



Scott Brock
Terry Emery
Deborah Groat
Alan Seymour

ORDINANCE 21-19

TO ACCEPT THE DEDICATION OF A DRAINAGE EASEMENT FROM NCM REAL ESTATE HOLDINGS, LLC
FOR THE COLUMBUS AVENUE STORMWATER IMPROVEMENT PROJECT

WHEREAS, the City requires the dedication of an easement from NCM Real Estate Holdings, LLC, the owner of the property at 1180 Columbus Avenue (Parcel Number 29-00230166.000) to enable the City to complete a stormwater improvement project on Columbus Avenue; and

WHEREAS, the property owner, NCM Real Estate Holdings, LLC, has agreed to the dedication of a drainage easement to the City (see attached map as Exhibit A), now; therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARYSVILLE, OHIO, That:

SECTION I. The City hereby grants authority to the City Manager to accept for recording a deed of easement (Exhibit A), approved as to form by the City Law Director, granting the City the easement authorized for dedication herein.

1st Reading April 8, 2019

2nd Reading April 22, 2019

3rd Reading May 13, 2019

Passed: May 13, 2019

MAYOR/PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

APPROVED AS TO FORM:

Law Director Date 4/2/19

ORDINANCE: EXHIBIT A

DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS, **NCM Real Estate Holdings LLC**, an Ohio limited partnership, the owner(s) of the property located at **1180 Columbus Avenue (Parcel No. 29-00230166.000)** situated in the City of Marysville, Union County, Ohio (hereinafter Grantor), for and in consideration of \$1.00 and other good and valuable consideration to them paid by the City of Marysville, Ohio a municipal corporation at 209 South Main Street, City of Marysville, County of Union, State of Ohio (hereinafter Grantee), receipt of which is hereby acknowledged, do hereby GRANT, BARGAIN, SELL, CONVEY and RELEASE to the Grantee, its successors and assigns forever, a perpetual, non-exclusive DRAINAGE EASEMENT in, across, through, over and under the real estate hereinafter described (the "Easement Area") for the purpose of constructing and maintaining the public stormwater drainage system as part of the Columbus Avenue Stormwater Improvements project within the Easement Area.

THE DRAINAGE EASEMENT GRANTED IS DESCRIBED ON EXHIBIT "A" - LEGAL DESCRIPTION AND ON EXHIBIT "B" - EASEMENT EXHIBIT BOTH ATTACHED HERETO, AND INCORPORATED HEREIN.

Grantee, its successors and assigns, shall operate and maintain the stormwater drainage system in compliance with all federal, state and local statutes, laws, ordinances, authorizations, rules, regulations and permits.

The easement rights granted to Grantee herein are subject and subordinate to all covenants, conditions, mortgages, restrictions and easements of record. Grantor hereby reserves to itself the right to grant additional easements affecting the Easement Area, provided that any underground utility easements subsequently granted by Grantor over the Easement Area shall not substantially impair Grantee's ability to use the easement rights granted herein for the purposes for which they have been granted, unless consented to by Grantee.

Grantor agrees not to build, construct or place on the Easement Area any new buildings or other structures that will interfere with Grantee's ability to maintain the public stormwater drainage system; however, construction of paved roads, sidewalks, parking, curbing, landscaping, plantings, light poles and lighting, monument style ground mounted signs, electrical transformers and the like shall not be prohibited therefrom.

Grantee, its successors and assigns, agrees to release, and to defend, indemnify and hold harmless Grantor, its successor and assigns, from and against any and all damages, liability, claims, judgments, costs and expenses (including attorney fees), or claim thereof, whether for injury to persons, including death, or damage to property (i) arising in connection with or as a direct or indirect result of any activities of Grantee, its agents, employees and contractors, on or about the Easement Area or in any manner arising from its use of the stormwater drainage system, except to the extent caused by the negligent act or omission by Grantor; or (ii) arising out of any default of the Grantee hereunder..

Ordinance: Exhibit A

Grantor reserves for itself and its successors and assigns, the right to relocate the easement granted herein to another area on Grantor's property, provided Grantor shall pay the cost of any such relocation. In the event of any such relocation, Grantee agrees: (i) to cooperate with Grantor in the relocation of the easement, and (ii) to join Grantor in the execution of an amendment to this Drainage Easement reflecting the new location and dimensions of the relocated easement.

This Drainage Easement is executed, granted and delivered by Grantor, for itself and its successors and assigns, and accepted by Grantee for itself and its successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Drainage Easement on the date(s) set forth below.

Signed and Acknowledged by:

CITY OF MARYSVILLE, OHIO

By: _____

Terry Emery
City Manager

STATE OF OHIO, COUNTY OF UNION SS:

BE IT REMEMBERED, that on the _____ day of _____, 20____
before me the subscriber, a Notary Public in and for said state and county, personally came the above named Terry Emery, who acknowledged being the City Manager and duly authorized agent for the City of Marysville, Ohio, a municipal corporation, and who acknowledged the foregoing instrument to be the voluntary act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Amanda Dinnant
NOTARY PUBLIC
My Commission expires: 9/21/20

NCM REAL ESTATE HOLDINGS LLC

By: *Katie Montgomery*
KATIE MONTGOMERY
Its: OWNER



STATE OF OHIO, COUNTY OF UNION SS:

BE IT REMEMBERED, that on the 15 day of March, 2019
before me the subscriber, a Notary Public in and for said state and county, personally came the above named Katie Montgomery, who acknowledged being the Owner and duly authorized agent of NCM Real Estate Holdings LLC, an Ohio Limited Liability Company, and who acknowledged the foregoing instrument to be the voluntary act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Amanda Dinnant
NOTARY PUBLIC
My Commission expires: 9/21/20

