

## **TRANSFER AGREEMENT**

THIS TRANSFER AGREEMENT is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between THE CITY OF NORTH ROYALTON, OHIO, a Municipal Corporation organized under the Constitution and laws of the State of Ohio, (“Grantor”), and the BOARD OF PARK COMMISSIONERS OF THE CLEVELAND METROPOLITAN PARK DISTRICT, a political subdivision of the State of Ohio (“Grantee”).

### **RECITAL**

Grantor desires to transfer by quitclaim deed, subject to the right of reverter, as outlined below, to Grantee an approximately 14.8 acre parcel of land, known as Permanent Parcel 487-01-001 located near the Brecksville Reservation of the Cleveland Metropolitan Park District in the City of North Royalton, County of Cuyahoga, and State of Ohio and depicted in Exhibit A, as provided herein, together with all improvements thereon and all appurtenances thereunto belonging and described in Exhibit B (the “Property”), both Exhibits being attached hereto and made a part hereof, and all of the Grantor’s interest in the land, including but not limited to its interest in all leases for the use or occupancy of the Property, including but not limited to oil, gas and mineral rights, and Grantee desires to accept such transfer on the terms and subject to the conditions contained herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises contained herein, Grantor and Grantee agree as follows:

1. Agreement to Convey. Grantor agrees to transfer the Property by quitclaim deed to Grantee, and Grantee agrees to accept the transfer of the Property, subject to the terms and conditions hereinafter set forth.
  - a. Grantee agrees to solely use the Property for public recreational and park land purposes, subject to the right of reverter further set forth below.
  - b. Grantee further agrees, subject to the right of reverter, that:
    - i. the public recreational and park land use will be restricted to passive recreation and development, including but not limited to, walking trails of natural material, but may include minor park development (such as a parking lot or other park amenities) as may be necessary to open the Property up to passive recreation uses;
    - ii. no public driveway entrance shall be constructed or utilized from Royalton Road unless both Grantor and Grantee reasonably agree that such public access is in the best interests of both parties;
    - iii. the Property shall not be sold, leased, or otherwise transferred but Grantee may grant reasonable easements to third parties to the extent that they do not materially impair or interfere with the passive recreational nature and use of the Property;
    - iv. Grantee assumes all obligations, limitations and restrictions imposed by or through the Ohio Department of Natural Resources as it relates to the Property; and
    - v. Grantee shall make best efforts to maintain the Property, including

but not limited to streams (including debris removal) on the Property, in accordance with Grantor's stormwater management plans and purposes and city ordinances, but Grantor shall continue to be responsible for, maintain, and own the stormwater infrastructure on the portion of the Property outlined and depicted on Exhibit C and Grantee shall grant Grantor reasonable access to maintain the stormwater infrastructure outlined and depicted on Exhibit C.

- c. The violation or failure to fully comply with any of these restrictions and limitations outlined above shall render the Deed null and void, and the title to the Property and the right of possession shall at once revert to Grantor, and the Grantee, by accepting the Deed consents and agrees to hold the Property subject to the conditions expressed above

2. Escrow. An executed copy of this Agreement shall be deposited with Surety Title Agency, Inc., 300 Leader Building, 526 Superior Avenue East, Cleveland, Ohio 44114 (the "Title Company"), as escrow agent (the "Escrow Agent"), concurrently upon execution by all parties and shall serve as escrow instructions for the closing of this transaction. Escrow Agent may attach its Standard Conditions of Acceptance of Escrow hereto; provided, however, that this Agreement shall govern in the event of any inconsistency between this Agreement and such Standard Conditions of Acceptance of Escrow.

3. Due Diligence, Surveys, and Title Commitment.

(a) Grantor grants to Grantee, and its agents, licensees, employees, assigns, contractors, and subcontractors a license, to enter upon the Property and the full right of access to the Property in order, at Grantee's sole cost and expense, to inspect the Property, to perform engineering and environmental investigations, surveys and tests, to take samples, including samples of soil and groundwater beneath the surface of the Property, and to conduct such additional engineering, environmental, and other investigations as Grantee shall deem necessary or desirable as due diligence to evaluate the Property for Grantee's intended ownership, occupancy, and use thereof.

