

ORDINANCE NO. 146-22

AN ORDINANCE DECLARING THE NECESSITY TO APPROPRIATE A PERMANENT STANDARD HIGHWAY EASEMENT ON A PROPERTY AS SET FORTH IN EXHIBIT "A" FOR THE REPLACEMENT OF THE GATES MILLS BOULEVARD CULVERT, AND DECLARING AN EMERGENCY.

WHEREAS: It has been determined that it is necessary for the City of Medina to acquire a permanent easement from a property owner whose property is listed by permanent parcel number on Exhibit "A," attached hereto and incorporated herein, for the purpose of removing and replacing the Gates Mills Boulevard culvert;

WHEREAS: The Law Director for the City of Medina has been unable to satisfactorily negotiate the acquisition of the permanent easement with the property owners listed on Exhibit "A";

WHEREAS: In order that the culvert to be replaced within a reasonable time and for the avoidance of inconvenience to the residents of the City of Medina, it is necessary to obtain the permanent easement in the most expeditious manner possible.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That a permanent easement in and to the property known as Permanent Parcel Number 028-19D-05-280, more fully described in Exhibits "A" attached hereto and incorporated herein, is hereby appropriated pursuant to the State of Ohio Constitution, laws of the State of Ohio, and the ordinances of the City of Medina, Ohio.

SEC. 2: The Medina City Council finds that the appropriation is necessary for the removal and replacement of a culvert beneath Gates Mills Boulevard and further finds that the City of Medina has been unable to agree with the aforementioned property owners as to the value of the easements.

SEC. 3: That in accordance with Ohio Revised Code §5705.41(D), at the time that the contract or order was made and at the time of execution of the Finance Director's certificate, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance.

SEC. 4: The Medina City Council hereby approves the appropriation of the easements pursuant to chapter 163 of the Ohio Revised Code; the City Law Director is hereby authorized to take all steps permitted pursuant to chapter 163 so that the

City of Medina may obtain immediate possession of the property for the public purpose stated herein.

SEC. 5: The Law Director is hereby authorized and directed to file a petition for appropriation in a court of competent jurisdiction, and have a jury impaneled to assess the compensation to be paid for the easements taken upon the described real estate.

SEC. 6: The Medina City Council hereby authorizes and directs the Mayor and the City Law Director to establish the value for the easements to be taken on the property according to the appraisal of each parcel and to deposit said amount with the Medina County Court of Common Pleas for the use and benefit of the owners of the described properties and that upon that deposit, the City of Medina shall take possession of and enter upon the properties pursuant to law.

SEC. 7: That the funds necessary to cover this appropriation, not to exceed \$5,000.00, are available in Account Number 108-0610-54411; that the Director of Finance is instructed and authorized to appropriate the amounts to be deposited with the Medina County Court of Common Pleas pursuant to this Ordinance and make disbursements of such funds as necessary.

SEC. 8: That it is found and determined that all formal actions of the Medina City Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of the Council and any of its committees resulting in formal actions have taken place in compliance with Medina City Ordinances and § 121.22 of the Ohio Revised Code.

SEC. 9: That this legislation is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety, and welfare, and for the further reason that it is immediately necessary to acquire the easement to ensure the satisfactory completion of the waterline installation to provide for water service to Medina City residents and further provided that this legislation receives the affirmative vote of two-thirds (2/3) of all members elected to Council, it shall take effect and be enforced immediately upon its passage and approval by the Mayor.

PASSED: August 22, 2022

SIGNED: John M. Coyne, III
President of Council

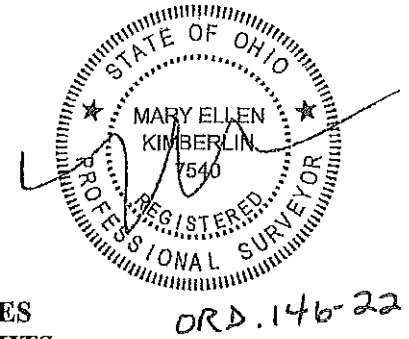
ATTEST: Kathy Patton
Clerk of Council

APPROVED: August 23, 2022

SIGNED: Dennis Hanwell
Mayor

EXHIBIT A

**PARCEL 2-SH
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF MEDINA**



An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the City of Medina, its successors and assigns forever.