Ordinance: Exhibit A

EXHIBIT A

Ver. Date: 02/20/2019

Page 1 of 1

29-0023016.600
UTILITY EASEMENT
0.058 ACRES

Situated in the State of Ohio, County of Union, Paris Township, Virginia Military Survey No. 3351, City of Marysville and being part of a tract conveyed to NCM Real Estate Holdings, LLC, an Ohio Limited Liability Company (hereafter referred to as Grantor) by Instrument Number 201609280007873 of said county records, bounded and described as follows:

BEGINNING at the Grantor's northwest corner, the northeast corner of lands conveyed to Ricardo Renato Martinez Garcia and Maria X. Mendez Garcia, as recorded in Instrument Number 201712150010374, on the existing southerly right of way line of Consolidated Rail, Inc. (Conrail), 66' wide;

Thence on the Grantor's northerly line and the existing southerly right of way line of Conrail lands, **South 39 degrees 14 minutes 35 seconds East**, a distance of **126.68 feet**, to the Grantor's northeast corner and the northwest corner of lands conveyed to Colsave, LLC, as recorded in Official Record 622, Page 856;

Thence on the Grantor's easterly line and the westerly line of said Colsave lands, **South 41 degrees 25 minutes 09 seconds West**, a distance of **20.27 feet** to a point;

Thence through the Grantor's lands, **North 39 degrees 14 minutes 35 seconds West**, a distance of **126.68 feet** to the Grantor's westerly line and the easterly line of said Garcia lands;

Thence on the Grantor's westerly line and the easterly line of said Garcia lands, **North 41 degrees 25 minutes 09 seconds East**, a distance of **20.27 feet**, to the **Point of Beginning**, containing 0.058 acres, of which the present road occupies 0.000 acres, and being part of Union County Auditor's Parcel Number 29-0023016.600.

The bearings for this description are based on Grid North of the Ohio State Plane Coordinate System, North Zone, NAD83(2011).

This description was prepared and reviewed under the supervision of Steven L. Mullaney, Professional Surveyor No. 7900 from an actual field survey conducted for the City of Marysville, in November, 2018.

Glaus, Pyle, Schomer, Burns, & DeHaven, Inc.
dba GPD Group

Steven L. Mullaney, P.S.
Ohio Professional Surveyor No. 7900

Ordinance: Exhibit A

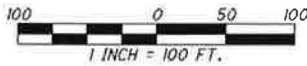


1.800.955.4731
www.gpdgroup.com
GPD GROUP
Clear, Pile, Schaner, Burnt & DeHaven, Inc.

UTILITY EASEMENT PLAT 29-0023016.600

BASIS OF BEARINGS:

BEARINGS ARE BASED ON GRID NORTH, OF THE OHIO STATE PLANE COORDINATE SYSTEM, NORTH ZONE NAD83(2011).



LEGEND:

P.O.B. POINT OF BEGINNING

PERTINENT DOCUMENTS USED:

INST. 201609280007873; INST. 201712150010374;
O.R. 622, PG. 856 & S.V. 18, PG. 431

STATE OF OHIO
UNION COUNTY
PARIS TOWNSHIP
VIRGINIA MILITARY SURVEY NO. 3351
CITY OF MARYSVILLE

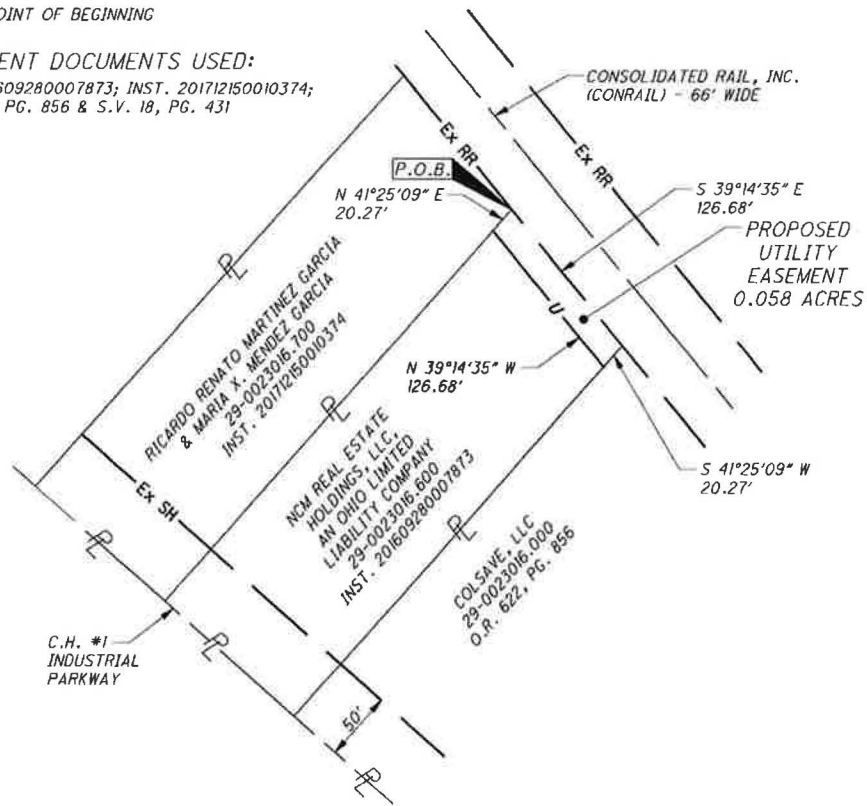


EXHIBIT B