(b) Grantee, at Grantee's sole cost and expense, may cause a survey of the Property (the "Survey"), to be made by a certified land surveyor duly licensed and registered under the laws of the State of Ohio.

(c) Grantee, at Grantee's sole cost and expense, shall cause the Title Company to issue and deliver to Grantee a title insurance commitment to issue the Title Policy (as hereinafter defined), together with legible copies of all documents referred to in Schedule B-Part 2 thereof (collectively, as endorsed from time to time, the "Title Commitment"). Grantee shall notify Grantor and Escrow Agent of any exceptions to title that are disclosed in the Title Commitment and that are objectionable to Grantee (together herein called "Unpermitted Exceptions"), provided that Grantee agrees to accept the following exceptions to title (the "Permitted Exceptions") but not other standard exceptions set forth in an ALTA Owner's Policy (June 17, 2006) title insurance policy:

- (i) Zoning ordinances and regulations, if any;

- (ii) Real estate taxes which are a lien, but which are not due and payable as of the Closing Date; and
- (iii) Exceptions to title that have been accepted or approved by Grantee as herein provided.

In the event that Grantee so notifies Grantor of any Unpermitted Exceptions, Grantor shall have a period of thirty (30) days thereafter to cure or remove the Unpermitted Exceptions; provided, however, that Grantor shall be obligated to remove, subordinate, or obtain a partial release of any mortgages and other monetary liens against the Property. Upon the expiration of such thirty (30) day period, Escrow Agent shall notify Grantor and Grantee as to whether or not the Title Company then is in a position to issue the Title Policy, without showing the Unpermitted Exceptions as exceptions to title. If Escrow Agent shall notify the parties that the Title Company will not issue the Title Policy, without showing the Unpermitted Exceptions as exceptions to title, then Grantee, by notice delivered to Grantor and Escrow Agent within fifteen (15) days after Grantee's receipt of notice from Escrow Agent of the Title Company's refusal to issue the Title Policy, without showing the Unpermitted Exceptions as exceptions to title, shall have the right, in its sole discretion, (A) to waive the Unpermitted Exceptions by notifying Escrow Agent and Grantor within fifteen (15) days after Grantee's receipt of notice from Escrow Agent of the Title Company's refusal to issue the Title Policy, without showing the Unpermitted Exceptions as exceptions to title, in which event the obligations of the parties hereunder shall not be affected by reason thereof, the Unpermitted Exceptions shall be deemed to constitute Permitted Exceptions, and this transaction shall be consummated in accordance with the terms and conditions of this Agreement or (B) to terminate this Agreement, as contemplated by Paragraph 4(b).

#### 4. Conditions to Closing.

(a) In addition to the conditions provided elsewhere in this Agreement, the obligation of Grantee and Grantor to consummate the transaction contemplated by this Agreement shall be subject to the satisfaction or waiver in writing of each of the following conditions on or before the Closing Date:

- (i) Due diligence by Grantee, and/or its agents, licensees, employees, agencies, contractors, and subcontractors pursuant to Paragraph 3(a) shall have been performed to the satisfaction of Grantee, in its sole discretion, and the Property shall remain in the condition described in report(s) provided in conjunction with performance of such due diligence;
- (ii) Title Company shall be in a position to issue to Grantee, dated as of the date and time of Closing (as hereinafter defined), an ALTA Owner's Policy (June 17, 2006) owner's policy of title insurance, as endorsed, in the amount of which Grantee shall provide notice to Title Company, insuring that Grantee has good and marketable fee simple title to the Property, subject only to Permitted Exceptions (collectively, the "Title Policy");

- (iii) Grantee shall have obtained approval by the Probate Court of Cuyahoga County as required by O.R.C. Section 1545.11;
- (iv) Grantee shall have obtained resolution of the Board of Park Commissioners (the "Approving Resolution"), accepting conveyance of the Property; and
- (v) Grantor shall have executed and delivered to Escrow Agent the Exemption Form;
- (vi) Grantor shall have, by ordinance, authorized the transfer of the Property; and
- (vii) Grantee shall have executed for recording a Notice of Tax Exempt Bond Funding and obtained ODNR's approval of the transfer of the Property.

