F/C 11/4/24 Legislative
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CITY OF BROOK PARK, OHIO

RESOLUTION NO: 24-2026

INTRODUCED BY: MAYOR ORCUTT

**A RESOLUTION DECLARING THE INTENT TO APPROPRIATE CERTAIN REAL PROPERTY (342-16-003 & 342-17-003) FOR THE PUBLIC PURPOSE OF MAKING OR REPAIRING ROADS AND RELATED APPURTENANCES AND DECLARING AN EMERGENCY**

**WHEREAS**, the Council of the City of Brook Park, Ohio possesses authority under R.C. Chapters 719 and 163 to appropriate certain real property necessary for the making or repairing of roads open to the public without charge and related appurtenances; and

**WHEREAS**, the City of Brook Park, Ohio is undertaking the construction and improvement of public roads and related appurtenances as part of a larger project known more commonly as the CUY IR 071/VAR 08.84 Brook Park PID 125149 (the "Project"); and

**WHEREAS**, the Project will require the City to obtain a perpetual aerial easement and a temporary easement in a portion of certain real property owned by CSX Transportation, Inc., Cuyahoga County Auditor Parcel Numbers 342-16-003 and 342-17-003, and more commonly known as the CSX railroad corridor east of Engle Road between Hummel Road and Snow Road, Brook Park, Ohio, 44142, (the "Property") for the purpose of facilitating and performing the work necessary to complete the construction of the Project; and

**WHEREAS**, the Property necessary for the Project is more accurately described in the legal description attached to this Resolution as Exhibit A; and

**WHEREAS**, the City must acquire the Property in order to move forward with the Project; and

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BROOK PARK CITY COUNCIL

**WHEREAS**, the City deems it necessary to exercise its eminent domain authority, in accordance with R.C. Chapters 719 and 163, in order to appropriate the Property for the purposes of making and repairing roads and related appurtenances which shall be open to the public without charge.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Brook Park, Cuyahoga County, Ohio that:

**SECTION 1**: The City Council, pursuant to R.C. 719.04, hereby declares the necessity to appropriate the Property in furtherance of the public Project, and declares its intent to appropriate a perpetual aerial easement and a temporary easement in the Property as more accurately described in Exhibit A to this Resolution, for the public purpose of making and repairing roads and related appurtenances and completing the Project.

**SECTION 2**: The Mayor is hereby authorized, as required by R.C. 719.05, to immediately upon the passage of this Resolution cause written notice to be given to the owner of, person in possession of, or person having an interest of record in, the Property, or to the authorized agent of the owner or other such person. Such notice shall be served by a person designated for the purpose and return made in the manner provided for the service and return of summons in civil actions. If such owner, person, or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code.

**SECTION 3**: It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

**SECTION 4:** This Resolution is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the City. The reason for the emergency is to timely ensure the City's submission of a complex infrastructure project to the Ohio Department of Transportation and to timely satisfy requirements for appropriation proceedings necessary for a public project. This Resolution shall go into effect immediately upon its passage.

PASSED: November 4, 2024

PRESIDENT OF COUNCIL

ATTEST: Carol Johnson
CLERK OF COUNCIL

APPROVED: Edward A. Smith
MAYOR

11/5/24
DATE

CERTIFICATE

Carol Johnson, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance ~~Resolution~~
No. 24-2024
passed on the 4 day of November
20 24 by said council.

Carol Johnson
Clerk of Council

| | Yea | Nay |
|---|---|---|
| Gonzalez | ✓ | |
| Mencini | ✓ | |
| Roberts | ✓ | |
| Scott | ✓ | |
| McCorkle | ✓ | |
| [illegible] | | |
| Dutour | ✓ | |

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

DIRECTOR OF LAW

110517446v1

**EXHIBIT A**

Legal Description of Property

Situate in the State of Ohio, County of Cuyahoga, City of Brook Park, Original Middleburg Township Lot Number 1, Section 12, being part of a 30 foot strip of land as conveyed to the Cleveland Cincinnati Chicago and St. Louis Railway Company by deed of record Volume 3923 Page 4, and a part of a 100 foot strip of land as conveyed to a Cleveland Cincinnati Chicago and St. Louis Railway Company by deed of record Volume 51 Page 403 (all records being of the Cuyahoga County Recorder's Office), and being more particularly described as follows:

