

CITY OF MIDDLEBURG HEIGHTS, OHIO

Resolution No. 2022- **38**

Introduced By: Mayor Matthew Castelli

**A RESOLUTION
AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS
CONVEYING AN EASEMENT TO
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**

WHEREAS, construction is underway on the conversion of the former library building into the new Middleburg Heights Police Station; and

WHEREAS, CEI has determined that a utility easement and right of way is needed for lines for the distribution of electric current, including communication facilities, upon, over, and across permanent parcel number 372-27-002; and

WHEREAS, CEI is requesting the City of Middleburg Heights to grant said easement, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor is hereby authorized to sign a utility easement granting certain rights to The Cleveland Electric Illuminating Company in connection with the construction of the new Middleburg Heights Police Station, a copy of which is attached hereto and marked "Exhibit A".

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: 4/24/22

Attest: M. Meda
Clerk of Council

David Bortolotto
President of Council

Approved On: 4-27-22

Presented to Mayor: 4/21/22

Matthew Castle
Mayor

	Yea	Nay
Bortolotto	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ali	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sage	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Meany	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McGregor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ference	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grech	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Res. 2022-38 adopted by the Council of the City of Middleburg Hts., on 4/20/22 was posted for a period of fifteen days, beginning 4/20/22 and remained so posted for fifteen days at the two posting places as designated by Charter.

Mary Ann Meola
Clerk

CERTIFICATE

I, Mary Ann Meola Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Res 2022-38 passed on the 26th day of April 20 22 by said Council.

Mary Ann Meola
Clerk of Council

KNOWN ALL MEN BY THESE PRESENTS:

That _____,

the Grantor(s), claiming title by virtue of instrument recorded in volume _____,

Page _____ of the _____ County Records, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations received to its full satisfaction of **THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**, an Ohio corporation, the Grantee, does hereby grant unto Grantee, its successors and assigns, an easement and right of way, together with the rights and privileges hereinafter set forth, for lines for the distribution of electric current, including communication facilities, upon, over, and across the following described premises:

Situated in the City/Township of _____, County of _____,

State of Ohio, and being

The right of way above referred to is described as follows:

Thence from this point this line continues underground as follows:

The easement and rights herein granted shall include the right to erect, inspect, operate, replace, relocate, remove, repair, patrol and permanently maintain upon, over, under and along the above described right of way across said premises all necessary structures, wires, cables, and other usual fixtures and appurtenances used for or in connection with the distribution of electric current, including communication facilities, and the right of reasonable ingress and egress upon, over and across said premises for access to and from said right of way, and the right to trim, cut, remove or control by any other means at any and all times such trees, limbs, and underbrush within or adjacent to said right of way as may interfere with or endanger said structures, wires or appurtenances, or their operation.

In addition to said easement and right of way, the following rights are hereby granted to The Cleveland Electric Illuminating Company:

- (1) To install, construct, inspect, operate, replace, repair, patrol, maintain and remove in, under and along said right of way across said premises such cables, wires, pipes, conduits, service pedestals, above-surface and sub-surface transformers, transformer pads, service hand-holes and other usual fixtures and appurtenances as may by Grantee be deemed necessary or become necessary for or in connection with the underground distribution of electric current, including communication facilities;

- (2) To enter and pass on, over and across any part of said lot(s) when reasonably necessary for access to and from said right of way, and to use the premises parallel to and adjoining the boundaries of said right of way for piling dirt and for the operation of apparatus, appliances and equipment in exercising any of its rights enumerated herein;
- (3) To trim, cut and remove at any and all times any trees, limbs, roots, underbrush or other obstructions within or near said right of way which may in the judgment of the Grantee interfere with, limit access to or endanger transformers, service pedestals, cables or their appurtenances, or their efficient operation;
- (4) To install, construct, inspect, operate, replace, repair, patrol, maintain and remove in, under and along said right of way and within the street limits cables, wires, pipes, conduits, street light standards and other usual fixtures and appurtenances as may by Grantee be deemed necessary or become necessary for or in connection with the operation of street lights.

Grantor reserves the right to use the right of way area, but only for the purpose of planting grass, flowers and ornamental shrubbery and subject to Grantee's rights enumerated herein. In the event Grantee digs up the right of way or a portion thereof, or otherwise uses the right of way for any of the purposes herein enumerated, which requires the removal of said flowers or shrubbery, Grantee shall exercise ordinary care in removing and replanting them but will not assure the continued life of the flowers or shrubbery so removed and replanted.

TO HAVE AND TO HOLD the said easement, rights and right of way and its appurtenances unto said Grantee, its successors and assigns, forever, and the Grantor represents that it is the owner of the above-mentioned premises herein described.

IN WITNESS WHEREOF, _____ has executed this easement by its duly authorized officers and has caused its corporate seal to be affixed this _____ day of _____, 20_____.

SIGNED IN THE PRESENCE OF:

		Name of Grantor
	By:	_____
		Signature of Officer

		Official Title
	And:	_____
		Signature of Officer

		Official Title

STATE OF OHIO) **This instrument**
) **was prepared by**
 COUNTY OF) **The Cleveland Electric Illuminating Company**

The foregoing instrument was acknowledged before me this ____ day of _____, 20____
 by _____,
 on behalf of the corporation.

