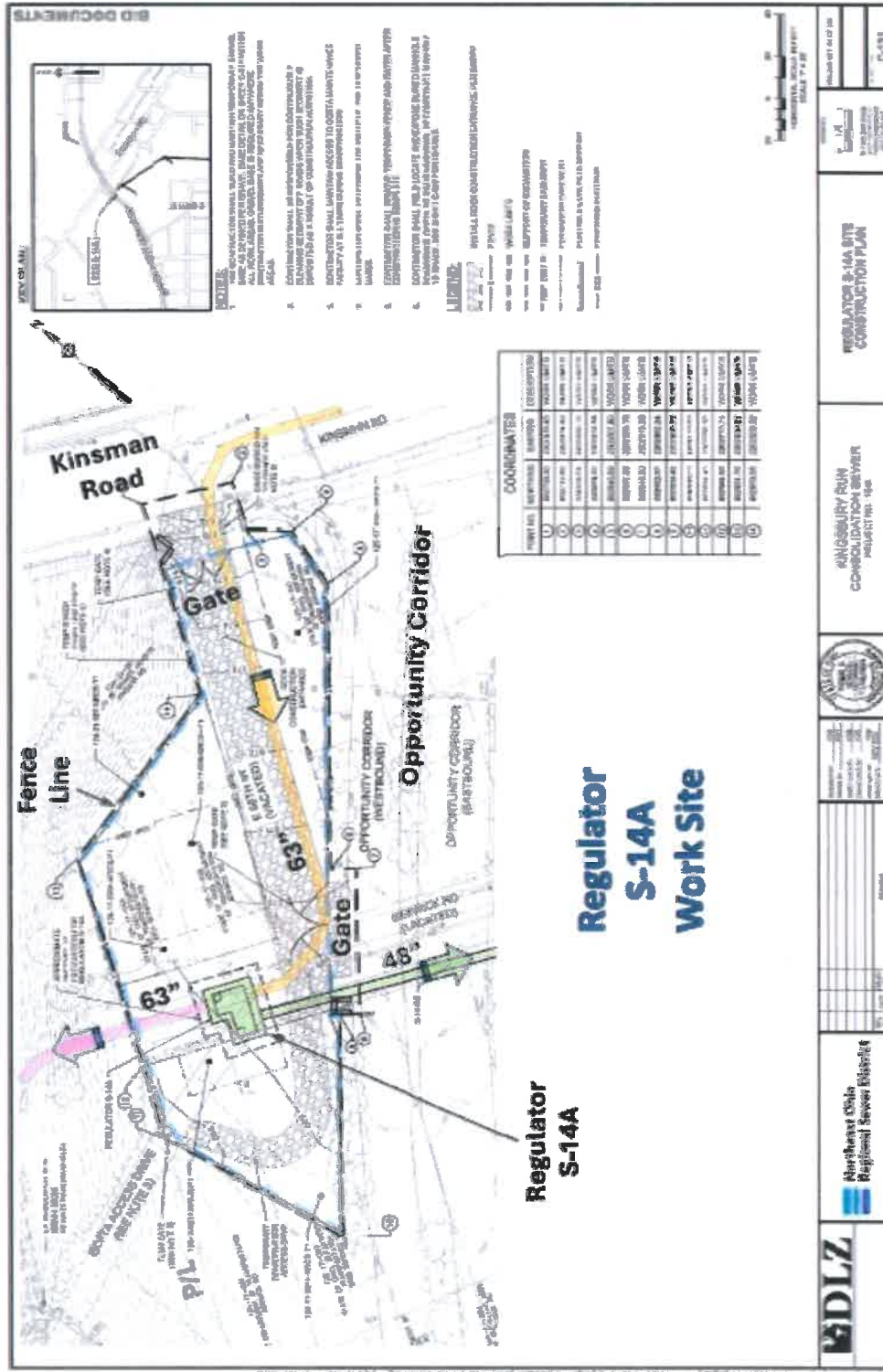


EXHIBIT "B" (3 OF 4)

