

FIRST READING: 11.22.21
SECOND READING: 12.13.21
THIRD READING: 12.20.21

ORDINANCE NO. 98-21

BY: JOHN B. SHEPHERD

AN EMERGENCY ORDINANCE DIRECTING THE MAYOR TO EXECUTE AN EASEMENT TO THE CITY OF CLEVELAND BY THE CITY OF ROCKY RIVER, AS FURTHER DESCRIBED IN EXHIBIT "A"

WHEREAS: the City of Cleveland has requested an easement regarding City owned property on Beaconsfield Boulevard for the installation and maintenance of a water main for circulation purposes only, as further described in the attached Exhibit "A"; and

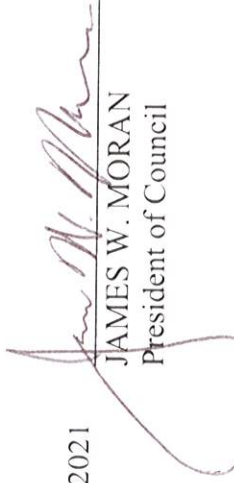
WHEREAS: the Administration has determined that granting an easement to the City of Cleveland for the purpose stated above is in the best interests of the residents of the City of Rocky River.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROCKY RIVER, COUNTY OF CUYAHOGA, STATE OF OHIO:

SECTION 1. That the Mayor be and she is hereby authorized and directed to execute an easement to the City of Cleveland on property owned by the City of Rocky River, and as further described in the attached Exhibit "A", for the purpose stated herein above.

SECTION 2. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, health and safety and provided it receives the affirmative vote of two-thirds (2/3) of all 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.

PASSED: December 20th, 2021

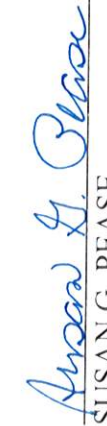

JAMES W. MORAN
President of Council

PRESENTED

TO MAYOR: December 20th, 2021

APPROVED: December 20th, 2021

ATTEST:


SUSAN G. PEASE
Clerk of Council


PAMELA E. BOBST
Mayor

I, the undersigned clerk of council of the city of Rocky River, State of Ohio, do hereby certify that publication of the foregoing ordinance was duly made by posting a true copy thereof in the lobby of the Rocky River City Hall, in accordance with the charter of Rocky River, commencing on the 20th day of December, 2021.


Clerk of Council of the City of Rocky River, Ohio

STANDARD EASEMENT
FOR THE
INSTALLATION AND MAINTENANCE OF A WATER MAIN
FOR CIRCULATION PURPOSES ONLY

We, City of Rocky River, the Grantor herein, for valuable consideration received and to be received to our full satisfaction, do hereby grant and convey to the City of Cleveland, political subdivision of the State of Ohio and Grantee herein, the perpetual right-of-way and easement for the purposes hereinafter mentioned in the following described premises (the "Premises"):

Situated in the City of Rocky River, County of Cuyahoga, State of Ohio, known as being part of the Original Rockport Township Section No. 24 and bounded and described as follows:

Beginning at the Northeasterly corner of a parcel of land conveyed to Esther L. McQuoid by deed dated January 11, 1944 and recorded in Volume 5654, Page 393 of Cuyahoga County Records;

Thence Southwesterly along the Northeasterly line of said parcel so conveyed 25 feet;

Thence Southwesterly along the Southwesterly prolongation of the Southeasterly side of Beaconsfield Boulevard 97.54 feet to the Easterly side of Wagar Road (60 feet wide);

Thence Northerly along said Easterly side 26.02 feet to the Northwesterly corner of said parcel so conveyed to Esther L. McQuoid;

Thence Northeasterly along the Northwesterly line of said parcel so conveyed 90.33 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Grantor and Grantee agree that all references to either part in this instrument shall include that party and the party's heirs, administrators, successors and/or assignees.

In consideration of the mutual covenants contained herein, the Grantor hereby grants and conveys unto the Grantees the right and easement to enter upon the premises to lay, install and maintain therein a water main and appurtenances, including service connections and pipes; to set all water meters and make all repairs to water mains, service

meters and appurtenances which the Grantee deems to be necessary or advisable from time to time; to turn off water to any service connection or water main; or to do any other thing which the Grantees deems to be necessary or advisable in order to operate or maintain said mains, meters, connections, pipes and appurtenances in accordance with the ordinances, rules and regulation of the Grantees which are now in effect or may be adopted hereafter.

