

Ordinance No. 1088-2023

By Council Members McCormack, Bishop, Hairston and Griffin (by departmental request)

AN EMERGENCY ORDINANCE
Giving consent of the City of Cleveland to the Director of Transportation of the State of Ohio to demolish and remove the Eagle Avenue lift bridge over the Cuyahoga River in the City of Cleveland; authorizing agreements; and causing payment to the State for the City's share of the improvement.

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 it is declared to be in the public interest that the consent of the City of Cleveland is given to the Director of Transportation of the State of Ohio ("the State") to construct the following improvement under plans, specifications, and estimates approved by the State: demolish and remove the Eagle Avenue lift bridge over the Cuyahoga River in the City of Cleveland, PID No. 118527 (the "Improvement").

Section 2. Consent and Cooperation

That the City shall cooperate with the Director of Transportation in the development and construction of the Improvement and shall enter into a LPA Federal ODOT Let Project Agreement, if applicable, as well as any other agreements necessary to develop and construct the Improvement. The City agrees to participate in the cost of the Improvement. The City agrees to assume and contribute the entire cost and expense of the Improvement less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of the Improvement from funds allocated by the Federal Highway Administration, United States Department of Transportation. The City agrees to assume and bear one hundred percent (100%) of the cost of preliminary engineering, right-of-way and environmental documentation. The City further agrees to pay 100% of the cost of any work included in the construction contract at the request of the City, which is determined by the State and Federal Highway Administration to be ineligible or unnecessary for the Improvement.

The City further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The State shall not approve a change order or extra work contract until it first gives notice, in writing, to the

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City. The City shall contribute its share of the cost of these items in accordance with other sections herein.

The City agrees that if Federal funds are used to pay the cost of any consultant contract, the City shall comply with 23 CFR 172 in the selection of its consultant and administration of the consultant contract. Further the City agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The City agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Improvement. The City agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

Section 3. Authority to Sign

That the Director of Capital Projects is authorized to enter into contracts with the Director of Transportation which are necessary to develop plans for and to complete the Improvement; and to execute contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Improvement. Upon request of ODOT, the Director of Capital Projects is also empowered to execute any appropriate documents to affect the assignment of all rights, title, and interests of the City to ODOT from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

Section 4. Utilities and Right-of-Way Statement

The City agrees that all right-of-way for the Improvement will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs.

The City agrees that all utility accommodation, relocation and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

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Section 5. Maintenance

That on completion of the Improvement, and unless otherwise agreed, the City shall: (1) provide adequate maintenance for the Improvement in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Improvement; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 6. That this Council requests the State to proceed with the Improvement.

Section 7. That the Director of Capital Projects is authorized to enter into any agreements necessary to implement the Improvement.

Section 8. That the Clerk of Council is authorized and directed to transmit to the State three (3) certified copies of this ordinance immediately on its taking effect, and it shall become the basis for proceeding with the Improvement.

Section 9. That this Council authorizes payment to the County for the City's share of the Improvement, payable from Fund Nos. 20 SF 568, 20 SF 574, 20 SF 579, 20 SF 586, 20 SF 592, 20 SF 597, 20 SF 702, 20 SF 712, 20 SF 718, from the fund or funds to which are credited the proceeds from the sale of any future bonds, if issued for this purpose, and from any funds approved by the Director of Finance. (RQS 0103, RLA 2023-82)

Section 10. 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.

PMA:nl
9-25-2023
FOR: Director DeRosa

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READ FIRST TIME on SEPTEMBER 25, 2023

**and referred to DIRECTORS of Capital Projects,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability,
Finance Diversity Equity and Inclusion**

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Published in the City Record _____

**REPORT
after second Reading**

PASSAGE RECOMMENDED BY
COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
**DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
**FINANCE, DIVERSITY, EQUITY
and INCLUSION**

FILED WITH COMMITTEE