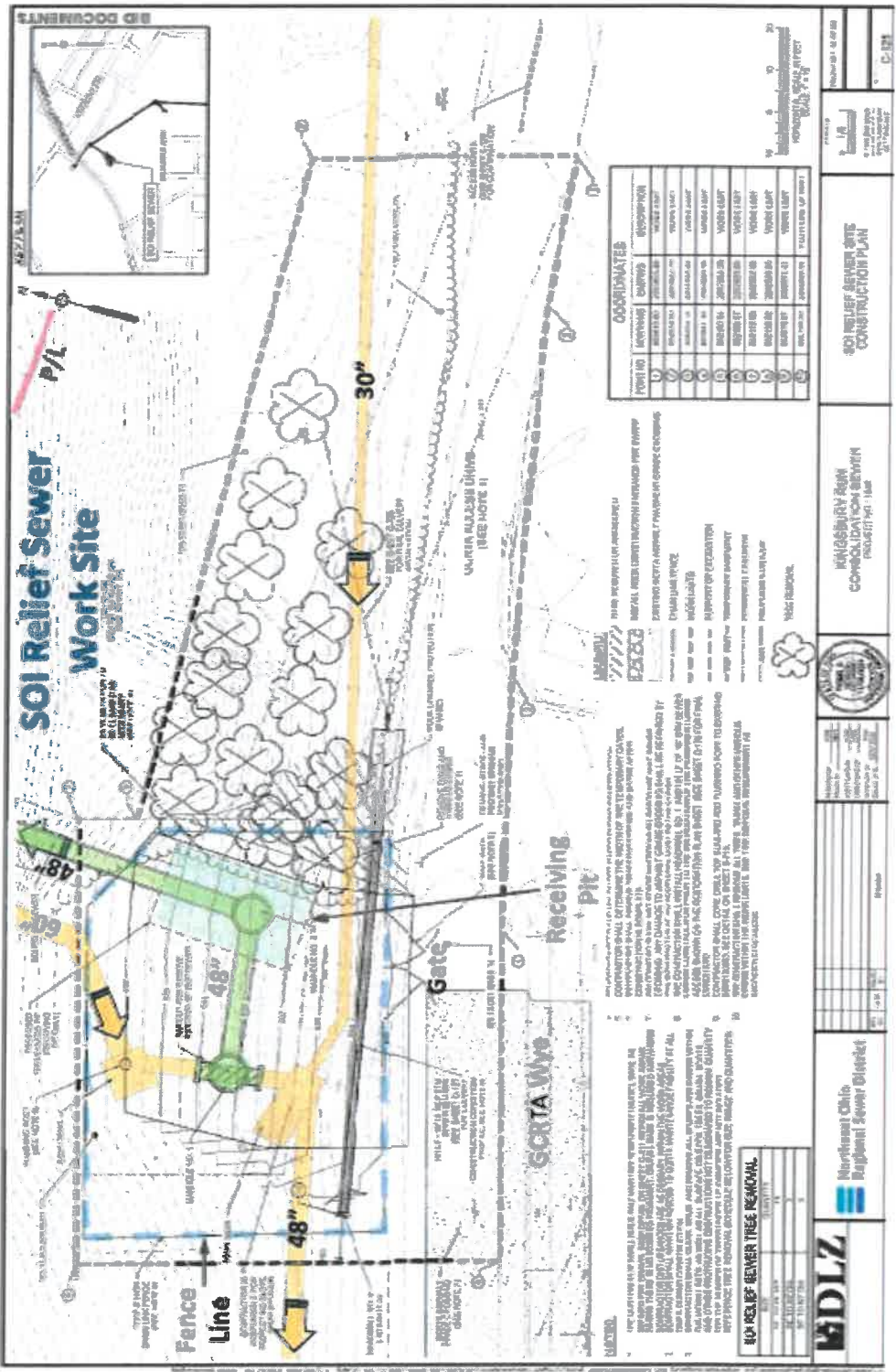


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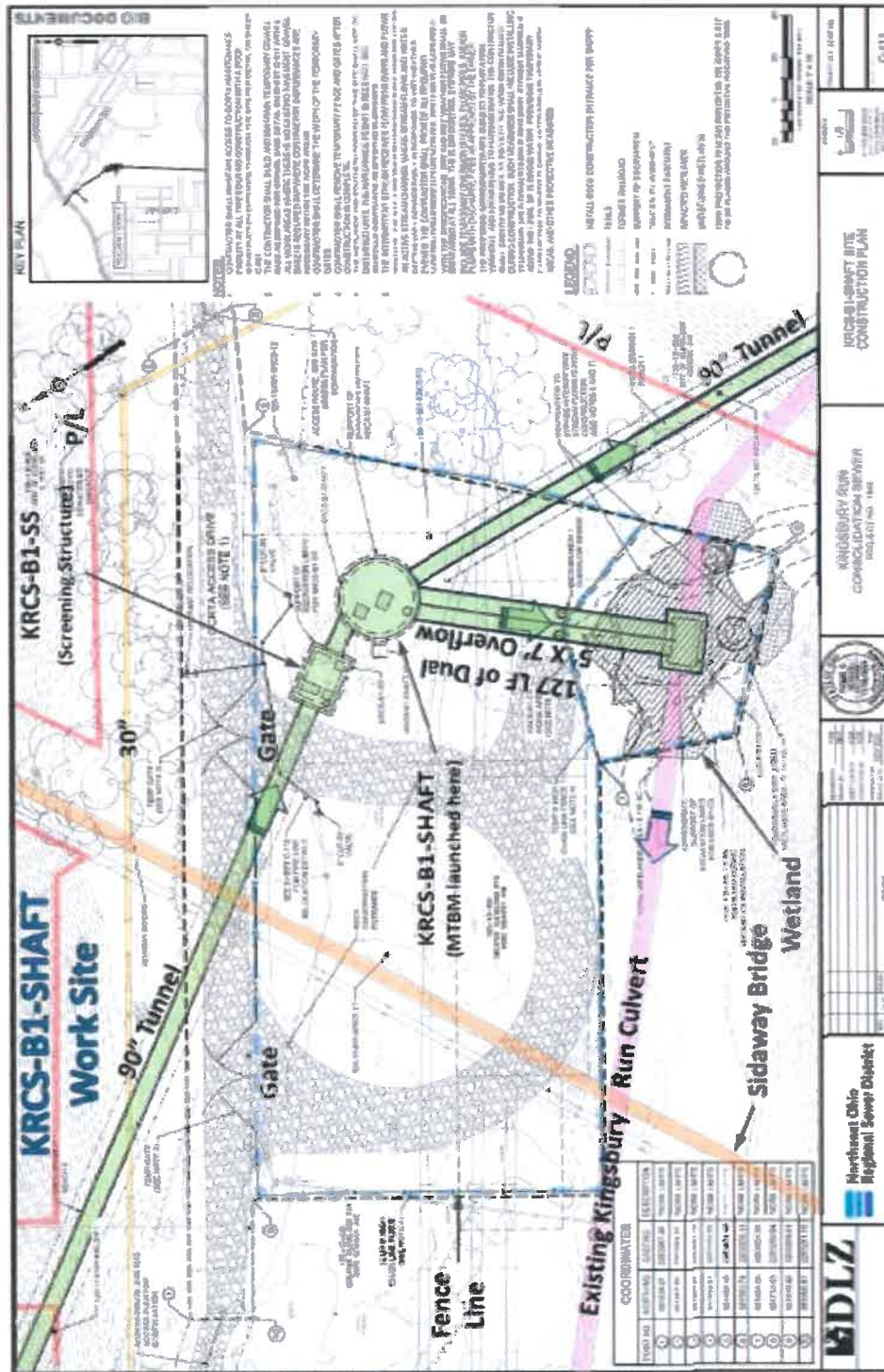


EXHIBIT “C”

[GCRTA Safety Procedures Sections 014500, 015010 and 015020 appear on the following pages]

In this DRAFT the GCRTA Safety Procedures are omitted for brevity.