

# Ordinance No. 338-2020

By Council Members Johnson and Brancatelli (by departmental request)

## AN EMERGENCY ORDINANCE

To amend the title and Sections 1 and 3 of Ordinance No. 1532-2019, passed December 2, 2019, relating to authority to enter into a maintenance, inspection, and repair agreement and to issue an encroachment permit to encroach into the public right-of-way of Ontario Street with an overhead bridge and two precast connecting portals.

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 title and Sections 1 and 3 of Ordinance No. 1532-2019, passed December 2, 2019, are amended to read as follows:

An Emergency Ordinance authorizing the Director of the Mayor’s Office of Capital Projects to enter into a maintenance, inspection, and repair agreement with, and to issue an encroachment permit to, ~~Quintus Landlord LLC Cleveland Propco, LLC~~ and May Garage Property LLC jointly to encroach into the public right-of-way of Ontario Street with an overhead bridge and two precast connecting portals.

Section 1. That the Director of Capital Projects is authorized to enter into a maintenance, inspection, and repair agreement with, and to issue an encroachment permit, revocable at the will of Council, to ~~Quintus Landlord LLC Cleveland Propco, LLC~~ (owner of the Higbee Building having an address at 100 Public Square) (“Higbee Building”) and May Garage Property LLC (owner of the May Company Garage at 2047 Ontario Street) (“May Co. Garage”) jointly (“Permittee”) to create, construct, install, use, maintain and replace an overhead pedestrian bridge and walkway and 2 (two) precast connecting portals encroaching onto, over and within the right-of-way of Ontario Street and related sidewalks and improvements between Prospect Avenue and Public Square as shown in certain plans and descriptions dated November 11, 2019, connecting the Higbee Building and the May Co. Garage, at the following locations:

**PRECAST PORTAL ENCROACHMENT “A”  
MAY CO. GARAGE  
EAST SIDE ONTARIO STREET  
CITY OF CLEVELAND**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being within the right of way of Ontario Street (99 feet wide) and further known as being all that portion of the herein described premises lying below a horizontal plane of 722.67 feet U.S. Government Datum and together forming a parcel bounded and described as follows:

Beginning at the centerline intersection of Ontario Street (99 feet wide) and Prospect Avenue S.E. (82.5 feet wide) referenced by a stone with drill hole found in a monument box;

Thence N 33°19’48” W, along said centerline of Ontario Street, a distance of 24.69 feet to a point;

Thence N 56°40’12” E, a distance of 49.50 feet to a drill hole found (0.09’S & 0.20 E) marking the easterly line of said Ontario Street with the northerly line of said Prospect Avenue S.E.;

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Thence N 33°19'48" W, along said easterly line of Ontario Street, a distance of 176.84 feet to a point, said point being the principal point of beginning of the easement herein intended to be described;

Course No. 1: Thence S 56°40'12" W, a distance of 6.00 feet to a point;

Course No. 2: Thence N 33°19'48" W, a distance of 29.83 feet to a point;

Course No. 3: Thence N 56°40'12" E, a distance of 6.00 feet to a point on said easterly line of Ontario Street; said point being 1.54 feet northerly along said easterly line of Ontario Street from the northwesterly corner of Parcel B in a Survey and Consolidation Plat for The May Department Stores Company as shown by the plat recorded in Volume 305, Page 67 of Cuyahoga County Map Records;

Course No. 4: Thence S 33°19'48" E, along said easterly line of Ontario Street, a distance of 29.83 feet to the principal point of beginning and containing 0.0041 acres of land (179 square feet), as calculated and described by John E. Jansky, Registered Surveyor No. 6440 of Garrett and Associates in November of 2019, be the same more or less, but subject to all legal highways and easements of record.

**PRECAST PORTAL ENCROACHMENT "B"  
MAY CO. GARAGE  
WEST SIDE ONTARIO STREET  
CITY OF CLEVELAND**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being within the right of way of Ontario Street (99 feet wide) and further known as being all that portion of the herein described premises lying below a horizontal plane of 722.67 feet U.S. Government Datum and together forming a parcel bounded and described as follows:

Beginning at the centerline intersection of Ontario Street (99 feet wide) and the Bridge of Prospect Avenue N.W. (100 feet wide), as shown by the plat recorded in Volume 120, Page 37 of Cuyahoga County Map Records and referenced by a 1" iron pin found in a monument box;

Thence N 33°19'48" W, along said centerline of Ontario Street, a distance of 49.60 feet to a point;

Thence S 56°40'12" W, a distance of 49.50 feet to a drill hole found marking the westerly line of said Ontario Street with the northerly line of said Bridge of Prospect Avenue N.W.;

Thence N 33°19'48" W, along said westerly line of Ontario Street, a distance of 171.13 feet to a point, said point being the principal point of beginning of the easement herein intended to be described;

