

2-1-66

OHIO TURNPIKE COMMISSION

Resolution Determining that Certain Real and Other Property Will No Longer Be Needed or Useful or Serve Any Useful Purpose in Connection With the Construction or Operation and Maintenance of Ohio Turnpike Project No. 1, Authorizing the Conveyance of Certain of Such Property to the City of Strongsville and the Remainder of Such Property to the Board of Park Commissioners of the Cleveland Metropolitan Park District, and Approving and Authorizing the Settlement of Pending Litigation.

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WHEREAS, the Commission is constructing a new interchange of the Turnpike with Interstate 71, upon the opening of which it will close present Interchange 10; and

WHEREAS, upon the closing of the present Interchange 10 a portion of the real estate constituting said Interchange, together with the roadways, the bridge over U.S. Route 42, and appurtenant facilities thereon, will no longer be needed or useful or serve any useful purpose in connection with the construction or operation and maintenance of Ohio Turnpike Project No. 1 or of the state highway system in accordance with the terms of Section 5537.21, Revised Code; and

WHEREAS, by the terms of agreements and deeds relating thereto, certain of the real estate constituting present Interchange 10 is to revert to the Board of Park Commissioners of the Cleveland Metropolitan Park District in the event that such real estate shall no longer be used or useful for the purposes of the Turnpike or of the state highway system in accordance with the terms of Section 5537.21, Revised Code; and

WHEREAS, the City of Strongsville is agreeable to acquiring that portion of the balance of the Interchange 10 property lying southerly of the Turnpike, including the real property, roadways, the bridge over U.S. Route 42, and appurtenant facilities, that will, upon the closing of said Interchange, no longer be needed for the purposes of the Turnpike, and to maintaining said property for the purpose of providing continued access to the Turnpike from U.S. Route 42, and said City has agreed to pay to the Commission therefor the sum of \$77,500, which consideration the Commission finds to be fair and reasonable; and

WHEREAS, provision for such disposition of a portion of the Interchange 10 property to the City of Strongsville for the purpose of maintaining continued access between the Turnpike and U.S. Route 42 has been incorporated in a consent decree in the case of City of Strongsville v. Department of Highways, et al., Court of Common Pleas of Franklin County, Cause No. 221567 (which consent decree is attached hereto and made a part hereof), the terms of which have been agreed to by counsel for all parties to such action; and

WHEREAS, the Commission is authorized, by Section 713 of the Trust Agreement (hereinafter referred to as the "Trust Agreement") dated June 1, 1952 and entered into between the Commission and The Ohio National Bank of Columbus, Trustee, and The National City Bank of New York (now First National City Bank), Co-trustee, to dispose of real and other property on the conditions therein and herein provided; and

NOW, THEREFORE, BE IT

RESOLVED that the Commission, having duly and fully considered the matter, hereby determines that, from and after the opening of the new interchange of the Turnpike with Interstate 71 and the closing of present Interchange 10, the real estate described as Turnpike Property and Park Board Property in Exhibit A to the attached consent decree (which Exhibit is hereinafter referred to as "Exhibit A"), together with the roadways, the bridge, and appurtenant

facilities thereon, will no longer be needed or useful or will serve no useful purpose in connection with the construction or operation and maintenance of Ohio Turnpike Project No. 1; and

FURTHER RESOLVED that the Commission deems it proper and desirable to sell or otherwise dispose of the Interchange 10 real estate not reverting to the Board of Park Commissioners of the Cleveland Metropolitan Park District, and the roadways, the bridge, and appurtenant facilities, in accordance with the terms of the attached consent decree, and adopts this resolution pursuant to Section 713 of the Trust Agreement; and

FURTHER RESOLVED that the Commission hereby authorizes and directs the Chairman and/or Executive Director, acting on behalf of the Commission, to convey to the City of Strongsville, in accordance with the terms and conditions incorporated in the consent decree, its interest in the real estate described as Turnpike Property in Exhibit A, together with the roadways, the bridge, and appurtenant facilities located thereon and on the real estate described as Park Board Property in Exhibit A, and further to convey to the Board of Park Commissioners of the Cleveland Metropolitan Park District its interest in the real estate described as Park Board Property in Exhibit A, and for such purposes the Chairman and/or Executive Director shall be authorized to execute and deliver such deeds and other documents and to take such other actions as may be required to effect such conveyances and to implement such consent decree; provided, however, that such conveyances shall be conditioned upon the prior written approval by the Commission's Consulting Engineers of the declaration contained herein that this property will no longer be needed or useful or will serve no useful purpose in connection with the construction or maintenance and operation of the Turnpike, and the conveyances shall be made upon the opening of the new Interchange of the Turnpike with Interstate 71 and the closing of present Interchange 10; and