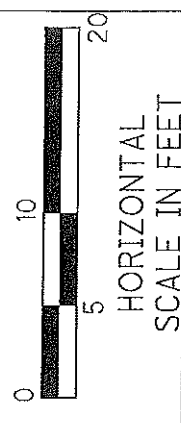
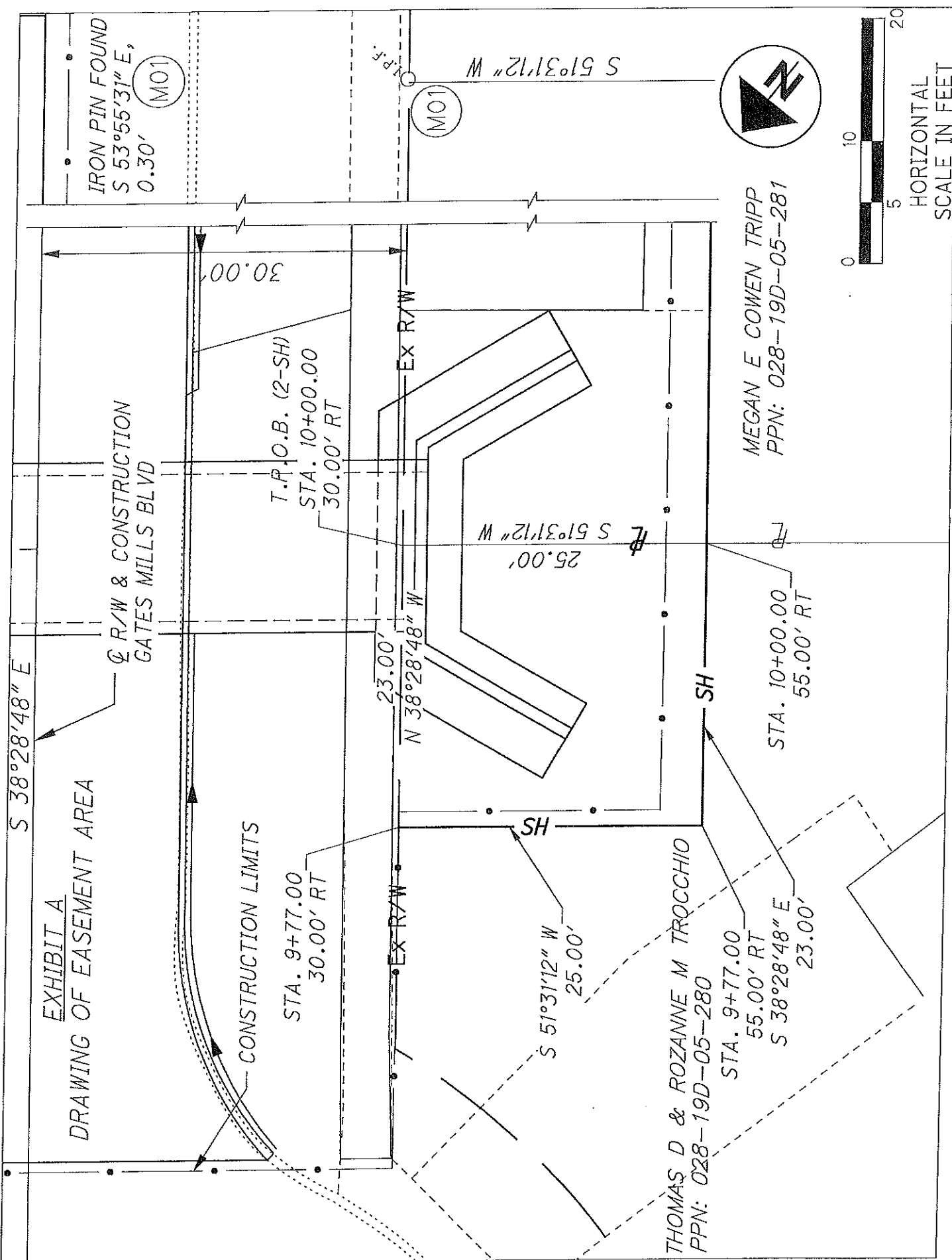
Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural and words in the masculine include the feminine or neuter).