Course No. 1: Thence continuing N 33°19'48" W, along said westerly line of Ontario Street, a distance of 29.83 feet to a point;

Course No. 2: Thence N 56°40'12" E, a distance of 6.00 feet to a point;

Course No. 3: Thence S 33°19'48" E, a distance of 29.83 feet to a point;

Course No. 4: Thence S 56°40'12" W, a distance of 6.00 feet to the principal point of beginning and containing 0.0041 acres of land (179 square feet), as calculated and described by John E. Jansky, Registered Surveyor No. 6440 of Garrett and Associates in November of 2019, be the same more or less, but subject to all legal highways and easements of record.

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**OVERHEAD BRIDGE  
ENCROACHMENT OF RIGHT-OF-WAY OF ONTARIO STREET  
EASEMENT "C"  
CONNECTING MAY CO. GARAGE WITH THE CLEVELAND CASINO  
CITY OF CLEVELAND**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being within the right of way of Ontario Street (99 feet wide) and further known as being all that portion of the hereinafter described premises lying above a horizontal plane of 697.67 feet and below a horizontal plane of 722.67 feet U.S. Government Datum, together forming a parcel bounded and described as follows:

Beginning at the centerline intersection of Ontario Street (99 feet wide) and Prospect Avenue S.E. (82.5 feet wide) referenced by a stone with drill hole found in a monument box;

Thence N 33°19'48" W, along said centerline of Ontario Street, a distance of 24.69 feet to a point;

Thence N 56°40'12" E, a distance of 49.50 feet to a drill hole found (0.09' S & 0.20 E) marking the easterly line of said Ontario Street with the northerly line of said Prospect Avenue S.E.;

Thence N 33°19'48" W, along said easterly line of Ontario Street, a distance of 179.92 feet to a point, said point being the principal point of beginning of the easement herein intended to be described;

Course No. 1: Thence S 56°40'12" W, a distance of 99.00 feet to a point on the westerly line of said Ontario Street;

Course No. 2: Thence N 33°19'48" W, along said westerly line of Ontario Street, a distance of 23.67 feet to a point;

Course No. 3: Thence N 56°40'12" E, a distance of 99.00 feet to a point on said easterly line of said Ontario Street, said point being 1.55 feet southerly measured along said easterly line of Ontario Street from the northwesterly corner of Parcel B in a Survey and Consolidation Plat for The May Department Stores Company as shown by the plat recorded in Volume 305, Page 67 of Cuyahoga County Map Records;

Course No. 4: Thence S 33°19'48" E, along said easterly line of Ontario Street a distance of 23.67 feet to the principal point of beginning and containing 0.0538 acres (2343 square feet), as calculated and described by John E. Jansky, Registered Surveyor No. 6440 of Garrett and Associates in November of 2019, be the same more or less, but subject to all legal highways and easements of record.

The intent of this easement is to encompass the Pedestrian Bridge between the easterly and westerly right of ways of Ontario Street.

Legal Description approved by Greg Esber, Section Chief, Plats, Surveys and House Numbering Section.

Section 3. That the Director of Law shall prepare the agreement and permit authorized by this ordinance and shall incorporate such additional provisions as the director determines necessary to protect and benefit the public interest. The permit shall be issued only after execution of a maintenance,

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inspection, and repair agreement and only when, in the opinion of the Director of Law, Permittee has properly indemnified the City against any loss that may result from the encroachment(s) permitted. The employment of Jack Entertainment, LLC as a subcontractor to ~~Quintus Landlord LLC~~ Cleveland Propco, LLC and May Garage Property LLC for construction and maintenance of the overhead bridge and portals is hereby approved.

Section 2. That the existing title and Sections 1 and 3 of Ordinance No. 1532-2019, passed December 2, 2019, are repealed.

Section 3. 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.

JBM:nl  
3-23-20

FOR: Director Spronz

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REPORT  
after second Reading

By Council Members Johnson and Brancatelli (by departmental request)

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READ FIRST TIME on MARCH 23, 2020

REPORTS

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

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CITY CLERK

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READ SECOND TIME

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CITY CLERK

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READ THIRD TIME

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PRESIDENT

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CITY CLERK

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APPROVED

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MAYOR

Recorded Vol. 107 Page \_\_\_\_\_

Published in the City Record \_\_\_\_\_

PASSAGE RECOMMENDED BY  
COMMITTEE ON  
MUNICIPAL SERVICES  
AND PROPERTIES

FILED WITH COMMITTEE

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PASSAGE RECOMMENDED BY  
COMMITTEE ON  
DEVELOPMENT, PLANNING AND  
SUSTAINABILITY

FILED WITH COMMITTEE

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