FURTHER RESOLVED that the proceeds derived from the disposition of such property shall be paid to the Trustee under the Trust Agreement and credited by the Trustee to the Reserve Maintenance Fund created by Section 507 of the Trust Agreement, and, in accordance with the authorization conferred by Section 509 of the Trust Agreement, shall thereafter be expended to the extent required for the purpose of constructing roadways, together with appurtenant facilities, from the new Interchange with Interstate 71 to the existing roadways of present Interchange 10 so as to provide continued access to the Turnpike from U.S. Route 42; and

FURTHER RESOLVED that the Comptroller is hereby directed, immediately upon the disposition of such property, to give notice of the fact to The Ohio National Bank of Columbus in its capacity as Trustee and of the amount and disposition of the proceeds derived therefrom as hereinabove recited and provided; and

FURTHER RESOLVED that the Commission approves in all respects the terms of the consent decree attached hereto, and General Counsel and Counsel be, and the same hereby are, authorized to sign such a decree having substantially the terms and conditions therein set forth.

(Resolution No. 2 -1966 adopted February 1, 1966)

Copies hereof distributed 2/2/66 to:

Executive Director            Chief Engineer  
Deputy Executive Dir.        Comptroller  
Information & Research  
J. E. Greiner Co.  
Squire, Sanders & Dempsey

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

CITY OF STRONGSVILLE,	)	No. 221567
	)	
Plaintiff,	)	
	)	
v.	)	<u>CONSENT DECREE</u>
	)	
DEPARTMENT OF HIGHWAYS, et al.,	)	
	)	
Defendants.	)	

This matter came on to be heard upon the arguments and representations of counsel and the Court, being fully advised in the premises, and the parties consenting thereto, finds that:

- (1) The Department of Highways and the Ohio Turnpike Commission, pursuant to an agreement between them, intend to construct an interchange between the Ohio Turnpike and a new interstate highway known as I-71 at the intersection of such Turnpike and highway within the corporate limits of plaintiff, City of Strongsville, and in connection therewith the Ohio Turnpike Commission intends to dispose of all of its interest in certain real estate, roadways, and appurtenant facilities and the bridge over U.S. Route 42, now part of the Ohio Turnpike Project No. 1, which presently connect with the streets and highways in the City of Strongsville, and which constitute part of present Interchange 10;
- (2) The City of Strongsville has consented to the construction of interstate highway I-71 within said City, but has attempted to condition such consent upon the preservation of access from the streets

and highways of the City of Strongsville to the Ohio Turnpike without the necessity of travel over interstate highway I-71;

(3) The Director of Highways and the Ohio Turnpike Commission, while not agreeing that the consent of the City of Strongsville aforesaid may have lawfully attached to it any condition whatever, are nevertheless agreeable that such access to the Ohio Turnpike shall be arranged and preserved;

(4)(a) The Parties have agreed that the Ohio Turnpike Commission will, if the City of Strongsville performs the agreements on its part hereinafter set out, convey to the City of Strongsville all of its interest in a portion of the present Interchange 10 real estate (described as "Turnpike Property" in Exhibit A attached hereto and made a part hereof) together with the roadways, the bridge over U.S. Route 42, and appurtenant facilities thereon and on the real estate described as "Park Board Property" in said Exhibit A, in consideration of the payment by said City to The Ohio Turnpike Commission of the sum of \$77,500. Present Interchange 10 connects the Ohio Turnpike and U.S. Route 42 in the City of Strongsville and will no longer be needed or useful in connection with the maintenance and operation of the Turnpike once the aforementioned interchange between the Ohio Turnpike and interstate highway I-71 is constructed and opened.

