

Ordinance No.1532-2019 (As Amended)

**Council Members Kelley, Johnson and Brancatelli
(by departmental request)**

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 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.

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 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 (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 encroach into the public right-of-way of Ontario Street to create,~~ **“jointly (“Permittee”)** 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 ~~for as shown in the plans~~ **as shown in certain** 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.;

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;

Ordinance No.1532-2019 (As Amended)

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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.

OVERHEAD BRIDGE

Ordinance No.1532-2019 (As Amended)

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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 2. That Permittee may assign the agreement or the permit only with the prior written consent of the Director of of Capital Projects. That the encroaching structure(s) permitted by this ordinance shall conform to plans and specifications first

Ordinance No.1532-2019 (As Amended)

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approved by the Manager of Engineering and Construction. That Permittee shall obtain all other required permits, including but not limited to Building Permits, before installing the encroachment(s).

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, 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 and May Garage Property LLC for construction and maintenance of the overhead bridge and portals is hereby approved.

Section 4. That the permit shall reserve to the City reasonable right of entry to the encroachment location(s).

Section 5. 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
12-2-19

FOR: Council President Kelley

Amendments to Ord. No. 1532-2019

THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS:

1. In Section 1, line 2, after "agreement" insert "with,"; strike line 6 in its entirety and insert "jointly ("Permittee") to create,"; and in line 10, strike "for as shown in the" and insert "as shown in certain".

2. In Section 2, line 2, strike "of of" and insert "of".

Date: _____ (Signed): _____
Stephanie Melnyk
Chief Assistant Director of Law

Ord. No. 1532-2019

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READ FIRST TIME on November 25, 2019

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

REPORTS

CITY CLERK

READ SECOND TIME

by the council

CITY CLERK

READ THIRD TIME

by the council

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. _____ Page _____

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	_____

