

**Ordinance No. 330-2019**

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

**An emergency ordinance authorizing the Director of Public Works to execute a deed of easement and four deeds of temporary easement granting to the Northeast Ohio Regional Sewer District certain easement rights in property at Clark Field needed for NEORS D's West 3<sup>rd</sup> Quigley / Westerly (W3QW) Miscellaneous CSO Control Project; and declaring the easement rights not needed for the City's public use.**

**WHEREAS**, the Northeast Ohio Regional Sewer District ("NEORS D") has requested the Director of Public Works to convey certain easement rights and temporary easement rights in property at Clark Field needed for NEORS D's West 3<sup>rd</sup> Quigley / Westerly (W3QW) Miscellaneous CSO Control Project; 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, it is found and determined that a permanent easement interest located near the project site is not needed for the City's public use and is further described as follows:

**Permanent Easement W3QW-P-01  
Across Parcel No. 008-29-004  
0.2193 Acre**

**Situated** in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Brooklyn Township Lot Nos. 71 and 86. Also being part of the land conveyed to City of Cleveland as recorded Volume 6492, Page 4 and Volume 6819, Page 58 of the Cuyahoga County Records, being more definitely described as follows;

**Commencing** at the intersection of the centerline of Castle Avenue S.W. (66 feet wide) and the centerline of West 11<sup>th</sup> Street (45 feet wide);

Thence, along the centerline of West 11<sup>th</sup> Street, South 09° 59' 48" East, 5.70 feet;

Thence, leaving said centerline, North 80° 00' 12" East, 22.50 feet to the easterly right of way of West 11<sup>th</sup> Street and the **True Point of Beginning** for the easement herein described;

Thence, along the easterly right of way of West 11<sup>th</sup> Street the following two courses; North 09° 59' 48" West, 2.85 feet to an angle point therein;

Thence, North 01° 06' 55" West, 163.42 feet;

Thence, leaving said easterly right of way, North 49° 17' 18" East, 355.38 feet; Thence, North 18° 42' 27" East, 166.28 feet;

Thence, North 58° 26' 35" West, 29.39 feet;

Thence, North 31° 33' 25" East, 10.00 feet;

Thence, South 58° 26' 35" East, 32.05 feet;

Thence, North 88° 41' 13" East, 215.76 feet;

Thence, North 28° 48' 26" East, 104.83 feet;

Thence, South 61° 11' 34" East, 10.00 feet;

Thence, South 28° 48' 26" West, 110.60 feet;

Thence, South 88° 41' 13" West, 219.65 feet;

Thence, South 18° 39' 10" West, 169.14 feet;

Thence, South 49° 17' 18" West, 362.44 feet;

Thence, South 01° 46' 01" East, 155.93 feet;

Thence, South 88° 14' 19" West, 4.62 feet to the point of beginning.

Containing within said bounds 0.2193 acre of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in September 2018.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

**Section 2.** That, notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that four temporary easement interests located near the project site are not needed for the City's public use and are further described as follows:

**Temporary Construction Easement W3QW-T-01A  
Across Parcel No. 008-29-004  
0.0886 Acre**

**Situated** in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Brooklyn Township Lot No. 71. Also being part of the land conveyed to City of Cleveland as recorded Volume 6492, Page 4 and Volume 6819, Page 58 of the Cuyahoga County Records, being more definitely described as follows;

**Commencing** at the intersection of the centerline of Castle Avenue S.W. (66 feet wide) and the centerline of West 11<sup>th</sup> Street (45 feet wide);

Thence, along the centerline of West 11<sup>th</sup> Street, South 09° 59' 48" East, 5.70 feet;

Thence, leaving said centerline, North 80° 00' 12" East, 22.50 feet to the easterly right of way of West 11<sup>th</sup> Street and the **True Point of Beginning** for the easement herein described;

Thence, leaving said easterly right of way, North 88° 14' 19" East, 4.62 feet; Thence, North 01° 46' 01" West, 155.93 feet;

Thence, North 49° 17' 18" East, 28.18 feet;

Thence, South 01° 06' 52" East, 45.63 feet;

Thence, South 88° 53' 01" West, 16.28 feet;

Thence, South 01° 39' 56" East, 67.26 feet;

Thence, South 47° 43' 55" East, 53.90 feet;

Thence, South 00° 07' 59" West, 34.55 feet;

Thence, South 68° 30' 46" West, 19.62 feet;

Thence, South 80° 30' 33" West, 25.92 feet to the easterly right of way of West 11<sup>th</sup> Street;

Thence, along said easterly right of way, North 09° 59' 48" West, 21.38 feet to the point of beginning.