(b) However, said conveyance from the Ohio Turnpike Commission to the City of Strongsville is conditioned upon the grant of an easement to the City of Strongsville

by the Board of Park Commissioners of the Cleveland Metropolitan Park District for the purposes of providing access to and from the street and highway system of said City and to and from the real estate to be conveyed to said City by the Turnpike Commission, pursuant to this agreement, over the lands described as "Park Board Property" in Exhibit A attached hereto and made a part hereof.

- (c) The conveyance by the Ohio Turnpike Commission to the City of Strongsville will contain a reservation to the Turnpike Commission of rights of access from property retained by the Commission to said real estate and roadways conveyed by the Commission to the City of Strongsville.
- (d) Promptly upon such conveyance by the Turnpike Commission, the City of Strongsville will dedicate and open for use as public streets the roadways on the "Turnpike Property" described in Exhibit A so conveyed to it.
- (e) Prior to, or contemporaneously with, said conveyance by the Turnpike Commission, the City of Strongsville will complete all possible legislative and administrative steps necessary to enable it to dedicate and open the streets as hereinabove required and will make payment of the purchase price aforesaid;
- (5) Subsequent to said payment, the defendant Ohio Turnpike Commission will cause to be constructed, at the earliest practicable date, an access road from the roadways conveyed to the City of Strongsville by the Turnpike Commission to the new interchange to be

constructed between the Ohio Turnpike and interstate highway I-71 as aforesaid;

- (6) The plaintiff City of Strongsville agrees to allow the defendant Ohio Turnpike Commission to remove from the property to be conveyed by the Commission all toll booths and all lighting poles, wires, and other lighting equipment except those poles, wires and other lighting equipment which the plaintiff wishes to use as a part of its city street lighting system; the City of Strongsville agrees that its use of said lighting poles, wires and other lighting equipment shall be limited to lighting the roadways on the "Park Board Property" and the "Turnpike Property" which are described in Exhibit A, and that when such use as to all or a portion of said lighting equipment ceases said City shall convey all or such portion of said lighting equipment no longer so used to the Ohio Turnpike Commission; and the City of Strongsville agrees that if it determines to remove the dividing islands in the roadways and the tunnel under the roadways to be conveyed to it by the Turnpike Commission, such removal shall be done at the City's expense.
- (7) The defendant Ohio Turnpike Commission agrees to remove all toll booths from the property to be conveyed by it to plaintiff City of Strongsville and to remove all lighting poles, wires, and other lighting equipment which the plaintiff City of Strongsville does not wish to use as a part of its street lighting system.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

- (a) Said agreement is approved and confirmed; and
- (b) The within action be and the same hereby is dismissed with prejudice at the defendants' costs.

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Judge

APPROVED:

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William B. Saxbe  
Attorney General

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Harry R. Paulino  
Assistant Attorney General

Counsel for Defendant,  
Pearl E. Masheter

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Lockwood Thompson  
General Counsel

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Squire, Sanders & Dempsey

Counsel for Defendant,  
Ohio Turnpike Commission

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Charles J. Donohue  
City Solicitor  
City of Strongsville

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Irwin B. Fried

Counsel for Plaintiff,  
City of Strongsville

Dated: February , 1966

EXHIBIT A

PARK BOARD PROPERTY

No. 132-T: Situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as being a part of Original Strongsville Township Lots Nos. 49 and 52, bounded and described as follows:

Beginning in the center line of Pearl Road (formerly Wooster Pike) at the Northeasterly corner of Parcel No. 2 of land conveyed to the Board of Park Commissioners of the Cleveland Metropolitan Park District by deed dated November 1, 1928, and recorded in Volume 3921, Page 1 of Cuyahoga County Records;

Thence South  $30^{\circ}-34'-44''$  West 600.00 feet measured along the center line of Pearl Road;

Thence North  $46^{\circ}-25'-16''$  West 220.00 feet;

Thence North  $24^{\circ}-25'-16''$  West 348.70 feet;

Thence North  $30^{\circ}-34'-44''$  East 262.95 feet;

Thence North  $88^{\circ}-24'-06''$  East 45.48 feet;

Thence South  $30^{\circ}-02'-58''$  East 223.74 feet;

Thence North  $87^{\circ}-34'-49''$  East 317.79 feet to the place of beginning, be the same more or less, but subject to all legal highways, together with the hereditaments and appurtenances thereunto belonging and containing 4.6598 $\pm$  Acres of land according to a survey by Arthur V. Gregory, Registered Ohio Surveyor No. 4255, of the Engineering Department of the Cleveland Metropolitan Park District.