In consideration of acceptance of the easement by the Grantees, the Grantee agrees to pay the entire cost of installing a water main and appurtenances upon the premises, which main shall be located not less than nine (9) feet from either lateral limit of the premises. The water main and appurtenances, including valves and hydrants, shall upon completion, and approval by the Grantee, become and remain the property of the Grantee, City of Cleveland, and shall be a distribution water main of said Grantee within the purview and subject to the terms of any Water Service Agreement between City of Rocky River and Grantee, the City of Cleveland, now or hereafter in effect.

The Grantor hereby restricts the premises against the construction thereon of any temporary or permanent structures, except that Grantor may install or cause to be installed sidewalks or pavements, or tunnels, railroad switch tracks, sewers, ducts, pipes or pole lines which cross over or under the premises at an angle of not less than forty-five (45) degrees with the center line of the water main, or which clear the water main by not less than one and one-half (1 - ½) feet above or one and one-half (1 - ½) feet below.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantees access to or maintenance of water mains and appurtenances. Grantor further agrees to make no alterations to the premises which would increase the depth of the water main to more than six (6) feet or reduce its depth to less than five (5) feet.

If the Grantor desires to alter the premises in any way other than is expressly permitted herein, he must obtain the prior written approval of the Grantee. Upon receipt of such approval, the Grantor shall at his own expense relocate or reconstruct all or any portion of the water main and appurtenances which are affected by such alteration and, where necessary, grant a new easement of not less than thirty (30) feet in width under the same terms and conditions as herein provided. The relocated or reconstructed water main and appurtenances shall, upon completion, and approval by the Grantee, become the property of Grantee, the City of Cleveland.

If the Grantor violates any of the provisions of this easement, the Grantee, and at the expense of the Grantor, may enter upon the premises and discontinue water service or make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

Whenever maintenance or work of any kind is performed on the premises under the terms of this easement, the Grantee shall bear responsibility for restoration of the premises or their environs to their original topographical condition.

The Grantor indemnifies and holds harmless the Grantee from any and all damage, injury or loss to any person or property caused by, related to or resulting from any leaks in the water main or appurtenances or the maintenance, construction, reconstruction or relocation of said main or appurtenances, other than damage, injury or loss caused by, related to or resulting from the sole negligence of the Grantee. The Grantor further indemnifies and holds harmless the Grantee from any and all expense incurred and damage to the water main and appurtenances caused by, related to or resulting from the Grantor's construction or maintenance of any paving, walks, switch tracks, tunnels, sewers, ducts, pipes or pole line within or upon the premises or from any other use of the premises by the Grantor.

The Grantor hereby reserves the right to use the premises for the passage or transportation of personnel, materials or equipment, and to make such other use of the premises as is not expressly prohibited by or inconsistent with the terms of this easement.

The Grantor further agrees that since the water main to be installed on the premises is for circulation purposes only, no service connections or hydrants shall be connected to it at any time, and that divisional valves of the same size as the water main shall be installed at each longitudinal end of the premises.

The Grantor and the Grantee mutually agree that neither the recording of this instrument nor its acceptance by the Grantee shall be construed as a dedication of the premises or an agreement by the Grantee to accept the premises for dedication for public use as a street.

The Grantor covenants with the Grantee that it is well seized of the premises as a good and indefeasible estate in fee simple and has the right to grant and convey the premises in the manner and form above written. The Grantor further covenants that he will warrant and defend the premises with the appurtenances thereunto belonging to the Grantee against all lawful claims and demands whatsoever for the purposes described herein.

TO HAVE AND TO HOLD the above granted easement, right-of-way, water lines, appurtenances and additions installed by the Grantee, for the purposes above mentioned, unto the Grantee forever.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at _____ this _____ day of _____, 20____.

Signed in the Presence of:

GRANTOR:

(print or type name)

(print or type name)

(print or type name)

This Instrument Prepared By:

City of Rocky River

STATE OF OHIO)

COUNTY OF CUYAHOGA) SS:

Before me, a Notary Public in and for said County and State, personally appeared the above-named Pamela E. Bobst, Mayor, who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed, personally and as such officer(s) and the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____, this _____ day of _____, 20____.

NOTARY

The legal form and correctness of the within instrument is hereby approved:

Director of Law

(City, Village, Township, District)

(Date)

Accepted by the Council of _____ by _____
(Resolution/Ordinance) No. _____

Passed _____, 20_____.

Clerk or Assistant

(Date)

The City of Cleveland, by and through its Director of Public Utilities, does hereby accept the within easement and all the terms and conditions thereof this _____ day of _____, 20____, as authorized by Section 129.20 of the Codified Ordinances of Cleveland, Ohio, 1976, passed by the Council of the City of Cleveland on June 17, 1991.

Signed in the presence of:

CITY OF CLEVELAND

By: _____
Director of Public Utilities

The legal form and correctness
of the within instrument is
hereby approved:

Director of Law

By: _____
Assistant Director of Law

Date: _____