

ASSIGNMENT OF EASEMENT RIGHTS

THIS ASSIGNMENT OF EASEMENT RIGHTS ("Agreement") is made this _____ day of _____, 2019, by and between Carnegie Residential Development Corporation ("Carnegie"), having offices at 27500 Detroit Road, Suite 300, Westlake, Ohio 44145, and the City of Avon, Ohio, an Ohio Municipal Corporation ("City") having offices at 36080 Chester Road Avon, OH 44011.

WHEREAS, Carnegie owns that certain real property depicted on the Exhibit A attached hereto and made a part hereof ("Carnegie Parcel"); and

WHEREAS, Carnegie was granted an easement to use a portion of a parcel of land located adjacent to and west of the Carnegie Parcel, which easement was filed December 7, 1998 as Instrument No. 1998-0581094, in the Lorain County, Ohio, Records ("Easement"), a copy of which is attached hereto as Exhibit B and made a part hereof, for among other purposes the right to use the Easement area to install, maintain and upgrade any and all utilities; and

WHEREAS, City has installed a 12" water main within the Easement area ("Existing Water Main"), and has requested that Carnegie connect to the Existing Water Main in order to provide municipal water service to the Carnegie Parcel; and

WHEREAS, Carnegie desires to comply with the request of City to connect to the Existing Water Main, and in order to do so, will grant to City the right to use the Easement for the operation and maintenance of a water line servicing the Carnegie Parcel;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Carnegie and City agrees as follows:

1. Carnegie hereby assigns and conveys to City the perpetual, non-exclusive right to use the Easement area for the operation, maintenance, repair and replacement of a waterline ("Waterline") servicing the Carnegie parcel.
2. Carnegie shall install the Waterline at its sole cost and expense, in accordance with plans and specifications approved by the City as part of the improvements it is required to construct in Phase 16 of the Red Tail Subdivision.

3. Upon acceptance of the improvement, the City agrees to maintain, repair and replace the Water Line as it maintains public water lines in the city of Avon, Ohio. All such work shall be performed so as to minimize any damage to the Easement area or alter the grading thereof. City shall restore any areas in the Easement area damaged in the course of its repair, maintenance or replacement of the Waterline, to as good a condition as existed prior to such work.
4. Whenever entry onto the Easement area is required for maintenance or repairs to the Waterline, Grantee shall provide Carnegie with not less than twenty-four (24) hours prior notice except when access is required in the case of emergency repairs.
5. Carnegie reserves unto itself the right to use the Easement area for any purposes that does not unreasonably interfere with the use of the Easement area by City for the Waterline, including, without limitation, the right to use a portion of the Easement area for a paved or unpaved golf cart path ("Cart Path"). No other structures shall be permitted in this easement area.
6. This Agreement is subject to all existing matters of record, and is intended to be recorded and effective immediately after the acceptance of all the public improvements in the Red Tail Subdivision No. 16 by City Council. In the event that acceptance of public improvements does not occur within two (2) years after the date hereof, this Agreement shall be null and void.
7. Any notice to be given hereunder may be in the form of an email sent to a representative of Carnegie and is deemed delivered when evidence of a delivery receipt is received by the sender. Notice may also be given by ordinary U.S. Mail with the U.S. Postal Service, deemed delivered by the date of the postmark; by certified mail, return receipt requested, or when deposited with a national overnight courier service, addressed to the recipient at the address therefor set forth above.
8. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and assigns.
9. This Agreement shall be governed by and construed in accordance with the laws of the state of Ohio.

Exhibits:

Exhibit A: Depiction of the Carnegie Parcel

Exhibit B: Copy of the Easement

IN WITNESS WHEREOF, the parties have set their hand as of the dates set forth below.

Carnegie:

The City of Avon, Ohio

Carnegie Residential Development
Corporation
an Ohio corporation

By: _____

Title: _____

By: _____
Rustom R. Khouri, President

Date: _____

Date: _____

Acknowledgment of Carnegie:

STATE OF OHIO)
) §§:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said county and state, personally appeared Rustom R. Khouri, the President of Carnegie Residential Development Corporation, an Ohio corporation, who acknowledged that he did sign the foregoing instrument for and on behalf of corporation, being thereunto duly authorized and that the same is his free act and deed individually and as such officer and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Westlake, Ohio, this _____ day of _____, 2019.

Notary Public

My commission expires: _____

Acknowledgment of City:

STATE OF OHIO)
) ss:
COUNTY OF LORAIN)

BEFORE ME, a Notary Public, in and for said county and state, personally appeared _____, the _____ of the City of Avon, Ohio, who executed the foregoing agreement, and who acknowledged that he did sign the foregoing agreement for and on behalf of said company, being thereunto duly authorized and that the same is his free act and deed individually and as such officer and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio, this _____ day of _____, 2019.

Notary Public