SEAL

Notary Public



**LEGAL DESCRIPTION
FOR
CEI EASEMENT
PPN 372-27-002
CITY OF MIDDLEBURG HEIGHTS**

APRIL 19, 2022

Situated in the City of Middleburg Heights, County of Cuyahoga, and State of Ohio and known as being part of Original Middleburg Township Lots No. 16 and 17, Turnpike Tract and bounded and described as follows:

Commencing on the Northerly right-of-way line of Bagley Road (80 feet wide) on the Westerly line of Parcel No. 1 of land conveyed to Board of Park Commissioners of the Cleveland Metropolitan Park District by deed dated July 11, 1928 and recorded in Volume 3831, Page 449 of Cuyahoga County Records, said line also being the Northwesterly line of Brookside Parkway (now known as Big Creek Parkway);

Thence North $40^{\circ}14'01''$ East along said Northwesterly line of Brookside Parkway (now known as Big Creek Parkway), 264.57 feet to a point;

Thence North $49^{\circ}50'15''$ West, 74.13 feet to the Principal Place of Beginning of a 10' wide easement;

Thence North $55^{\circ}59'25''$ West, 10.00 feet to a point;

Thence North $34^{\circ}00'35''$ East, 43.99 feet to a point;

Thence North $49^{\circ}57'00''$ West, 139.66 feet to a point;

Thence North $32^{\circ}38'19''$ West, 51.67 feet to a point;

Thence North $57^{\circ}21'41''$ East, 10.00 feet to a point;

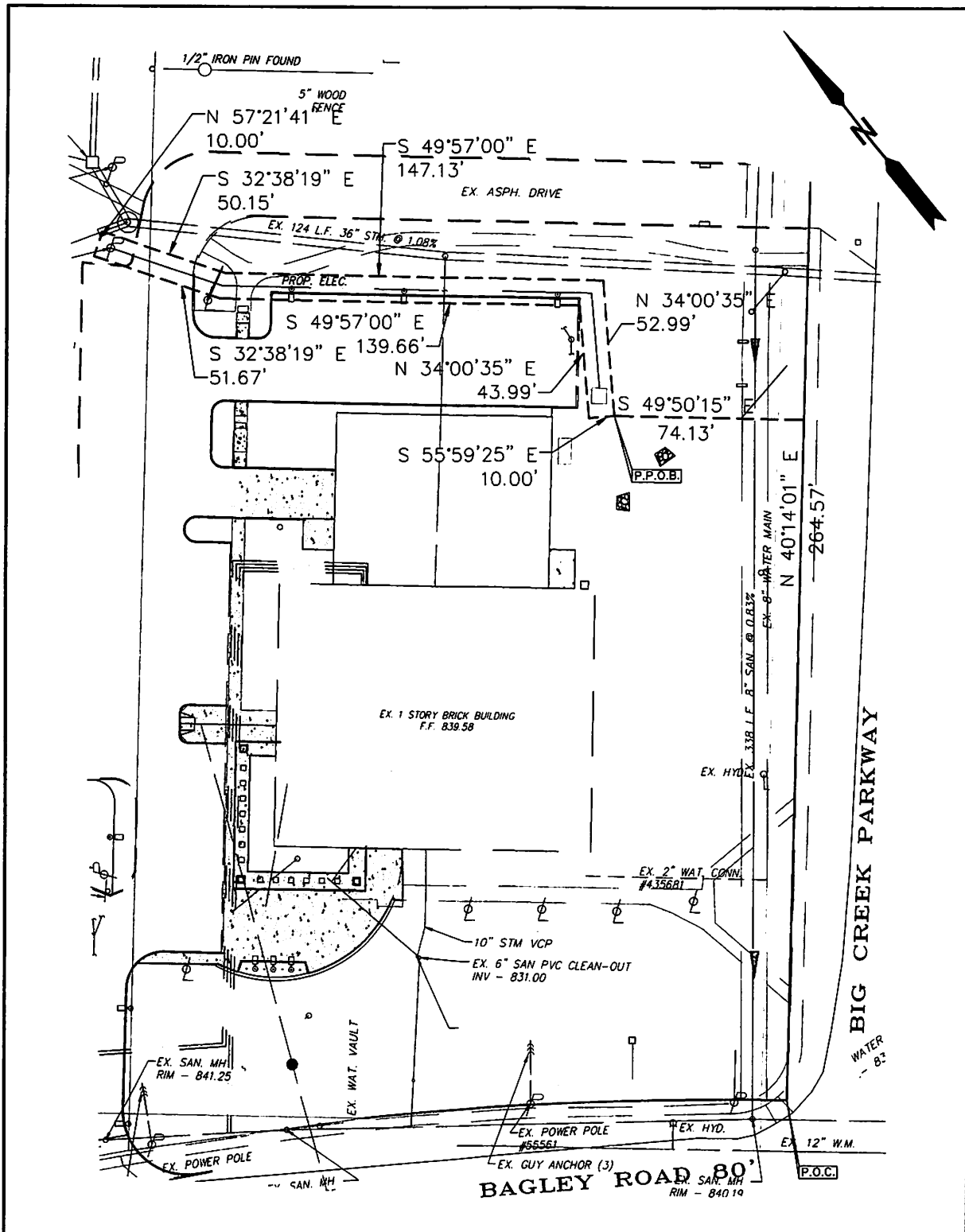
Thence South $32^{\circ}38'19''$ East, 50.15 feet to a point;

Thence South $49^{\circ}57'00''$ East, 147.13 feet to a point;

Thence South $34^{\circ}00'35''$ West, 52.99 feet to the Principal Place of Beginning, be the same more or less, but subject to all legal highways.

The basis of bearings is the right-of-way of Big Creek Parkway being North $40^{\circ}14'01''$ East.

This legal description was written by Mackay Engineering and Surveying in April 2022 under the supervision of Michael Mackay, PS 7344.



MACKAY
 Engineering & Surveying Company
 7017 Pearl Road, Cleveland, Ohio 44130
 (440) 886-4500 (440) 886-4590 Fax

CEI EASEMENT
 FOR
 PPN 372-27-002

DATE: APRIL 19, 2022
 SCALE: 1"=50'
 JOB NO. 21822