No. 132-P-3: Situated in the City of Strongsville, County of Cuyahoga and State of Ohio, and known as being parts of Original Strongsville Township Lots Nos. 49 and 52, and bounded and described as follows:

Beginning in the northerly line of land conveyed to Irene S. Beriswill, by deed recorded in Volume 3937, Page 499 of Cuyahoga County Deed Records at its point of intersection with the center line of Wooster Pike;

Thence North  $88^{\circ}-05'-08''$  East along the northerly line of land conveyed to Irene S. Beriswill as aforesaid 59.28 feet;

Thence South  $30^{\circ}-34'-44''$  West along the southeasterly line of Wooster Pike (100 feet wide) as altered 787.81 feet to an angle in said southeasterly line of Wooster Pike, which is the place of beginning of a parcel of land herein intended to be described;



EXHIBIT A

PARK BOARD PROPERTY (Cont.)

Thence North  $82^{\circ}-33'-29''$  East 171.71 feet;

Thence South  $69^{\circ}-36'-17''$  East 36.30 feet;

Thence South  $63^{\circ}-41'-09''$  West 169.97 feet to a point distant 130 feet Southeasterly measured at right angles from a point on the center line of Wooster Pike, distant 1,145.04 feet Southwesterly, measured along said center line from the center line of Ohio Turnpike Project No. 1;

Thence South  $44^{\circ}-37'-28''$  West 254.02 feet to a point distant 85.00 feet Southeasterly, measured at right angles, from a point on the center line of Wooster Pike distant 1,395.04 feet Southwesterly, measured along said center line from the center line of Ohio Turnpike Project No. 1;

Thence South  $40^{\circ}-07'-51''$  West 251.25 feet to a point distant 60.00 feet Southeasterly measured at right angles, from a point on the center line of Wooster Pike, distant 1,645.04 feet Southwesterly measured along said center line from the center line of Ohio Turnpike Project No. 1;

Thence North  $55^{\circ}-34'-47''$  West 10.00 feet to a point in the Southeasterly line of Wooster Pike (100 feet wide) as altered;

Thence North  $34^{\circ}-25'-13''$  East 524.895 feet measured along the Southeasterly line of Wooster Pike to an angle point, the place of beginning and containing 0.6753 acres of land according to a survey by Arthur V. Gregory, Registered Ohio Surveyor No. 4255 of the Engineering Department of the Cleveland Metropolitan Park District, be the same, more or less but subject to all legal highways.

TURNPIKE PROPERTY

Situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as being parts of original Lots Nos. 49 and 52 in former Strongsville Township now in said City of Strongsville and bounded and described as follows:

Beginning at a point in the center line of Pearl Road, as now established, (formerly Wooster Pike), at its intersection with the center line of the Ohio Turnpike, distant South  $30^{\circ}-34'-44''$  West 666.04 feet measured along the said center line of Pearl Road from its point of intersection with the center line of Whitney Road, thence continuing South  $30^{\circ}-34'-44''$  West along the said center line of Pearl Road 155.00 feet from its intersection of the center line of the Ohio Turnpike to the principal place of beginning;

EXHIBIT A

TURNPIKE PROPERTY (Cont.)

Thence Easterly along the arc of a circle deflecting to the right 77.63 feet, said arc having a radius of 2,709.79 feet and a chord which bears South  $58^{\circ}-25'-32''$  East 77.61 feet;

Thence Southerly along the arc of a circle deflecting to the left 16.87 feet, said arc having a radius of 762.87 feet and a chord which bears South  $27^{\circ}-40'-44''$  West 16.86 feet to a point of tangency;

Thence South  $27^{\circ}-02'-45''$  West 123.59 feet to a point of curvature;

Thence along the arc of a circle deflecting to the left 132.44 feet to a point of compound curvature, said arc having a radius of 2,652.00 feet and a chord which bears South  $25^{\circ}-36'-55''$  West 132.43 feet;