**COMMENCING** at a 5/8" Iron Pin Found in a Monument Box Found, being on the intersection of existing centerline of right-of-way of Engle Road (width varies) as dedicated in Volume 8873 Page 491, and the former centerline of Five Points Road as originally dedicated in Volume "D" Page 39 and relocated as shown in establishment plat M-4319, and being the common corner of Sections 9, 10, 11, and 12, being within said C.C.C. & St. Louis Railway, being on the existing centerline of right-of-way of said Engle Road (south bound) Station 57+70.58, and being 27.83 feet left of existing centerline of right-of-way of said C.C.C. & St. Louis Railway Station 542+02.32;

Thence North 02° 40' 24" East 156.89 feet, along the existing centerline of right-of-way of said Engle Road (south bound), across and through said C.C.C. & St. Louis Railway, leaving the centerline of right-of-way of said Engle Road (north bound), to a point on the existing centerline of said Engle Road (south bound), and on the existing northwesterly right-of-way line of said C.C.C. & St. Louis Railway, being on the existing centerline of right-of-way of said Engle Road (south bound) Station 56+13.69, and being 80.00 feet left of existing centerline of right-of-way of said C.C.C. & St. Louis Railway Station 540+89.75, and being 12.80 feet left of existing centerline of right-of-way of Engle Road (north bound) Station 55.64.01;

Thence South 46° 26' 23" West 309.82 feet, along the northwesterly right-of-way line of said C.C.C. & St. Louis Railway, leaving the existing centerline of right-of-way of said Engle Road (south bound), to and Ion Pin Set on the **POINT OF BEGINNING**, being 80.00 feet right of existing centerline of right-of-way of said C.C.C. & St. Louis Railway Station 543+99.56;

Thence South 79° 17' 39" East 160.15 feet, across and through said C.C.C. & St. Louis Railway, to an Iron Pin Set on the southeasterly right-of-way line of said C.C.C. & St. Louis Railway, being 50.00 left of Station 543+06.04;

Thence South 46° 26' 23" West 88.96 feet, along the southeasterly right-of-way line of said C.C.C. & St. Louis Railway, to an Iron Pin Set, being 50.00 feet left of Station 543+95.00;

Thence North 79° 17' 39" West 160.15 feet, across and through said C.C.C. & St. Louis Railway, to an Iron Pin Set on the northwesterly right-of-way line of said C.C.C. & St. Louis Railway, being 80.00 left of Station 544+88.53;

Thence North 46° 26' 23" East 88.96 feet, along said northwesterly right-of-way line of said C.C.C. & St. Louis Railway, to the **POINT OF BEGINNING** containing 0.265 acres, more or less, and being subject to any easements, restrictions, and rights-of-way of record.

Grantor claims title by Volume 3923 Page 4 and Volume 51 Page 403.

The above described area is within Parcel 342-16-003 and 342-17-003.

Bearings are based on the Ohio State Plane Coordinate System, North Zone, The North American Datum of 1983 with the 2011 adjustment (NAD83(2011), with the centerline of Hummel Road being South 88° 21' 19" East.

All stations and offsets stated in this description are referenced to the existing centerline of right-of-way of Hummel Road, Station 0+00.00 being at the 1" Rebar Found in the Monument Box found at intersection of the centerline of right-of-way of Hummel Road and the centerline of right-of-way of Engle Road.

All Iron Pins Set are 5/8 inch rebar, 30-inched long, with a yellow cap stamped "DLZ OHIO, INC."

This description was prepared by DLZ Ohio, Inc. (6121 Huntley Road, Columbus, Ohio 43229) under the direct supervision of Alex Marks, Ohio Professional Surveyor Number 8616 in October 2026, and is based on an actual field survey conducted by DLZ Ohio, Inc.