Containing within said bounds 0.0886 acre of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in September 2018.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

**Temporary Construction Easement W3QW-T-01B**  
**Across Parcel No. 008-29-004**  
**0.0067 Acre**

**Situated** in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Brooklyn Township Lot No. 71. Also being part of the land conveyed to City of Cleveland as recorded Volume 6492, Page 4 and Volume 6819, Page 58 of the Cuyahoga County Records, being more definitely described as follows;

**Commencing** at the intersection of the centerline of Castle Avenue S.W. (66 feet wide) and the centerline of West 11<sup>th</sup> Street (45 feet wide);

Thence, along the centerline of West 11<sup>th</sup> Street, South 09° 59' 48" East, 5.70 feet;

Thence, leaving said centerline, North 80° 00' 12" East, 22.50 feet to the easterly right of way of West 11<sup>th</sup> Street;

Thence, along the easterly right of way of West 11<sup>th</sup> Street the following two courses; North 09° 59' 48" West, 2.85 feet to an angle point therein;

Thence, North 01° 06' 55" West, 163.42 feet to the **True Point of Beginning** for the easement herein described;

Thence, continuing along said easterly right of way, North 01° 06' 55" West, 22.07 feet;

Thence, leaving said easterly right of way, North 88° 53' 01" East, 25.00 feet; South 01° 06' 40" East, 1.39 feet;

Thence, South 49° 17' 18" West, 32.44 feet to the point of beginning.

Containing within said bounds 0.0067 acre of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in September 2018.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

**Temporary Construction Easement W3QW-T-02**  
**Across Parcel No. 008-29-004**  
**0.6500 Acre**

**Situated** in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Brooklyn Township Lot No. 86. Also being part of the land conveyed to City of Cleveland as recorded in Volume 6492, Page 4 and

Volume 6819, Page 58 of the Cuyahoga County Records, being more definitely described as follows;

**Commencing** at the intersection of the centerline of Castle Avenue S.W. (66 feet wide) and the centerline of West 11<sup>th</sup> Street (45 feet wide);

Thence, along the centerline of West 11<sup>th</sup> Street, South 09° 59' 48" East, 5.70 feet;

Thence, leaving said centerline, North 80° 00' 12" East, 22.50 feet to the easterly right of way of West 11<sup>th</sup> Street;

Thence, along the easterly right of way of West 11<sup>th</sup> Street the following two courses; North 09° 59' 48" West, 2.85 feet to an angle point therein;

Thence, North 01° 06' 55" West, 163.42 feet;

Thence, leaving said easterly right of way, North 49° 17' 18" East, 347.49 feet to the **True Point of Beginning** for the easement herein described;

Thence, North 40° 42' 42" West, 0.96 feet;

Thence, North 18° 39' 10" East, 152.41 feet;

Thence, North 34° 37' 27" West, 23.03 feet;

Thence, North 15° 06' 08" West, 33.14 feet;

Thence, North 74° 53' 52" East, 70.00 feet;

Thence, South 15° 06' 08" East, 40.00 feet;

Thence, North 88° 42' 30" East, 175.16 feet;

Thence, North 28° 48' 26" East, 80.85 feet;

Thence, North 00° 00' 00" East, 52.56 feet;

Thence, North 90° 00' 00" East, 90.00 feet;

Thence, South 00° 00' 00" East, 60.00 feet;

Thence, North 90° 00' 00" West, 59.85 feet;

Thence, South 28° 48' 26" West, 106.14 feet;

Thence, South 88° 42' 30" West, 217.75 feet;