Thence along the arc of a circle deflecting to the left 297.10 feet to a point of compound curvature, said arc having a radius of 245.98 feet and a chord which bears South  $10^{\circ}-25'-01''$  East 279.36 feet;

Thence along the arc of a circle deflecting to the left 132.44 feet to a point of tangency, said arc having a radius of 2,652.00 feet and a chord which bears South  $46^{\circ}-26'-56''$  East 132.43 feet;

Thence South  $49^{\circ}-59'-36''$  East 464.58 feet;

Thence South  $56^{\circ}-26'-22''$  East 317.81 feet to a point of curvature;

Thence along the arc of a circle deflecting to the left 118.32 feet to a point of compound curvature, said arc having a radius of 1,785.00 feet and a chord which bears South  $57^{\circ}-40'-00''$  East 118.30 feet;

Thence along the arc of a circle deflecting to the left 204.05 feet to a point of compound curvature, said arc having a radius of 191.50 feet and a chord which bears North  $89^{\circ}-54'-29''$  East 194.53 feet;

Thence along the arc of a circle deflecting to the left 95.60 feet to its intersection with the Southerly right of way line of the Ohio Turnpike, said arc having a radius of 1,785.00 feet and a chord which bears North  $57^{\circ}-50'-50''$  East 95.59 feet, said point of intersection with the Southerly right of way line being distant South  $55^{\circ}-35'-02''$  West 155.00 feet from the center line of the Ohio Turnpike at its Station 434 plus 50;

Thence South  $34^{\circ}-24'-58''$  East 100 feet;

EXHIBIT A

TURNPIKE PROPERTY (Cont.)

Thence along the arc of a circle deflecting to the right 102.24 feet, to a point of compound curvature, said arc having a radius of 1,885.00 feet and a chord which bears South 57°-49'-40" West 102.22 feet;

Thence along the arc of a circle deflecting to the right 310.60 feet to a point of curvature, said arc having a radius of 291.50 feet and a chord which bears South 89°-54'-29" West 296.12 feet;

Thence along the arc of a circle deflecting to the right 124.96 feet to a point of tangency, said arc having a radius of 1,885.00 feet and a chord which bears North 57°-40'-00" West 124.93 feet;

Thence North 56°-26'-22" West 20.32 feet;

Thence North 39°-49'-07" West 69.92 feet;

Thence North 56°-26'-22" West 233.30 feet;

Thence North 73°-03'-36" West 69.92 feet;

Thence South 22°-12'-45" West 12.04 feet;

Thence North 67°-47'-15" West 424.18 feet;

Thence North 89°-31'-41" West 176.92 feet;

Thence South 61°-28' West 4.08 feet to a point in the Northwesterly line of land conveyed by Irene S. Beriswill to the Board of Park Commissioners of the Cleveland Metropolitan Park District, dated March 22, 1930 and recorded in Volume 4015, Page 222 of Cuyahoga County Deed Records;

Thence North 69°-36'-17" West 27.51 feet;

Thence South 82°-33'-29" West 171.71 feet to an angle point in the southeasterly line of Wooster Pike (100 feet wide);

Thence North 57°-30'-03" West 50.03 feet to an iron pin at an angle in the center line of said Wooster Pike;

Thence North 30°-34'-44" East along the center line of said Wooster Pike 768.52 feet to its intersection with the northerly line of land conveyed by Ellen H. Ashcraft to the Board of Park Commissioners of the Cleveland Metropolitan Park District, dated November 1, 1928 and recorded in Volume 3921, Page 1, Cuyahoga County Deed Records;

Thence South 87°-34'-49" West along said northerly line 317.79 feet;

Thence North 30°-02'-58" West 223.74 feet;

EXHIBIT A

TURNPIKE PROPERTY (Cont.)

Thence North  $88^{\circ}-24'-06''$  East 378.25 feet to a point of curvature;

Thence along the arc of a circle deflecting to the left 82.61 feet, said arc having a radius of 112 feet and a chord which bears North  $67^{\circ}-16'-19''$  East 80.74 feet;

Thence Easterly along the arc of a circle deflecting to the right 93.13 feet, said arc having a radius of 2709.79 feet and a chord which bears South  $60^{\circ}-13'-51''$  East 93.12 feet to the center line of Pearl Road and the principal place of beginning.