(b) In the event that any condition described in this Paragraph 4 or elsewhere in this Agreement with respect to the performance of the parties is not satisfied or waived in writing by Grantee on or before the date on which it is required to be satisfied, Grantee shall have the right to postpone the Closing Date or to terminate this Agreement by notice to Grantor and Escrow Agent.

5. Closing Date. The transfer of title to the Property hereunder by the filing of the Deed for record (the "Closing") shall be on or before March 20, 2019, contingent upon satisfaction or waiver of all conditions to Grantee's obligations hereunder (subject to postponement, as permitted hereunder, the "Closing Date").

6. Deposits into Escrow. On or before the Closing Date, Grantor shall deposit or cause to be deposited with Escrow Agent:

(a) Grantor's fully executed quitclaim deed in the form mutually agreed upon by the parties (the "Deed");

(b) Grantee's fully executed Notice of Tax Exempt Bond Funding and ONDR's consent to transfer of the Property;

(c) A completed Statement of Reason for Exemption From Real Property Conveyance Fee (the "Exemption Form"), showing the conveyance to be exempt pursuant to section (r) of the Exemption Form; and

(d) Such funds and other instruments in recordable form or otherwise as reasonably may be required by Escrow Agent as a condition of the closing of the escrow.

On or before the Closing Date, Grantee shall deposit or cause to be deposited into escrow with Escrow Agent:

(a) Such funds and other instruments in recordable form or otherwise as reasonably may be required by Escrow Agent as a condition of the closing of the escrow.

7. Actions by Escrow Agent. On the Closing Date, if all the funds and documents set forth in Paragraph 6 have been delivered to Escrow Agent and if all other conditions to the parties' obligation to consummate the transaction contemplated by this Agreement shall have been satisfied or waived in writing by the parties, then Escrow Agent shall:

(a) Cause the Deed and Notice of Tax Exempt Bond Funding to be filed for record in the Cuyahoga County, Ohio, Records;

(b) As of the close of business on the Closing Date, prorate, and appropriately charge the Grantor, real estate taxes and assessments, if any, both general and special, which are a lien but not yet due and payable as of the Closing Date, using the rates and valuation shown on the latest available tax duplicates;

(c) Cause the issuance and delivery to Grantee of the Title Policy;

(d) Charge to the account of Grantee the cost of recording any instruments required in order to clear title of all exceptions to title other than Permitted Exceptions; and

(e) Charge to the account of Grantee the escrow fee, the cost of the title examination and the title insurance premium for the Title Policy, the fee for recordation of the Deed, , and all other sums properly chargeable against Grantee hereunder or customarily charged to Grantee in accordance with common escrow practices in the county in which the Property is located, except as otherwise specifically provided herein to the contrary;

provided however, that, except as otherwise specifically provided herein to the contrary, in the event that this Agreement is terminated prior to the Closing Date, Escrow Agent shall return to the parties the respective funds and documents deposited in escrow by them, the parties shall be released from all obligations and liabilities otherwise thereafter accruing hereunder, and Grantee shall pay to Escrow Agent its escrow fee, the cost, if any, of the title examination and the Title Commitment, and all other sums properly chargeable by Escrow Agent.

8. Costs and Expenses. All costs and expenses related to the Commitment shall be the responsibility of Grantee. Grantee shall pay all expenses associated with the Escrow Agent and the recording fees. Grantor shall pay, on or before the Closing Date, all real estate taxes and assessments due through the Closing Date. All other closing costs and expenses shall be paid by Grantee unless otherwise agreed to the contrary.

9. Intentionally Omitted.

10. Intentionally Omitted.

11. Possession. Grantor shall deliver full and complete possession of the Property to Grantee as of Closing.

12. Notices. Unless otherwise expressly required or permitted by the terms of this Agreement, any notice, request, demand, or other communication in connection with this Agreement required or permitted to be given hereunder by the parties shall be in writing and

shall be delivered personally or served by certified or registered mail to the parties at the addresses set forth below unless different addresses are given by one party by notice to the other in accordance herewith:

As to Grantor:

City of North Royalton  
14600 State Rd  
North Royalton, Ohio 44133  
Attention: Mayor

with a copy to:

City of North Royalton  
14600 State Rd  
North Royalton, Ohio 44133  
Attention: Law Director

As to Grantee:

Cleveland Metroparks  
4101 Fulton Parkway  
Cleveland, Ohio 44144  
Attention: Chief Executive Officer

with a copy to:

Cleveland Metroparks  
4101 Fulton Parkway  
Cleveland, Ohio 44144  
Attention: Chief Legal & Ethics Officer

13. No Real Estate Brokers. Grantor and Grantee each represent and warrant to the other that no broker, finder, real estate agent, or other person has acted for such party so as to entitle such broker, finder, agent or other person to any commission in connection with the sale of the Property to Grantee. If for any reason any such commission shall become due, the party dealing with such broker, finder, agent or other person shall pay any such commission and shall be responsible for any attorneys' fees and litigation or other expenses relating to any such commission.

14. Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes any prior agreements respecting the Property between Grantor and Grantee. This Agreement may not be amended except in a writing executed by Grantor and Grantee.

15. Approval and Consent. In each case in which this Agreement provides for approval or consent, such approval or consent shall not be unreasonably withheld or delayed.

16. Survival. It is understood and agreed that all representations, warranties, covenants, and agreements and all indemnifications contained herein shall survive Closing for

the maximum period permitted by law and shall not be merged in the Deed or any other Closing document, except for Grantor's right of reverter.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement as of the date first set above.

[ SIGNATURES APPEAR ON THE FOLLOWING PAGE]

GRANTOR:

THE CITY OF NORTH ROYALTON

\_\_\_\_\_  
Robert A. Stefanik, Mayor

Approved as to legal form:

\_\_\_\_\_  
By:

GRANTEE:

BOARD OF PARK COMMISSIONERS OF THE  
CLEVELAND METROPOLITAN PARK DISTRICT

By: \_\_\_\_\_  
Brian M. Zimmerman  
Chief Executive Officer

Approved as to legal form by Rosalina M. Fini,  
Chief Legal & Ethics Officer, Cleveland  
Metroparks

  
\_\_\_\_\_  
Kyle G. Baker, JD, Senior Assistant Legal Counsel

Accepted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
Surety Title Agency, Inc.  
By: \_\_\_\_\_  
Title: \_\_\_\_\_



FISCAL OFFICER'S CERTIFICATE

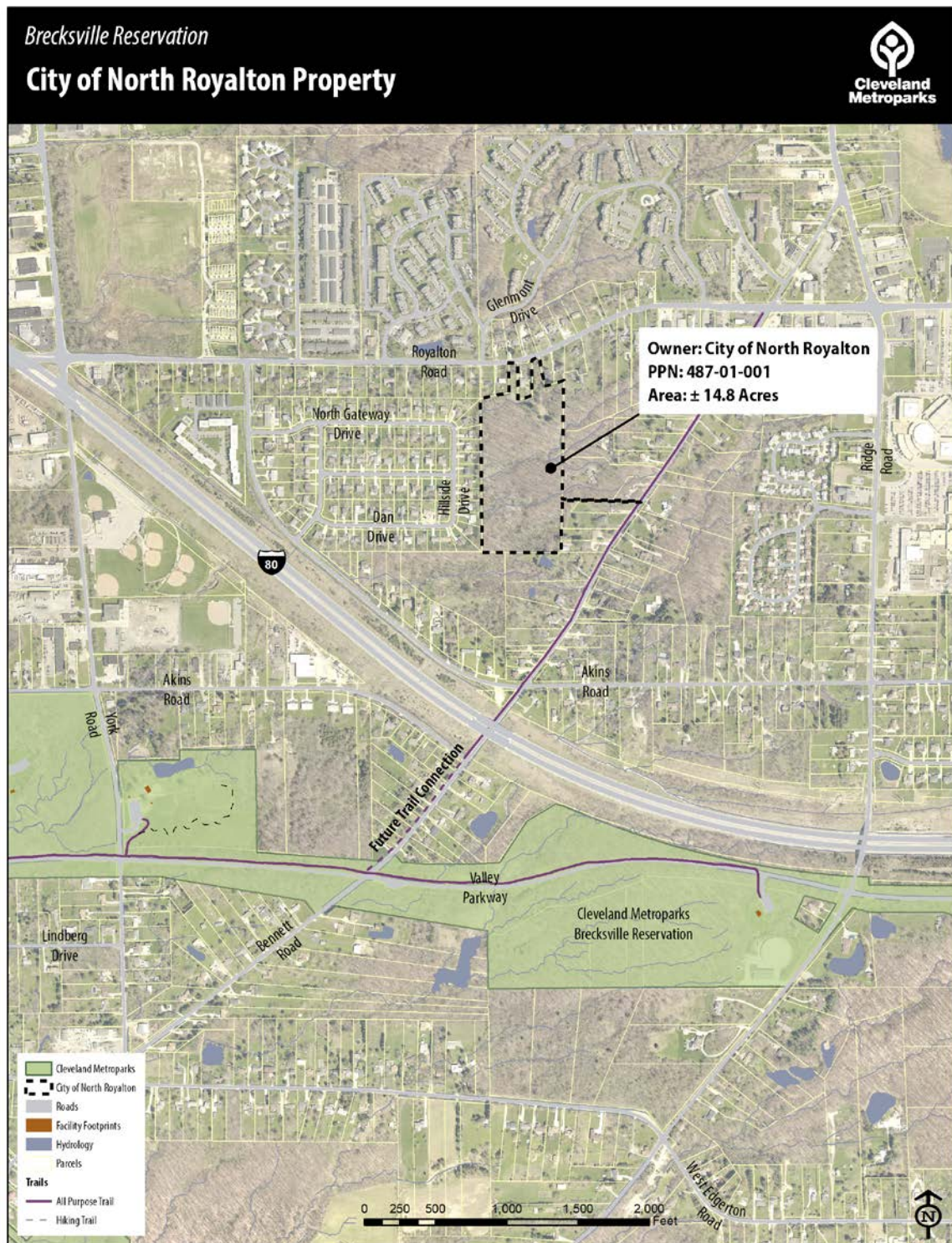
The undersigned, Chief Financial Officer of the Board of Park Commissioners of the Cleveland Metropolitan Park District (the "Board"), hereby certifies that the moneys required to meet the obligations of the Board during the year 20\_\_ under the aforesaid Agreement have been lawfully appropriated by the Board for such purposes and are in the treasury of the Board or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44 Ohio Revised Code.

\_\_\_\_\_  
Chief Financial Officer, Board of Park Commissioners  
of the Cleveland Metropolitan Park District

Dated \_\_\_\_\_, 2019

## EXHIBIT A

### Map of Property



## EXHIBIT B

### Legal Description

#### Permanent Parcel Number 487-01-001

**Parcel 1:** Situated in the City of North Royalton, County of Cuyahoga and State of Ohio and known as being part of Original Royalton Township Section No. 13 and being bounded and described as follows: Beginning on the center line of Royalton Road, 60 feet wide, at its intersection with the West line of said Section No. 13; thence North 89°56'56" East along the old center line of Royalton Road, as it existed prior to the widening of said Road as recorded in Volume 127, Page 34 of Cuyahoga County Map Records, 200.00 feet to the Northeasterly corner of land conveyed to A. Teklitz Construction Co., Inc. by deed dated August 18, 1954 and recorded in Volume 8203, Page 98 of Cuyahoga County Records and the principal place of beginning; thence continuing North 89° 56' 56" East along the old center line of Royalton Road, 60.02 feet to the Northwesterly corner of land conveyed to Otto Kutcher and Elizabeth Kutcher by deed dated 1963, and recorded in Volume 10973, Page 411 of Cuyahoga County Records; thence South 01° 39' 00" East along the Westerly line of land so conveyed to Kutcher by deed aforesaid, 260.00 feet to the Southwesterly corner thereof; thence North 70° 01' 49" East along the Southerly line of land conveyed to Kutcher by deed aforesaid, 105.33 feet to the Southeasterly corner thereof; thence North 01° 39' 00" West along the Easterly line of Kutcher's land 246.43 feet to the Northeasterly corner thereof and the old center line of Royalton Road; thence North 62° 10' 36" East along the old center line of Royalton Road, 56.56 feet to the Northwesterly corner of land conveyed to A. Teklitz Construction Co., Inc., by deed dated April 24, 1954 and recorded in Volume 8046, Page 659 of Cuyahoga County Records; thence South 11° 38' 00" East along the Westerly line of land so conveyed to A. Teklitz Construction Co., Inc., by deed aforesaid, 213.32 feet to the Southwesterly corner thereof; thence North 73° 07' 10" East along the Southerly line of land conveyed to A. Teklitz Construction Co., Inc. by deed aforesaid and along the Southerly line of land conveyed to A. Teklitz Construction Co., Inc. by deed dated April 24, 1954 and recorded in Volume 8046, Page 657 of Cuyahoga County Records, 139.18 feet to the Southeasterly corner of land so conveyed to A. Teklitz Construction Co., Inc. by deed last aforesaid and the Easterly line of land conveyed to Andrew Elek and Julia Elek by deed dated March 8, 1943 and recorded in Volume 5493, Page 358 of Cuyahoga County Records; thence South 00° 09' 50" West along the Easterly line of land so conveyed to Elek by deed aforesaid, 1203.20 feet to the Southeasterly corner of land conveyed to Elek; thence South 89° 49' 20" West along the Southerly line of land so conveyed to Elek, 544.07 feet to the Southwesterly corner thereof and the Westerly line of said Section No. 13; thence North 1° 39' 00" West along the Westerly line of said Elek's land and along the Westerly line of said Section No. 13, 1075.29 feet to the Southwesterly corner of land conveyed to A. Teklitz Construction Co., Inc. by deed dated August 18, 1954 and recorded in Volume 8203, Page 100 of Cuyahoga County Records; thence North 78°01'20" East along the Southerly line of land conveyed to A. Teklitz Construction Co., Inc., by deed last aforesaid and along the Southerly line of land conveyed to A. Teklitz Construction Co., Inc. by deed first aforesaid, 203.21 feet to the Southeasterly corner of land conveyed to A. Teklitz Construction Co., Inc. in deed first aforesaid; thence North 01° 39' 00" West along the Easterly line of land conveyed to A. Teklitz Construction Co., Inc. by deed first aforesaid, 208.00 feet to the Northeasterly corner thereof and the old center line of Royalton Road and the principal place of beginning, be the same more or less, but subject to all legal highways.

**Parcel 2:** Situated in the City of North Royalton, County of Cuyahoga and State of Ohio, and known as being part of Original Royalton Township Section No. 13, bounded and described as follows: Beginning in the center line of Bennett Road, (60 feet wide) at the Southeasterly corner of land conveyed to Franklin E. Martens by deed dated October 20, 1941, and recorded in Volume 5405, Page 487 of Cuyahoga County Records; thence Southwesterly along the center line of Bennett Road to the Northeasterly corner of land conveyed to Edward J. Gedeon and Helen E. Gedeon by deed dated October 5, 1935 and recorded in Volume 4555, Page 288 of Cuyahoga County Records; thence Westerly along the Northerly line of land so conveyed to Edward J. Gedeon and Helen E. Gedeon and along the Westerly prolongation of said Northerly line to the Easterly line of the first parcel of land conveyed to Carrie Sykes by deed dated August 4, 1939 and recorded in Volume 4975, page 174 of Cuyahoga County Records; thence Northerly along the Easterly line of the first parcel of land so conveyed to Carrie Sykes to the Southwesterly corner of land conveyed to Franklin E. Martens as aforesaid; thence Easterly along the Southerly line of land so conveyed to Franklin E. Martens to the place of beginning, be the same more or less, but subject to all legal highways.

EXHIBIT C

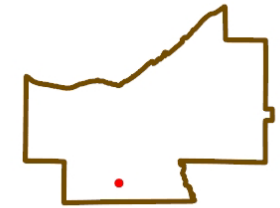
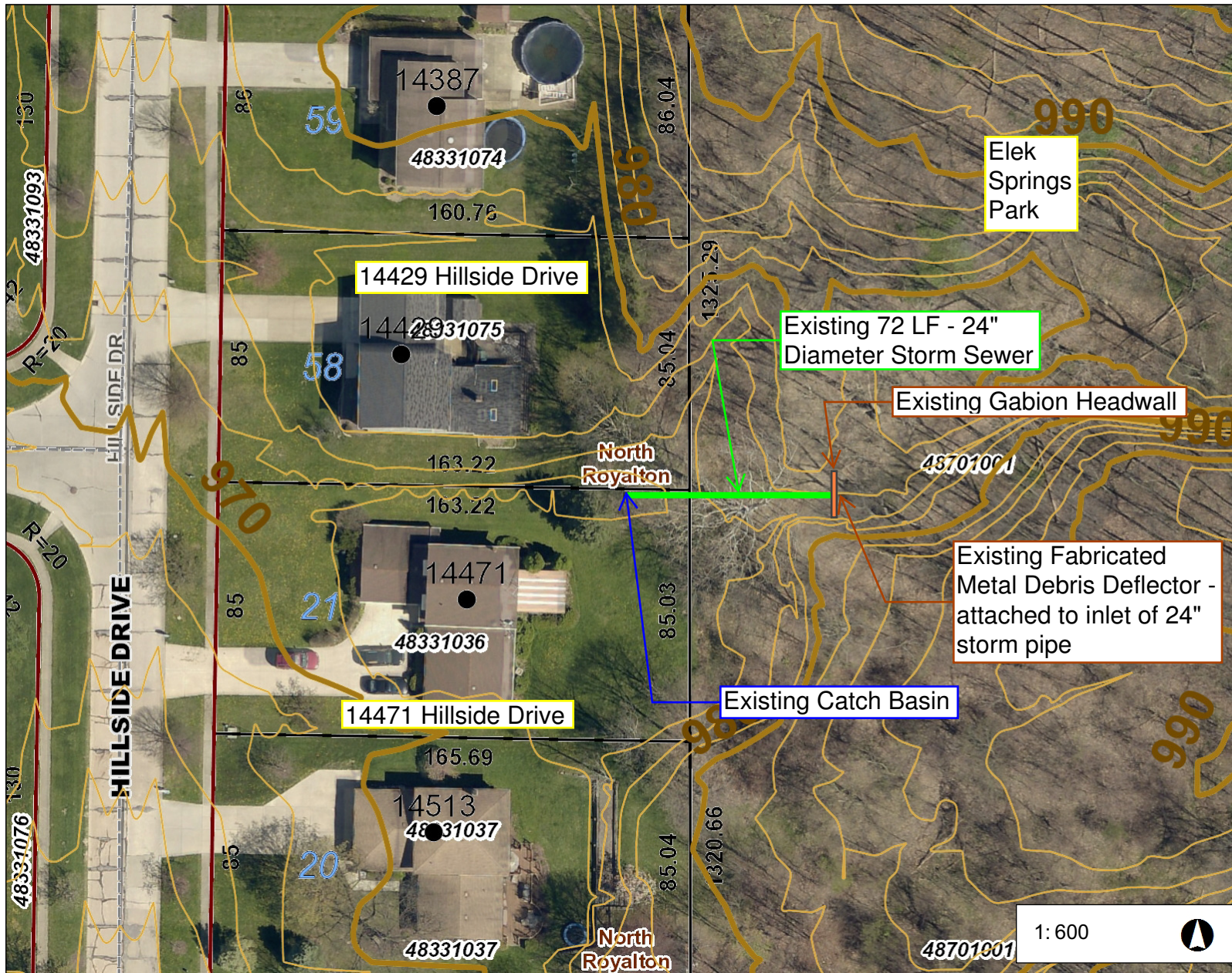
Stormwater Infrastructure

[insert]





## Elek Springs Park - Storm Sewer Exhibit



Date Created: 2/26/2019

### Legend

- Cuyahoga County Facility
- 2 Foot Elevation Contours
  - 10 Foot
  - 2 Foot
- 10 Foot Depression
- 2 Foot Depression
- Municipalities
- Point Parcels
- Air Parcels
- Right Of Way
- Platted Centerlines
- Parcels

City of North Royalton will maintain the existing gabion headwall, the existing fabricated metal debris deflector, and the existing 72 LF of 24" diameter storm sewer (as depicted on this exhibit).

100 0 50 100 Feet

Projection:  
WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION