

Ordinance No. 839-2021

By Council Members Hairston, Bishop, Brancatelli and Kelley (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Public Works to enter into a lease with Landmark At The Lake, LLC, or its approved designee, for development of apartment units and parking on a portion of PPN 105-02-002A for a term of ninety-three years; authorizing the Director to enter into a property adoption agreement with LL 55 Park, LLC, or its approved designee, to improve and maintain a public park located on a portion of 105-02-002A that is adjacent to the leased area for a term of ninety-three years; and authorizing the Director of Public Works to enter into a submerged lands lease with the State of Ohio for these portions of PPN 105-02-002A for a term of ninety-nine years.

WHEREAS, certain City-owned lakefront lands located at 5500 North Marginal Road, which includes the stub of East 55th Street that was vacated pursuant to Ord. No. 705-2019, passed October 28, 2019, all of which is now known as a portion of PPN 105-02-002A, is leased to Cleveland Metroparks as part of the Lakefront Reservation;

WHEREAS, City and Cleveland Metroparks have agreed to remove out of the Lakefront Reservation lease the portion of PPN 105-02-002A that is east of the E. 55th Street Marina property to allow the property to be redeveloped by the owner of adjacent PPN 105-01-001 as a housing development and public park; and

WHEREAS, PPN 105-01-001 is owned by Landmark At The Lake, LLC (“Landmark”) and LL 55 Park, LLC (“55 Park”) is an affiliated company of Landmark; and

WHEREAS, City intends to lease to Landmark that portion of PPN 105-02-002A that will be used for the housing development and City intends to enter into a property adoption agreement with 55 Park for that portion of PPN 105-02-002A that will be improved and maintained as public park; and

WHEREAS, City intends to enter into a submerged lands lease with the State of Ohio for the portion of PPN 105-02-002A that is removed from the Lakefront Reservation; and

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 notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Works is authorized to lease to Landmark, or its approved designee, a portion

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of PPN 105-02-002A which is not needed for public use and which is located north of North Marginal Road on the western half of the stub of East 55th Street that was vacated pursuant to Ord. No. 705-2019, passed October 28, 2019, (the “Leased Premises”) to be used as an area where apartment units and parking will be developed and is more fully described as follows:

**LEGAL DESCRIPTION OF LEASE AREA
AKA
WESTERLY HALF
OF VACATED EAST 55TH STREET
PART OF P.P.N. 105-02-002A
CLEVELAND, OHIO**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being a portion of Vacated East 55th Street (Ordinance No. 705-2019) on the Vacation Plat of part of East 55th Street of part of Original Ten Acre Lot No. 166, as shown on the plat recorded in AFN. 202001300443 of Cuyahoga County Records and further bounded and described as follows:

Beginning at a 1” iron pin in a monument box found at the intersection of the centerline of Lake Court (formerly Lake View Avenue) (50 feet wide) and the westerly right of way of East 55th Street (formerly Wilson Avenue) (100 feet wide);

Thence North 00°22’32” West along said westerly right of way of East 55th Street, 739.29 feet to the former right of way of East 55th Street as shown on City of Cleveland Survey Records C-39, also being the approximate 1925 shoreline of Lake Erie;

Thence North 37°06’12” West along said former westerly right of way of East 55th Street, 362.62 feet to a 5/8” iron pin found on a northerly right of way of North Marginal Road (width varies) at the southeasterly most corner of land so conveyed to Landmark at the Lake LLC by the deed recorded in AFN. 201912020387 of Cuyahoga County Deed Recorded;

Thence North 37°06’12” West continuing along said former westerly right of way of East 55th Street and the easterly line of land so conveyed to Landmark at the Lake LLC, 23.71 feet to a northerly right of way of North Marginal Road and the southwesterly corner of vacated East 55th Street as shown on the plat recorded in AFN. 202001300443 of Cuyahoga County Records and being the Principal Place of Beginning of the premises herein described;

Thence North 37°06’12” West continuing along the easterly line of land so conveyed to Landmark at the Lake LLC, 253.57 feet to a point;

Thence North 76°01’28” East, 54.37 feet to the centerline of said vacated East 55th Street;

Thence South 37°06’12” East along said centerline of vacated East 55th Street, 213.33 feet to the northerly right of way of North Marginal Road;

Thence South 32°12’37” West along the northerly right of way of North Marginal Road, 53.45 feet to the Principal Place of Beginning and containing 0.2680 acres of land, as described by Peter John Gauriloff, P.S. No. 8646 of The Riverstone Company in July 2020, subject to all legal highways, restrictions, reservations and easements of record.

Deeds of Reference:

Vacation East 55th Street (City of Cleveland Ordinance No. 705-2019) release of right filed in AFN. 201910090478 of Cuyahoga County Deed Records.

Basis of Bearing:

The northerly right of way of North Marginal Road as North 55°14’08” East in the Ohio Department of Transportation Plans CUY-90-17.58 and the Plat of Survey for Forest City Yacht Club, by Frank M. Cirnski P.S. 5714, Dated December 1986.

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Section 2. That the term of the lease with Landmark shall not exceed ninety-three years.

Section 3. That the property authorized to be leased by this ordinance shall be leased at \$1.00 and other valuable consideration, including Landmark's obligation to pay the submerged lands lease rent as described in Section 11 below, which is determined to be fair market value, exclusive of utilities and taxes.

Section 4. That the lease shall authorize Landmark to make improvements to, and maintain, the Leased Premises subject to the approval of the Director and other appropriate City agencies and officials.

Section 5. That, notwithstanding and as an exception to the provisions of Chapters 181 and 183 and Section 131.23 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Works is authorized to enter into a property adoption agreement with 55 Park or its approved designee, to improve and maintain a public park on a portion of PPN 105-02-002A that is located north of North Marginal Road on the eastern half of the stub of East 55th Street that was vacated pursuant to Ord. No. 705-2019, passed October 28, 2019, and City greenspace immediately to the east of the vacated right-of-way ("Park Area") which will consist of a bike path, landscaping and passive recreational improvements, including but not limited to, benches and picnic tables, and trash receptacles where appropriate and is more fully described as follows:

**LEGAL DESCRIPTION
OF
PARK ADOPTION AREA
PART OF P.P.N. 105-02-002A
CLEVELAND, OHIO**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Vacated East 55th Street (Ordinance No. 705-2019) on the Vacation Plat of part of East 55th Street of part of Original Ten Acre Lot No. 166, as shown on the plat recorded in AFN. 202001300443 of Cuyahoga County Records and a portion of Land Parcel in the Northeast Ohio Regional Sewer District Access Easement Agreement of part of Original Ten Acre Lot No. 166, as described in AFN. 201207270538 of Cuyahoga County Deed Records and further bounded and described as follows:

Beginning at a 1" iron pin in a monument box found at the intersection of the centerline of Lake Court (formerly Lake View Avenue) (50 feet wide) and the westerly right of way of East 55th Street (formerly Wilson Avenue) (100 feet wide);

Thence North 00°22'32" West along said westerly right of way of East 55th Street, 739.29 feet to the former right of way of East 55th Street as shown on City of Cleveland Survey Records C-39, also being the approximate 1925 shoreline of Lake Erie;

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Thence North $37^{\circ}06'12''$ West along said former westerly right of way of East 55th Street, 362.62 feet to a $5/8''$ iron pin found on a northerly right of way of North Marginal Road (width varies) at the southeasterly most corner of land so conveyed to Landmark at the Lake LLC by the deed recorded in AFN. 201912020387 of Cuyahoga County Deed Recorded;

Thence North $37^{\circ}06'12''$ West continuing along said former westerly right of way of East 55th Street and the easterly line of land so conveyed to Landmark at the Lake LLC, 23.71 feet to a northerly right of way of North Marginal Road and the southwesterly corner of vacated East 55th Street as shown on the plat recorded in AFN. 202001300443 of Cuyahoga County Records;

Thence North $32^{\circ}12'37''$ East along the northerly right of way of North Marginal Road, 53.45 feet to the centerline of said vacated East 55th Street and being the Principal Place of Beginning of the premises herein described;

Thence North $37^{\circ}06'12''$ West along said vacated centerline, 213.33 feet to a point;

Thence North $76^{\circ}01'28''$ East along the vacated northerly right of way of East 55th Street and the northerly line of the Service Parcel conveyed to the City of Cleveland by the deed recorded in Volume 7663, Page 48 of Cuyahoga County Deed Records, 203.27 feet to a point;

Thence South $46^{\circ}33'40''$ East along the easterly line of said Service Parcel, 11.16 feet to the northerly line of the Land Parcel described in the of Northeast Ohio Regional Sewer District Access Agreement recorded in AFN. 201207270538 of Cuyahoga County Deed Records;

Thence South $54^{\circ}27'28''$ West along said northerly line of Land Parcel, 21.03 feet to a point;

Thence South $51^{\circ}58'57''$ West, 9.92 feet to a point;

Thence South $33^{\circ}57'34''$ West, 20.94 feet to a point;

Thence South $38^{\circ}02'07''$ West, 22.88 feet to a point;

Thence South $30^{\circ}09'50''$ West, 23.14 feet to a point;

Thence South $06^{\circ}38'47''$ West, 22.44 feet to a point;

Thence South $05^{\circ}32'11''$ East, 23.27 feet to a point;

Thence South $19^{\circ}32'04''$ East, 24.39 feet to a point;

Thence South $22^{\circ}18'00''$ East, 17.50 feet to said westerly line of the Land Parcel;

Thence South $37^{\circ}06'12''$ East along said westerly line of the Land Parcel, 4.32 feet to the northerly right of way of North Marginal Road;

Thence South $32^{\circ}12'37''$ West along said northerly right of way of North Marginal Road, 58.81 feet to the Principal Place of Beginning and containing 0.4188 acres of land, as described by Peter John Gauriloff, P.S. No. 8646 of The Riverstone Company in September 2021, subject to all legal highways, restrictions, reservations and easements of record.

Deeds of Reference:

Northeast Ohio Regional Sewer District Access Agreement – East 55th Street Floatables Sewer Project as described in the easement agreement recorded in AFN. 201207270538 of Cuyahoga County Deed Records.

Basis of Bearing:

The northerly right of way of North Marginal Road as North $55^{\circ}14'08''$ East in the Ohio Department of Transportation Plans CUY-90-17.58 and the Plat of Survey for Forest City Yacht Club, by Frank M. Cirnski P.S. 5714, Dated December 1986.

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Section 6. That this property adoption shall not be construed as a conveyance of any right, title, or interest in public property, but is the grant of a privilege revocable at the will of the Director.

Section 7. That the property adoption agreement shall contain the requirement that 55 Park shall maintain the Park Area during the term of the property adoption agreement, at no cost to the City. 55 Park shall be responsible for payment to City for maintenance of the Park Area if the property adoption agreement is terminated prior to the end of its term.

Section 8. That the term of the property adoption agreement with 55 Park shall not exceed ninety-three years.

Section 9. That the Director of Public Works, the Director of Law, and other appropriate City officials are authorized to execute any other documents and certificates, and take any other actions which may be necessary or appropriate to implement this ordinance.

Section 10. That the property adoption agreement with 55 Park and the lease with Landmark shall be prepared by the Director of Law and shall contain any authorized terms and conditions as necessary to protect the interests of the City.

Section 11. That the Department of Public Works is authorized to enter into a submerged lands lease with the State of Ohio for the portions of PPN 105-02-002A that will be improved by Landmark and 55 Park as deemed necessary for a term not to exceed ninety-nine years. Landmark shall be responsible for payment of submerged lands lease rent.

Section 12. 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.

LW:nl
9-20-2021
FOR: Director Cox

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REPORT after second Reading

**By Council Members Hairston, Bishop, Brancatelli and Kelley
(by departmental request)**

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**READ FIRST TIME on SEPTEMBER 27, 2021
and referred to DIRECTORS of Public Works,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability, Finance**

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. **108** Page _____

Published in the City Record _____

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COMMITTEE ON
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AND PROPERTIES**

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COMMITTEE ON
**DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

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