

Ordinance No. 700-2019

Council Members Griffin, Bishop, Conwell, B. Jones, Hairston, Johnson, Brancatelli and Kelley (by departmental request)

AN EMERGENCY ORDINANCE

Giving consent of the City of Cleveland to the Director of Transportation of the State of Ohio for constructing the complete streets project along the East 93rd Street/Woodhill Road/East 105th Street corridor; to apply for and accept any gifts or grants for this purpose from any public or private entity; authorizing professional services, agreements with public and private entities, and any relative agreements; authorizing the Commissioner of Purchases and Supplies to acquire, accept, and record for right-of-way purposes any real property and easements necessary to make the improvement; and causing payment to ODOT of Cleveland's share of the improvement.

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 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 constructing the complete streets project to enable safe access for all users which includes roadway enhancements, bicycle and pedestrian enhancements, and transit enhancements along the East 93rd Street/Woodhill Road/East 105th Street corridor in the City of Cleveland, PID No. 108245 (the "Improvement").

Section 2. That the City is to assume and contribute the entire cost and expense of the Improvement, less the amount of Federal funds set aside by the Director of Transportation for the cost of preliminary engineering and detail design. The City agrees to assume and bear one hundred percent (100%) of the cost of right-of-way. The City agrees to assume and contribute the entire cost and expense of the Improvement less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of this Improvement from funds allocated by the Federal Highway Administration, United States Department of Transportation. The City agrees to assume and contribute one hundred percent (100%) of the cost of any items

Ordinance No. 700-2019

included in the construction contract at the request of the City, which are determined by the State not eligible or made necessary by the Improvement. The City further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The State shall not approve a change order or extra work contract until it first gives notice, in writing, to the City. The City shall contribute its share of the cost of these items in accordance with other sections herein.

Section 3. That the City agrees that if Federal funds are used to pay the cost of any consultant contract, the City shall comply with 23 CFR 172 in the selection of its consultant and administration of the consultant contract. Further the City agrees to incorporate the State's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The City agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to the State's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Improvement. The City agrees to include a completion schedule acceptable to the State and to assist the State in rating the consultant's performance through the State's Consultant Evaluation System.

Section 4. Authority to Sign. 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 Improvement.

Upon request of the State, the Director is also empowered to execute any appropriate documents to affect the assignment of all rights, title, and interests of the City to the State arising from any agreement with its consultant in order to allow the State 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.

Ordinance No. 700-2019

Section 5. 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 to be responsible for all utility accommodation, relocation, and reimbursement and agrees that all such accommodations, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Section 6. Maintenance. 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 laws, including, but not limited to, 23 USC 116; (2) provide ample financial provisions, as necessary, for 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 7. That this Council requests the State to proceed with the Improvement.

Section 8. That the Director of Capital Projects is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide design the Improvement.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Capital Projects from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Capital Projects for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts shall be prepared by the Director of Law, approved by the Director of Capital Projects and certified by the Director of Finance.

Ordinance No. 700-2019

Section 9. That the Director of Capital Projects is authorized to apply for and accept any gifts or grants for this purpose from any public or private entity, including but not limited to NOACA; and that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in this ordinance.

Section 10. That, when appropriate, the Director of Capital Projects is authorized to enter into one or more contracts with the railroads, Greater Cleveland Regional Transit Authority, the Northeast Ohio Regional Sewer District and other entities to obtain services or to acquire property rights such as easements and licenses, necessary to construct the improvements described in this ordinance.

Section 11. That the Director of Capital Projects is authorized to accept cash contributions from public or private entities, for infrastructure restoration costs associated with relocating, rehabilitating or reconstructing utility infrastructure for the Improvement. That the Director of Capital Projects is authorized to enter into agreements with the entities for this purpose.

Section 12. That the Director of Capital Projects is authorized to enter into one or more agreements with private utility companies to pay charges for the installation of underground lines in connection with the Improvement.

Section 13. That the Director of Capital Projects is authorized to enter into any agreements necessary to implement this ordinance, including but not limited to a local public agency federal agreement with ODOT.

Section 14. That, notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Commissioner of Purchases and Supplies is authorized to acquire, accept, and record for right-of-way purposes any real property and easements as is necessary to make the improvements described in this ordinance. The consideration to be paid for the property and easements shall not exceed fair market value.

Ordinance No. 700-2019

Section 15. That the Director of Capital Projects is authorized to execute on behalf of the City all documents necessary to acquire, accept, and record the property and easements and to employ and pay all fees for title companies, surveys, escrows, appraisers, and all other costs necessary for the acquisition of the property and easements.

Section 16. That the Director of Capital Projects is authorized to enter into any agreements necessary to implement the Improvement.

Section 17. That the Clerk of Council is authorized and directed to transmit to the State three (3) certified copies of this ordinance immediately on its taking effect, and it shall become the basis for proceeding with the Improvement.

Section 18. That the Director of Capital Projects is authorized to cause payment to the State of the City's share of the Improvement.

Section 19. That the cost of the contracts, payments, property acquisition, cash matches, and other expenditures authorized shall be paid from Fund Nos. 20 SF 520, 20 SF 528, 20 SF 534, 20 SF 540, 20 SF 546, 20 SF 554, 20 SF 563, 20 SF 568, 20 SF 574, 20 SF 579, 20 SF 586, the fund or funds to which are credited any gift or grant proceeds accepted under this ordinance, cash matches, cash contributions accepted and appropriated under this ordinance, and from any and all funds approved by the Director of Finance, including future bond funds if issued for this purpose.

Section 20. 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.

RC:nl
6-3-19

FOR: Director Spronz

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READ FIRST TIME on JUNE 3, 2019

REPORTS

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

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

**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

**PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE**

FILED WITH COMMITTEE

Published in the City Record _____