Situated in City of Medina, Medina County, Ohio, and known as being part of Lot 1645 in Crestwood Land Company's Crestwood Development No. 1, also known as Sublot 15, as shown on the plat of said development recorded in Volume 6 Page 93 on the 29th day of August, 1955 by the Medina County Recorder, further bounded and described as follows:

Commencing at a point at the Grantor's southeasterly property corner and the southwesterly right of way line of Gates Mills Blvd and the **True Point of Beginning** of the parcel herein described;

1. Thence **South 51 degrees 31 minutes 12 seconds West** a distance of **25.00 feet** to a point on the Grantor's southeasterly property line;
2. Thence **North 38 degrees 28 minutes 48 seconds West** a distance of **23.00 feet** to a point;
3. Thence **North 51 degrees 31 minutes 12 seconds East** a distance of **25.00 feet** to a point on the southwesterly right of way line of Gates Mills Blvd;
4. Thence, **South 38 degrees 28 minutes 48 seconds East** a distance of **23.00 feet** to a point on the Grantor's northeasterly property line and the southwesterly right of way line of Gates Mills Blvd to the **True Point of Beginning** and enclosing an area of 0.0132 acre, more or less, none of which is present road occupied and is from Medina County Auditor's Parcel No. 028-19D-05-280.

Bearings do not match plat and are based on an assumed meridian for reference only. This description was prepared and reviewed under the supervision of Mary E. Kimberlin, P.E., P.S., Registered Surveyor No. 7540, and is based on survey performed by the Euthenics' survey staff in July, 2020.



Storm Sewer and Drainage Easement

DRD 146-22

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of (TWO THOUSAND ONE HUNDRED NINETY SIX and 46/100) Dollars (\$2,196.46) and other good and valuable consideration recited herein given to THOMAS D. TROCCHIO and ROZANNE M. TROCCHIO hereinafter "Grantor(s)" by the CITY OF MEDINA, Ohio, hereinafter "Grantee", the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell, transfer and convey unto the Grantee, its successors and assigns, a drainage and storm sewer easement for the purpose of erecting, constructing, installing and thereafter using, operating, inspecting, maintaining, repairing, replacing or removing a PERPETUAL WATERCOURSE WITH A STORM SEWER AND APPURTENANCES under, across, and through certain land of the Grantor(s) situated in the City of Medina, County of Medina and State of Ohio and more particularly described as follows:

Situated in the City of Medina, Medina County, Ohio and known as being part of Lot 1645 in Crestwood Land Company's Crestwood Development No. 1, also known as Sublot 15, as shown on the plat of said development recorded in Volume 6, Page 93 on the 29th day of August, 1955 by the Medina County Recorder, further bounded and described as follows:

Commencing at a point at the Grantor's southeasterly property corner and the southwesterly right of way line of Gates Mills Blvd. and the **True Point of Beginning** of the parcel herein described;

1. Thence **South 51 degrees 31 minutes 12 seconds West** a distance of **25.00 feet** to a point on the Grantor's southeasterly property line;
2. Thence **North 38 degrees 28 minutes 48 seconds West** a distance of **23.00 feet** to a point;
3. Thence **North 51 degrees 31 minutes 12 seconds East** a distance of **25.00 feet** to a point on the southwesterly right of way line of Gates Mills Blvd.;
4. Thence, **South 38 degrees 28 minutes 48 seconds East** a distance of **23.00 feet** to a point on the Grantor's northeasterly property line and the southwesterly right of way line of Gates Mills Blvd. to the **True Point of Beginning** and enclosing an area of 0.0132 acre, more or less, none of which present road occupied and is from Medina County Auditor's Parcel No. 028-19D-05-280.

