

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2009 - 245

By: Mayor Perciak and Mr. Roth

AN ORDINANCE APPROVING AND AUTHORIZING THE GRANT OF A LICENSE TO THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY FOR USE OF PUBLIC PROPERTY ON PEARL ROAD IN CONNECTION WITH PLACEMENT AND USE OF A BUS SHELTER WITH RIGHTS OF INGRESS AND EGRESS; AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT IN FURTHERANCE THEREOF; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Strongsville ("City") is the owner of the realty located on Pearl Road just south of Cemetery Road in Strongsville, Ohio, at the Strongsville Cemetery and identified by Cuyahoga County as permanent parcel number 396-08-006; and

WHEREAS, it is to the mutual benefit of the City and the Greater Cleveland Regional Transit Authority ("GCRTA") for the latter to use certain areas of the City's realty ("premises") for a bus shelter; and

WHEREAS, GCRTA's passengers and the City's invitees also will benefit from such use.

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

Section 1. That this Council hereby approves and authorizes the grant of an irrevocable license to the Greater Cleveland Regional Transit Authority for the use of a portion of public property and right-of-way located on Pearl Road at the City's Strongsville Cemetery for purposes of the construction, erection, maintenance, repair and operation of a bus shelter with rights of ingress and egress, upon the terms and conditions set forth in the License Agreement, attached hereto as Exhibit "1" and incorporated herein by reference, which in all respects is approved.

Section 2. That the Mayor be and is hereby authorized to enter into and execute the License Agreement and to do all things necessary to carry out the provisions thereof.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance 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 action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that the immediate grant of the aforesaid license is necessary to allow a bus shelter on the public premises for the safety and convenience of the City's residents. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.


President of Council

Approved: 
Mayor

Date Passed: December 7, 2009

Date Approved: Dec 8, 2009

Attest: 
Clerk of Council

ORD. No. 2009-245 Removed: _____
1st Rdg. 12-07-09 Ref: _____
2nd Rdg. Suspended Ref: _____
3rd Rdg. Suspended Ref: _____
Pub Hrg. _____ Ref: _____
Adopted: 12-07-09 Defeated: _____

BUS SHELTER LICENSE AGREEMENT

This Agreement ("Agreement") made and entered into on the date(s) specified below, by and between City of Strongsville ("Licensor") and Greater Cleveland Regional Transit Authority ("Licensee").

WHEREAS, Licensor is the owner of the realty located on Pearl Road just south of Cemetery Road in Strongsville, Ohio at the Strongsville Cemetery and identified by Cuyahoga County as permanent parcel number 396-08-006; and

WHEREAS, it is to the mutual benefit of the parties for Licensee to use certain areas of Licensor's realty ("premises") for a bus shelter; and

WHEREAS, Licensee's passengers and Licensor's invitees also will benefit from such use.

NOW, THEREFORE, in consideration of the mutual benefits received by each party, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

I. GRANT OF LICENSE

Licensor hereby grants to Licensee an irrevocable license coupled with an interest to use, subject to the terms and conditions of this Agreement, those portions of Licensor's premises, together with rights of ingress and egress, designated on Exhibit "A" attached hereto and made a part hereof.

II. LIMITATION TO DESCRIBED PURPOSE

The premises may be used by Licensee solely for a bus shelter for bus passengers, and for incidental purposes related to such purpose, during the term of this Agreement.

III. CONSIDERATION

Licensor and Licensee acknowledge that they will mutually benefit from the bus shelter, and also that Licensor's invitees and Licensee's passengers will benefit from such bus shelter. Licensor agrees to pour the concrete pad needed for the shelter and Licensee agrees to construct and maintain such bus shelter at its sole expense. Such mutual benefits and expense constitute the consideration for this Agreement.

Ex. 1

IV. TERM

Licensee agrees to construct, operate and maintain in good repair at its own cost and expense such bus shelter upon the premises for a period of five years from the date of execution hereof, subject to automatic renewal on a year-to-year basis; provided, however, that after five years either party may terminate this Agreement for good cause shown upon ninety (90) days prior written notice. Construction will be undertaken in accordance with the applicable laws and rules of the City of Strongsville and State of Ohio.

V. LIABILITY AND INDEMNIFICATION

The liability of the Licensor and the Licensee is governed by the provisions of Ohio Revised Code Chapter 2744 and other laws of Ohio. In accordance with those laws, Licensee shall be liable to Licensor for Licensee's own negligent use of the premises that may result in damage, liability or expense caused to the premises by Licensee's own negligence. Licensor agrees that the Licensee shall not be liable to it for normal wear and tear caused to the premises as a result of the Licensee's use thereof. Licensor shall be liable to Licensee for Licensor's own negligent use of the premises that may result in damage, liability or expense caused to the shelter by Licensor's negligence. With respect to injury to third parties, Licensor and Licensee shall each bear the cost of its own negligence and neither party shall indemnify the other.

VI. GOVERNING LAW

It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Ohio.

VII. NOTICES

Any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth below.

VIII. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party, except to the extent incorporated in this Agreement.

IX. MODIFICATION OF AGREEMENT

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing, signed by each party.

IN WITNESS THEREOF, each party to this agreement has caused it to be executed at Cleveland, Ohio, on the date(s) indicated below.

Witnesses:

Lucie J. Seefried

Licensor: **CITY OF STRONGSVILLE**
16099 Foltz Parkway
Strongsville, Ohio 44149

By: Thomas P. Perciak 12/8/09

Thomas P. Perciak Date
Mayor

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

Kenneth A. Kraus

Kenneth A. Kraus
Law Director

Licensor: **GREATER CLEVELAND
REGIONAL TRANSIT
AUTHORITY**
1240 West 6th Street
Cleveland, Ohio 44113-1331

Witnesses:

By: _____ Date
Joseph A. Calabrese
CEO, General Manager and
Secretary-Treasurer

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

Sheryl King Benford
Deputy General Manager-Legal Affairs

Bus Shelter Location -- Pad thickness = 6",
RTA will install a medium shelter in this location to provide protection from the weather. Pad should be 15' long and 8' wide

