

Ordinance No. 877-2020

By Council Members: Polensek, Johnson, Brancatelli and Kelley (by departmental request)

An emergency ordinance to amend the title and Sections 1, 2 and 4 of Ordinance No. 699-2019, passed July 24, 2019; and to supplement the ordinance by adding new Sections 3a, 3b and 3c relating to changing a consent agreement to rehabilitate East 185th Street from Pawnee Avenue to Lake Erie in the Cities of Cleveland and Euclid from the City of Euclid to the Ohio Department of Transportation.

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, 2 and 4 of Ordinance No. 699-2019, passed July 24, 2019, are amended to read as follows:

~~An Emergency ordinance authorizing the Director of Capital Projects to enter into an agreement or agreements with the City of Euclid for the City of Euclid to design and make the public improvement of giving consent of the City of Cleveland to the Director of Transportation of the State of Ohio to construct the improvement of rehabilitating East 185th Street from Pawnee Avenue to Lake Erie; to apply for and accept any gifts or grants for this purpose from any public or private entity; authorizing and any other relative agreements, authorizing the acquisition of any real property and easements necessary to make the improvement; and cause payment for the City's share.~~

~~Section 1. That the Director of Capital Projects is authorized on behalf of the City of Cleveland ("Cleveland") to enter into an agreement or agreements with the City of Euclid ("Euclid"), to allow Euclid to design and to make the public improvement of 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: rehabilitating East 185th from Pawnee Avenue to Lake Erie, PID 113123, which is located in the Cities of Cleveland and Euclid (the "Improvement"). The Improvement shall be constructed under plans, specifications, and estimates approved by the Cities of Cleveland and Euclid. The design, construction, and supervision of the Improvement will be arranged by Euclid.~~

~~Section 2. That Cleveland agrees to participate with Euclid in the cost of the Improvement That the City gives its consent to the Improvement and its administration by the State. 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 agreement necessary to develop and construct the Improvement. The City agrees to participate in the cost of the Improvement by contributing approximately forty-seven and one-half percent (47.5%) of the total design and construction, which is estimated to be ~~\$1,670,930~~ \$1,196,798 for City's share of the Improvement. The amount of Federal, County and other construction leverage financing will be deducted from the designated projected costs prior to the application of the participatory percentages and amount of work calculated in each City. The City agrees to assume and contribute 100% of the cost of any item, included in the construction contracts at the request of the City, which are determined by the Director of Transportation to be ineligible or unnecessary for the Improvement.

Section 4. That this Council requests ~~Euclid~~ the State to proceed with the Improvement.

Section 2. That the existing title and Sections 1, 2 and 4 of Ordinance No. 699-2019, passed July 24, 2019, are repealed.

Section 3. The Ordinance No. 699-2019, passed July 24, 2019, is supplemented by adding new Sections 3a, 3b, and 3c to read as follows:

Section 3a. Authority to Sign. That the City authorizes the Director of Capital Projects to enter into and execute 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 Project. 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 of Cleveland to ODOT arising 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 3b. Utilities and Right-of-Way Statement. The City agrees to acquire and/or make available to ODOT, under current State and Federal regulations, all necessary right-of-way required for the Improvement. 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.

Section 3c. Maintenance. That upon completion of the Improvement, and unless otherwise agreed, the City shall: (1) provide adequate maintenance for the Improvement under 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 4. 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.

Referred to the Directors of Capital Projects; City Planning Commission; Finance; and Law; Committees on Municipal Services and Properties; Development, Planning and Sustainability; and Finance.