Bearings do not match plat and are based on an assumed meridian for reference only. This description was prepared and reviewed under the supervision of Mary E. Kimberlin, P.E., P.S., Registered Surveyor No. 7540, and is based on survey performed by the Euthenics' survey staff in July, 2020.

together with the right of reasonable ingress and egress over the immediately adjacent lands of the Grantor(s) for the purpose and use of said easement. The Grantee covenants and agrees that it will not use said easement for public right-of-way purposes.

As additional consideration for this easement and right-of-way, the Grantee covenants and agrees as follows:

1. Grantee shall repair any and all damage arising from the installation or subsequent repair, maintenance or reconstruction of a PERPETUAL WATERCOURSE WITH A STORM SEWER AND APPURTENANCES.
2. Grantee shall replace any driveway, lawn, shrubbery, or other improvement which may be damaged as a result of construction.
3. Within a reasonable time after completion of construction, and in no event later than forty-five (45) days, Grantee will return the ground to its original condition.
4. Grantee will secure and protect all permanent structures within the construction zone.
5. Grantee will pay for all costs of surveying, recording of documents, filing and transfer fees, escrow costs and title expenses, if any.

Grantor(s) covenant and agrees as follows:

1. Grantor will not install, erect or maintain any structure, fixture or device upon the easement which could in any way interfere with Grantee's use of the easement and right-of-way; however, Grantor retains the right to use the surface of the easement area provided said use does not interfere with the uses granted to Grantee.
2. Authorize the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof to enter upon the property designated as 811 Gates Mills Blvd.; Permanent Parcel No. 028-19D-05-280, part of Medina City Lot 1645 with the necessary equipment to remove any obstructions as necessary to allow for the proposed culvert and headwall installation including any rocks, trees, tree stumps, brush, vegetation, and landscaping; to complete grading to establish the watercourse; to install the proposed culvert, headwall, appurtenances; to complete grading as necessary for the installation of the culvert and headwall; to restore the affected areas with topsoil, seed, fertilizer, and mulch in accordance with the plans and/or specifications as prepared by the City of Medina or its agents during the period of time commencing with the breaking of ground for the above described proposed work and terminating when the work has been completed and/or accepted by the City; and
3. Release the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof, from claims of damage, of compensation by reason of the above

described work as called for by the said plans and/or specifications provided that the property designated as 811 Gates Mills Blvd.; Permanent Parcel No. 028-19D-05-280, part of Medina City Lot 1645 is restored to the condition before construction or as close as reasonably possible in conformance with the plans and/or specifications and/or proposed work described above.

All the terms and conditions of this Easement and Right-of-way shall be binding upon and inure to the benefit of the Grantor(s), the Grantee, their heirs, executors, administrator, successors and assigns.

The grant of this Easement and Right-of-way shall constitute a covenant running with the land for the benefit of the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day of _____, 20_____.

Grantor:

Thomas D. Trocchio

Signature: _____

Print Name: _____

State of Ohio)

County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, **Thomas D. Trocchio**, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this _____ day of _____, 20_____.

Notary Signature: _____

Print Name: _____

My Commission Expires: _____

Notary Seal:

IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day of _____, 20_____.

Grantor:

Rozanne M. Trocchio

Signature: _____

Print Name: _____

State of Ohio)

County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, **Rozanne M. Trocchio**, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this _____ day of _____, 20_____.

Notary Signature: _____

Print Name: _____

My Commission Expires: _____

Notary Seal:

This instrument was prepared by:

Gregory Huber, Law Director, City of Medina, Ohio
132 N. Elmwood Avenue
Medina, OH. 44256