Thence, South 18° 39' 10" West, 74.49 feet;  
Thence, South 35° 16' 13" East, 50.02 feet;  
Thence, South 02° 22' 58" East, 3.51 feet;  
Thence, North 88° 50' 26" East, 513.68 feet;  
Thence, South 01° 48' 46" East, 14.00 feet;  
Thence, South 88° 50' 26" West, 514.01 feet;  
Thence, South 00° 00' 57" West, 37.35 feet;  
Thence, South 89° 04' 12" West, 65.99 feet;  
Thence, North 40° 42' 42" West, 19.31 feet;  
Thence, North 49° 17' 18" East, 10.93 feet;  
Thence, North 18° 39' 10" East, 169.14 feet;  
Thence, North 88° 41' 13" East, 219.65 feet;  
Thence, North 28° 48' 26" East, 110.60 feet;  
Thence, North 61° 11' 34" West, 10.00 feet;  
Thence, South 28° 48' 26" West, 104.83 feet;  
Thence, South 88° 41' 13" West, 215.76 feet;  
Thence, North 58° 26' 35" West, 32.05 feet;  
Thence, South 31° 33' 25" West, 10.00 feet;  
Thence, South 58° 26' 35" East, 29.39 feet;  
Thence, South 18° 42' 27" West, 166.28 feet;  
Thence, South 49° 17' 18" West, 7.89 feet to the point of beginning.

Containing within said bounds 0.6500 acre of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in September 2018.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

**Temporary Construction Easement W3QW-T-03  
Across Parcel No. 008-29-004  
0.1722 Acre**

**Situated** in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Brooklyn Township Lot No. 86. Also being part of the land conveyed to City of Cleveland as recorded Volume 6492, Page 4 and Volume 6819, Page 58 of the Cuyahoga County Records, being more definitely described as follows;

**Commencing** at the intersection of the centerline of Castle Avenue S.W. (66 feet wide) and the centerline of West 11<sup>th</sup> Street (45 feet wide);

Thence, along the centerline of West 11<sup>th</sup> Street, South 09° 59' 48" East, 5.70 feet;

Thence, leaving said centerline, North 80° 00' 12" East, 22.50 feet to the easterly right of way of West 11<sup>th</sup> Street;

Thence, North 88° 14' 19" East, 4.62 feet;

Thence, North 01° 46' 01" West, 155.93 feet;

Thence, North 49° 17' 18" East, 351.50 feet;

Thence, South 40° 42' 42" East, 19.31 feet;

Thence, North 89° 04' 12" East, 65.99 feet;

Thence, North 00° 00' 57" East, 37.35 feet;

Thence, North 88° 50' 26" East, 514.01 feet to the **True Point of Beginning** for the easement herein described;

Thence, North 01° 48' 46" West, 150.00 feet;

Thence, North 88° 11' 14" East, 50.00 feet;

Thence, South 01° 48' 46" East, 150.00 feet;

Thence, South 88° 11' 14" West, 50.00 feet to the point of beginning.

Containing within said bounds 0.1722 acre of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in September 2018.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

**Section 3.** That by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to convey the above-described non-exclusive permanent easement interest and the four exclusive temporary easement interests to NEORSD at a price to be determined to be fair market value by the Board of Control.

**Section 4.** That the purpose of the permanent easement shall be to access the project site for construction and the performance of future maintenance needed for the West 3<sup>rd</sup> Quigley / Westerly (W3QW) Miscellaneous CSO Control Project.

**Section 5.** That the purpose of the temporary easements shall be for access to the construction site and construction staging.

**Section 6.** That the duration of the permanent easement shall be perpetual; that the duration of the temporary easements shall be until the West 3<sup>rd</sup> Quigley / Westerly (W3QW) Miscellaneous CSO Control Project is completed; that the permanent easement and temporary easements shall include reasonable right of entry rights to the City; that the easement and temporary easements shall not be assignable without the consent of the Director of Public Works; that the permanent easement and temporary easements shall require that NEORSD or its contractor provide reasonable insurance, and pay any applicable taxes and assessments.

**Section 7.** That the conveyances referred to above shall be made by official deed of easement and official deeds of temporary easement prepared by the Director of Law and executed by the Director of Public Works on behalf of the City of Cleveland. The deed of easement and the deeds of temporary easement shall contain any additional terms and conditions as are required to protect the interest of the City. The Directors of Public Works and Law are authorized to execute any other documents, including without limitation, contracts for right of entry, as may be necessary to affect this ordinance.

**Section 8.** 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.

**Passed April 29, 2019.**

**Effective May 1, 2019.**