

Ordinance No. 783-2020

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

AN EMERGENCY ORDINANCE

To amend Sections 1, 2, 3, 6, and 7 of Ordinance No. 330-2019, passed April 29, 2019, relating to granting to the Northeast Ohio Regional Sewer District certain easement rights in property at Clark Field needed for NEORSD’s West 3rd Quigley / Westerly Miscellaneous CSO Control Project.

WHEREAS, in Ordinance No. 330-2019, passed April 29, 2019, this Council authorized that certain easement rights in property at Clark Field be granted to the Northeast Ohio Regional Sewer District (“NEORSD”) which were needed for their West 3rd Quigley / Westerly Miscellaneous CSO Control Project; and

WHEREAS, in 2019, after two unsuccessful attempts by NEORSD to bid the project, NEORSD modified their design to avoid open-cut construction in the recently remediated portion of Clark Field which will require changes to Ordinance No. 330-2019; 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 Sections 1, 2, 3, 6, and 7 of Ordinance No. 330-2019, passed April 29, 2019, are amended to read as follows:

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 11th Street (45 feet wide);~~

~~Thence, along the centerline of West 11th 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 11th Street and the **True Point of Beginning** for the easement herein described;~~

~~Thence, along the easterly right of way of West 11th 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;~~

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~~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.~~

Permanent Easement W3QW-P-01 **Across Parcel No. 008-29-004** **0.0832 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. 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 11th Street (45 feet wide);

Thence, along the centerline of West 11th 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 11th Street and the **True Point of Beginning** for the easement herein described;

Thence, along the easterly right of way of West 11th Street the following two courses;

North 09° 59' 48" West, 2.85 feet;

Thence, North 01° 06' 55" West, 420.81 feet;

Thence, leaving said easterly right of way, South 83° 22' 59" East, 61.46 feet;

Thence, North 50° 16' 40" East, 28.43 feet;

Thence, South 40° 09' 58" East, 9.78 feet;

Thence, South 49° 50' 02" West, 32.76 feet;

Thence, North 83° 22' 59" West, 55.41 feet;

Thence, South 00° 37' 51" East, 262.98 feet;

Thence, South 89° 21' 52" West, 3.02 feet;

Thence, South 00° 38' 10" East, 16.98 feet;

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Thence, South 01° 46' 02" East, 132.36 feet;

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

Containing within said bounds 0.0832 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 a temporary easement interest located near the project site is not~~ needed for the City's public use and ~~are~~ is 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 11th Street (45 feet wide);

Thence, along the centerline of West 11th 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 11th 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 11th 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;

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

Thence, along the centerline of West 11th 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 11th Street;

Thence, along the easterly right of way of West 11th 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 11th Street (45 feet wide);

Thence, along the centerline of West 11th 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 11th Street;

Thence, along the easterly right of way of West 11th 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;

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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 11th Street (45 feet wide);

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Thence, along the centerline of West 11th 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 11th 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. 7790 in September, 2018.

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

Temporary Construction Easement W3QW-T-01 **Across Parcel No. 008-29-004** **0.2393 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 11th Street (45 feet wide);

Thence, along the centerline of West 11th 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 11th 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' 02" West, 132.36 feet;

Thence, North 00° 38' 10" West, 16.98 feet;

Thence, North 89° 21' 52" East, 3.02 feet;

Thence, North 00° 37' 51" West, 262.98 feet;

Thence, South 83° 22' 59" East, 55.41 feet;

Thence, North 49° 50' 02" East, 32.76 feet;

Thence, North 40° 09' 58" West, 9.78 feet;

Thence, South 50° 16' 40" West, 28.43 feet;

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Thence, North 83° 22' 59" West, 61.46 feet to the easterly right of way of West 11th Street;

Thence, along the easterly right of way of West 11th Street, North 01° 06' 55" West, 44.40 feet;

Thence, leaving said easterly right of way, South 88° 10' 20" East, 24.27 feet;

Thence, South 85° 02' 33" East, 9.58 feet;

Thence, along the arc of a curve which deflects to the right, 27.93 feet, said curve having a radius of 39.45 feet, a central angle of 40° 34' 04", and a chord of 27.35 feet which bears South 66° 00' 54" East;

Thence, along the arc of a curve which deflects to the right, 26.19 feet, said curve having a radius of 82.66 feet, a central angle of 18° 09' 02", and a chord of 26.08 feet which bears South 36° 34' 32" East;

Thence, North 70° 26' 05" East, 13.43 feet;

Thence, South 19° 33' 55" East, 18.00 feet;

Thence, South 70° 23' 12" West, 13.10 feet;

Thence, South 14° 57' 07" East, 30.06 feet;

Thence, North 89° 28' 03" West, 72.01 feet;

Thence, South 01° 16' 37" East, 197.73 feet;

Thence, South 89° 45' 12" East, 9.56 feet;

Thence, South 01° 06' 52" East, 62.57 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 75° 20' 38" West, 45.30 feet to the easterly right of way of West 11th Street;

Thence, along the easterly right of way of West 11th Street, North 09° 59' 21" West, 21.38 feet to the point of beginning.

Containing within said bounds 0.2393 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~~ interest to NEORSD at a price ~~to be determined to be fair market value by the Board of Control.~~ of \$4,116 and other valuable consideration, which is determined to be fair market value. Ordinance No. 263-18, passed June 4, 2018 authorized future easements valued at \$29,064 to be granted to NEORSD at no cost as part of the compensation for the Charles Van Duzer property. After the passage of Ordinance Nos. 329-2019 and 995-2019 which granted easements to NEORSD at other locations, the remaining credit due to NEORSD is \$804. The easements authorized in this ordinance are valued at \$4,920. Subtracting the credit amount of \$804, the amount due the City from NEORSD for the easements authorized in this ordinance is \$4,116.

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Section 6. That the duration of the permanent easement shall be perpetual; that the duration of the temporary easements shall be until the West 3rd Quigley / Westerly (W3QW) Miscellaneous CSO Control Project is completed; that the permanent easement and temporary ~~easements~~ easement shall include reasonable right of entry rights to the City; that the easement and temporary ~~easements~~ easement shall not be assignable without the consent of the Director of Public Works; that the permanent easement and temporary ~~easements~~ easement 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~~ deed 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~~ deed 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 effect this ordinance.

Section 2. That existing Sections 1, 2, 3, 6, and 7 of Ordinance No. 330-2019, passed April 29, 2019, are repealed.

Section 3. 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
10-7-2020
FOR: Director Cox

Ord. No. 783-2020

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

AN EMERGENCY ORDINANCE

To amend Sections 1, 2, 3, 6, and 7 of Ordinance No. 330-2019, passed April 29, 2019, relating to granting to Northeast Ohio Regional Sewer District certain easement rights in property at Clark Field needed for NEORSD's West 3rd Quigley / Westerly Miscellaneous CSO Control Project.

READ FIRST TIME on OCTOBER 7, 2020
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. _____ 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

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE

