

Ordinance No. 1121-2021 AS AMENDED

By Council Members Spencer, Kazy,
Bishop and Kelley (by departmental
request)

AN EMERGENCY ORDINANCE

Authorizing the Directors of Public Utilities and/or Public Works to enter into one or more agreements with the Northeast Ohio Regional Sewer District to allow and accept the construction of a public restroom facility as part of NEORSD's Westerly Tunnel Dewatering Pump Station Project on property being leased by the Department of Public Utilities to the Cleveland Area Soap Box Derby Association, Inc.; authorizing the Director of Capital Projects to issue a permit to the NEORSD to encroach into the public right-of-way of Crescent Avenue by constructing and installing the public restroom facility; and to amend Contract No. 57302 regarding maintenance of the restroom facility after construction.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Directors of Public Utilities and/or Public Works is authorized to enter into one or more agreements the Northeast Ohio Regional Sewer District to allow and accept the construction of a restroom facility as part of NEORSD's Westerly Tunnel Dewatering Pump Station Project on property near the Garrett A. Morgan Water Treatment Plant being leased by the Department of Public Utilities to the Cleveland Area Soap Box Derby Association, Inc. (the "Soap Box Derby"), as a gift to the City. The agreements shall be prepared by the Director of Law and shall contain additional terms and conditions that the Director deems necessary to protect and benefit the public interest.

Section 2. That the Director of Capital Projects is authorized to issue a permit, revocable at the will of Council or the Director of Capital Projects, to the NEORSD (Permittee) to encroach into the public right-of-way of Crescent Avenue by constructing and installing the public restroom facility to which Section 1 of this ordinance refers, at the location more fully described as follows:

Encroachment Area

0.0528 Acre

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original Brooklyn Township Lot No. 50, being more definitely described as follows;

Commencing at the intersection of the centerline of Crescent Avenue (66 feet wide) and the centerline of West 54th Street (66 feet wide);

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Thence, along the centerline of Crescent Avenue, South 87° 59' 21" East, 25.82 feet to the True Point of Beginning for the encroachment herein described;

Thence, leaving said centerline, North 02° 00' 39" East, 33.00 feet to the northerly right of way of Crescent Avenue;

Thence, along the northerly right of way of Crescent Avenue, South 87° 59' 21" East, 59.00 feet;

Thence, leaving said northerly right of way of Crescent Avenue, South 02° 00' 39" West, 39.00 feet;

Thence, North 87° 59' 21" West, 59.00 feet;

Thence, North 02° 00' 39" East, 6.00 feet to the point of beginning.

Containing within said bounds of land 0.0528 acre of land (2,301 square feet) as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor No. 7730 in January, 2016.

Bearings are based on Ohio State Plane, North Zone NAD83(2011) Grid North.

The permit shall terminate without further action and the restroom facility become property of the City of Cleveland Department of Public Works upon completion of the construction and installation.

Section 3. That the Director of Law shall prepare the permit authorized by this ordinance and shall incorporate such additional provisions as the Director of Law determines necessary to protect and benefit the public interest. The permit shall be issued only when, in the opinion of the Director of Law, the prospective Permittee has properly indemnified the City against any loss that may result from the encroachment permitted.

Section 4. That Permittee may assign the permit only with the prior written consent of the Director of Capital Projects. That the encroaching structure permitted by this ordinance shall conform to plans and specifications first approved by the Manager of the City's Division of Engineering and Construction. That Permittee shall obtain all other required permits, including but not limited to Building Permits, before installing the encroachment.

Section 5. That the permit shall reserve to the City reasonable right of entry to the encroachment location.

Section 2 4. That the Director of Public Utilities and/or Public Works is authorized to enter into an amendment to Contract No. 57302 with the Soap Box Derby to require that the Soap Box Derby clean, lock, and supply the restroom facility once constructed and perform general maintenance, excluding winterization, which shall be done by the Department of Public Works annually. The amendment shall provide that the Soap Box Derby allows NEORS D access over its leased premises for purposes of constructing the restroom facility; gives NEORS D regular access to its Westerly Tunnel Dewatering Pump Station through the leased premises at a location approved by the

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parties; and gives City the right to use the public restrooms on terms that are agreeable to Soap Box Derby and City. All other terms and conditions contained in the contract shall remain the same.

Section 3.7. That the amendment shall be prepared by the Director of Law.

Section 4.8 That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

SM:nl
11-29-21

FOR: Interim Director Keane and Director Cox

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REPORT
after second Reading

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READ FIRST TIME

REPORTS

and referred to

by the council

CITY CLERK

READ SECOND TIME

by the council

CITY CLERK

READ THIRD TIME

by the council

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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