

Ordinance No. 403-2024

By Council Members Bishop and Hairston
(by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Directors of Public Works and Capital Projects to execute various deeds of permanent, temporary, and subterranean easement granting to the Northeast Ohio Regional Sewer District certain easement rights at or under several City-owned properties for NEORSD's Southerly Tunnel and Consolidation Project and declaring the easement rights not needed for the City's public use.

WHEREAS, the Northeast Ohio Regional Sewer District ("NEORSD") has requested the Directors of Public Works and Capital Projects to convey various deeds of permanent, temporary, and subterranean easement at or under several City-owned properties which are located at Harvard Garage, Morgana Run Trail, Dolloff Road Municipal Parking Lot, and vacant property at East 65 Street and Bessemer Avenue, for NEORSD's Southerly Tunnel and Consolidation Project ("SOTC Project"); and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That, notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that easement interests in the following described properties are not needed for the City's public use:

Permanent Subterranean Easement
125-08-002 & 125-08-014 - SOTC-P1
0.0660 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 1 and No. 2 in H.F. Hoppensack's Subdivision of part of Original 100 Acre Lot No. 326, as recorded in Volume 8, Page 27 of the Cuyahoga County Map Records. Also being part of the land conveyed to the City of Cleveland as recorded in AFN 200402050858 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at a point in the northerly right of way of Bessemer Avenue (width varies) at the southeasterly corner of said land conveyed to the City of Cleveland;

Thence, along the northerly right of way of Bessemer Avenue, along the arc of a curve which deflects to the right, 10.85 feet to the True Point of Beginning for the easement herein described, said curve having a radius of 347.00 feet, a central angle of 01° 47' 32", and a chord of 10.85 feet which bears North 64° 14' 36" West;

Thence, continuing along the northerly right of way of Bessemer Avenue, along the arc of a curve which deflects to the right, 30.26 feet, said curve having a radius of 347.00 feet, a central angle of 04° 59' 49", and a chord of 30.25 feet which bears North 60° 50' 55" West;

Thence, leaving said northerly right of way, North 21° 43' 28" East, 117.29 feet to the easterly line of said land conveyed to the City of Cleveland;

Ordinance No. 403-2024

Thence, along the easterly line of said land conveyed to the City of Cleveland, South $01^{\circ} 09' 54''$ East, 35.89 feet;

Thence, continuing along said easterly line, North $89^{\circ} 33' 00''$ East, 17.32 feet;

Thence, leaving said easterly line, South $21^{\circ} 43' 28''$ West, 94.68 feet to the point of beginning.

Containing within said bounds 0.0660 acres (2,875 square feet) of land and having a lower elevation of 506.00 (184 feet below ground surface) and an upper elevation of 621.00 (69 feet below ground surface) as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in November, 2022. Depths below ground surface indicated in parentheses are approximate and are based on existing ground surface elevations as of November, 2022.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

Permanent Surface Easement
131-16-027 – SOTC-P1
0.0887 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original 100 Acre Lot Nos. 316 and 320. Also being part of Parcel 1 conveyed to City of Cleveland, as recorded in AFN 200502010335 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the centerline of East 49th Street (width varies) and the northerly line of Original 100 Acre Lot No. 316;

Thence, along the northerly line of Original 100 Acre Lot No. 316, North $87^{\circ} 21' 21''$ East, 91.78 feet to the southerly line of said Parcel 1;

Thence, leaving the northerly line of Original 100 Acre Lot No. 316, along the southerly line of said Parcel 1, South $84^{\circ} 18' 02''$ East, 218.18 feet to the True Point of Beginning for the easement herein described;

Thence, leaving the southerly line of said Parcel 1, North $15^{\circ} 22' 03''$ East, 45.60 feet;

Thence, South $81^{\circ} 56' 06''$ East, 90.30 feet;

Thence, South $15^{\circ} 10' 42''$ West, 37.73 feet to the southerly line of said Parcel 1;

Thence, along the southerly line of said Parcel 1, South $87^{\circ} 21' 21''$ West, 27.60 feet;

Thence, continuing along said southerly line, North $84^{\circ} 18' 02''$ West, 64.36 feet to the point of beginning.

Containing within said bounds 0.0887 acres (3,864 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in November, 2022.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

Permanent Subterranean Easement
131-16-027 – SOTC-P2
0.1079 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original 100 Acre Lot Nos. 316 and 320. Also being part of Parcel 1 conveyed to City of Cleveland, as recorded in AFN 200502010335 of the Cuyahoga County Records, being more definitely described as follows;

Ordinance No. 403-2024

Commencing at a point in the westerly right of way of East 52nd Street (50.00 feet wide) at the northeasterly corner of said Parcel 1;

Thence, leaving the westerly right of way of East 52nd Street, along the northerly line of said Parcel 1 the following three courses;

South 87° 59' 03" West, 124.82 feet;

Thence, North 02° 00' 57" West, 3.27 feet;

Thence, North 88° 28' 22" West, 145.08 feet to the True Point of Beginning for the easement herein described;

Thence, leaving the northerly line of said Parcel 1, South 52° 44' 30" West, 192.60 feet to the southerly line of said Parcel 1;

Thence, along said southerly line, South 87° 21' 21" West, 0.27 feet;

Thence, leaving said southerly line, North 15° 10' 42" East, 37.73 feet;

Thence, North 81° 56' 06" West, 9.62 feet;

Thence, North 52° 44' 30" East, 132.34 feet to the northerly line of said Parcel 1;

Thence, along said northerly line, South 88° 28' 22" East, 47.89 feet to the point of beginning.

Containing within said bounds 0.1079 acres (4,699 square feet) of land and having a lower elevation of 502.00 (159 feet below ground surface) and an upper elevation of 617.00 (44 feet below ground surface) as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in November, 2022. Depths below ground surface indicated in parentheses are approximate and are based on existing ground surface elevations as of November, 2022.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

Permanent Subterranean Easement

131-22-017 – SOTC-P1

0.0887 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 289 and No. 290 in O.M. Stafford's Allotment of part of Original 100 Acre Lot No. 321, as recorded in Volume 11, Page 49 of the Cuyahoga County Map Records and part of Escoba Court (12.00 feet wide) as vacated by City of Cleveland Ordinance No. 2744-89, dated November 15, 1989. Also being part of the land conveyed to the City of Cleveland, as recorded in Volume 9778, Page 311 and Volume 9761, Page 420 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the northwesterly right of way of Blanche Avenue (50.00 feet wide) and the northeasterly right of way of Dolloff Road (50.00 feet wide);

Thence, along the northeasterly right of way of Dolloff Road, North 46° 19' 39" West, 232.32 feet;

Thence, continuing along the northeasterly right of way of Dolloff Road, North 39° 22' 24" West, 30.93 feet to the True Point of Beginning for the easement herein described;

Thence, continuing along the northeasterly right of way of Dolloff Road, North 39° 22' 24" West, 30.18 feet;

Thence, leaving the northeasterly right of way of Dolloff Road, North 56° 51' 26" East, 118.74 feet;

Ordinance No. 403-2024

Thence, along the arc of a curve which deflects to the left, 10.05 feet to the centerline of said vacated Escoba Court, said curve having a radius of 1985.00 feet, a central angle of $00^{\circ} 17' 25''$, and a chord of 10.05 feet which bears North $56^{\circ} 44' 02''$ East;

Thence, along the centerline of vacated Escoba Court, South $39^{\circ} 23' 57''$ East, 30.16 feet;

Thence, leaving the centerline of vacated Escoba Court, along the arc of a curve which deflects to the right, 12.59 feet, said curve having a radius of 2015.00 feet, a central angle of $00^{\circ} 21' 28''$, and a chord of 12.59 feet which bears South $56^{\circ} 40' 42''$ West;

Thence, South $56^{\circ} 51' 26''$ West, 116.22 feet to the point of beginning.

Containing within said bounds 0.0887 acres (3,864 square feet) of land and having a lower elevation of 503.00 (185 feet below ground surface) and an upper elevation of 618.00 (70 feet below ground surface) as surveyed by KS Associates, Inc. under the supervision of Trevor A Bixler, Professional Surveyor, No. 7730 in November, 2022. Depths below ground surface indicated in parentheses are approximate and are based on existing ground surface elevations as of November, 2022.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

Permanent Subterranean Easement
511-12-014- SOTC-P1
0.0142 Acres

Situated in the Village of Newburgh Heights, County of Cuyahoga and State of Ohio, and known as being part of Original 100 Acre Lot No. 308. Also being part of Parcel No. 43 conveyed to City of Cleveland as recorded in Volume 5438, Page 1 of the Cuyahoga County Records, being more definitely described as follows;

Beginning at the intersection of the southerly right of way of Harvard Avenue (width varies) and the westerly right of way of East 49th Street (60.00 feet wide);

Thence, along the westerly right of way of East 49th Street, South $06^{\circ} 53' 35''$ East, 90.42 feet;

Thence, leaving said westerly right of way, North $15^{\circ} 19' 57''$ West, 93.27 feet to the southerly right of way of Harvard Avenue;

Thence, along the southerly right of way of Harvard Avenue, South $89^{\circ} 14' 00''$ East, 13.81 feet to the point of beginning.

Containing within said bounds 0.0142 acres (619 square feet) of land and having a lower elevation of 495.00 (198 feet below ground surface) and an upper elevation of 610.00 (83 feet below ground surface) as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in November, 2022. Depths below ground surface indicated in parentheses are approximate and are based on existing ground surface elevations as of November, 2022.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

Section 2. That, notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found

Ordinance No. 403-2024

and determined that temporary easement interests in the following described properties are not needed for the City's public use:

Temporary Construction Easement
131-16-027 – SOTC-T1
0.1963 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original 100 Acre Lot Nos. 316 and 320. Also being part of Parcel 1 conveyed to City of Cleveland, as recorded in AFN 200502010335 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the centerline of East 49th Street (width varies) and the northerly line of Original 100 Acre Lot No. 316;

Thence, along the centerline of East 49th Street, North 09° 01' 04" West, 72.40 feet;

Thence, leaving the centerline of East 49th Street, North 80° 58' 56" East, 30.00 feet to the easterly right of way of East 49th Street and the True Point of Beginning for the easement herein described;

Thence, along the easterly right of way of East 49th Street, North 09° 01' 04" West, 13.91 feet;

Thence, leaving said easterly right of way, North 81° 01' 16" East, 36.21 feet;

Thence, South 36° 54' 17" East, 21.66 feet;

Thence, South 64° 04' 37" East, 100.12 feet;

Thence, South 88° 34' 50" East, 132.89 feet;

Thence, South 81° 56' 06" East, 33.43 feet;

Thence, South 15° 22' 03" West, 45.60 feet to the southerly line of said Parcel 1;

Thence, along the southerly line of said Parcel 1, North 84° 18' 02" West, 218.18 feet to the northerly line of Original 100 Acre Lot No. 316;

Thence, along the northerly line of Original 100 Acre Lot No. 316, North 87° 21' 21" East, 141.79 feet to the southerly line of said Parcel 1;

Thence, leaving the northerly line of Original 100 Acre Lot No. 316, along the southerly line of said Parcel 1, along the arc of a curve which deflects to the right, 225.11 feet to the point of beginning, said curve having a radius of 1196.28 feet, a central angle of 10° 46' 53", and a chord of 224.78 feet which bears North 73° 04' 30" West.

Containing within said bounds 0.1963 acres (8,551 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in November, 2022.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

Temporary Construction Easement
131-16-027 – SOTC-T2
0.0804 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original 100 Acre Lot No. 316. Also being part of Parcel 1 conveyed to City of Cleveland, as recorded in AFN 200502010335 of the Cuyahoga County Records, being more definitely described as follows;

Ordinance No. 403-2024

Commencing at a point in the westerly right of way of East 52nd Street (50.00 feet wide) at the southeasterly corner of said Parcel 1;

Thence, leaving the westerly right of way of East 52nd Street, along the southerly line of said Parcel 1 the following three courses;

South 87° 59' 03" West, 124.82 feet;

Thence, North 02° 00' 57" West, 3.04 feet;

Thence, North 88° 28' 22" West, 203.12 feet to the True Point of Beginning for the easement herein described;

Thence, continuing along the southerly line of said Parcel 1 the following three courses;

North 88° 28' 22" West, 32.30 feet;

Thence, North 02° 00' 57" West, 4.25 feet;

Thence, South 87° 21' 21" West, 67.40 feet;

Thence, leaving the southerly line of said Parcel 1, North 15° 10' 42" East, 37.73 feet;

Thence, South 88° 46' 00" East, 100.36 feet;

Thence, South 16° 04' 03" West, 37.73 feet to the point of beginning.

Containing within said bounds 0.0804 acres (3,503 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in November, 2022.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

Section 3. That by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to convey the above-described non-exclusive easement interests to the NEORSD subject to any conditions stated in this ordinance at an appraised price of \$32,700.00, which is determined to be fair market value.

Section 4. That the purpose of the easements shall be for the implementation of NEORSD's SOTC Project; and that said improvements shall be subterranean and also include surface and/or subsurface improvements at shaft sites.

Section 5. That the duration of the permanent easements described in Section 1 shall be perpetual; that the duration of the temporary easements shall not exceed forty-two months; that the easements and temporary easements may include reasonable

Ordinance No. 403-2024

right of entry rights to the City; that the easements and temporary easements shall be assignable without the consent of the Director of Public Works or Capital Projects, as appropriate; that the easements and temporary easements shall require that the NEORSD or its contractor provide reasonable insurance, and pay any applicable taxes and assessments.

Section 6. That the conveyances referred to above shall be made by official deeds of easement and official deeds of temporary easement prepared by the Director of Law and executed by the Director of Public Works or Capital Projects, as appropriate, on behalf of the City of Cleveland. The deeds of easement and the deeds of temporary easement shall contain any additional terms and conditions as are required to protect the interest of the City. The Directors of Public Works, Capital Projects, and Law are authorized to execute any other documents, including without limitation, contracts for right of entry, as may be necessary to effect this ordinance.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

GB:nl
4-15-2024
FOR: Directors Williams and DeRosa

Ord. No. 403-2024

REPORT
after second Reading

By Council Members Bishop and Hairston (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Directors of Public Works and Capital Projects to execute various deeds of permanent, temporary, and subterranean easement granting to the Northeast Ohio Regional Sewer District certain easement rights at or under several City-owned properties for NEORSD's Southerly Tunnel and Consolidation Project and declaring the easement rights not needed for the City's public use.

READ FIRST TIME on APRIL 15, 2024

REPORTS

and referred to DIRECTORS of Public Works, Capital Projects, City Planning Commission, Finance, Law; COMMITTEES on Municipal Services and Properties, Development Planning and Sustainability

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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COMMITTEE ON
MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

**PASSAGE RECOMMENDED BY
COMMITTEE ON
DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

FILED WITH COMMITTEE

