

# Ordinance No. 868-2021

**By Council Members Santana, Bishop and Brancatelli (by departmental request)**

## AN EMERGENCY ORDINANCE

Authorizing the Director of Public Works to execute a deed of easement granting to The Cleveland Electric Illuminating Company, or its designee, certain easement rights in property located in Mercedes Cotner Park; declaring that the easement rights granted are not needed for the City's public use; and authorizing payment to The Cleveland Electric Illuminating Company to release, vacate and abandon an existing easement located within the Park.

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WHEREAS, under Ordinance No. 1926-64, passed October 12, 1964, this Council authorized the Director of Public Works to grant an easement to The Cleveland Electric Illuminating Company ("CEI") in Mercedes Cotner Park to access its property; said easement being needed because of the vacation of a portion of Sunrise Road S.W.; and

WHEREAS, the existing CEI easement needs to be relocated to a different area of the Mercedes Cotner Park so that the City can make its planned improvements to Mercedes Cotner Park; and

WHEREAS, CEI is willing to release its existing access easement if it is granted a new easement within the Park property and it is paid its costs of \$18,200 to relocate access to the easement; and

WHEREAS, the new easement rights to be granted are not needed for the City's public use; 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 an easement interest in the following described property, portions of Permanent Parcel Nos. 017-26-066, 017-26-067, 017-26-068, 017-26-069, 017-26-081 and a portion of vacated Sunrise Road S.W., are not needed for the City's public use:

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**LEGAL DESCRIPTION**  
**Access Easement**  
**Mercedes Cotner Park**  
**Cleveland, Ohio**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot Nos. 132 and 133 in the E. R. Cowin Land Company Subdivision of part of Original Brooklyn Township Lot No. 15, as shown by the recorded plat in Volume 49 of Maps, Page 25 of Cuyahoga County Records, parts of Sunrise Road vacated in Volume 194 of Maps, Page 41 and Volume 194 of Maps, Page 43 of Cuyahoga County Records, and part of Sublot Nos. 1, 2 and 3 in George P. Comey's Proposed Subdivision of part of Original Brooklyn Township Lot No. 15, said premises being more particularly bounded and described as follows:

Beginning at the intersection of the easterly line of West 97th Street, 50 feet wide, and the northwesterly line of Sunrise Road S. W., 60 feet wide; thence North 00 degrees 08 minutes 42 seconds East along the easterly line of West 97th Street, a distance of 94.98 feet to the PRINCIPAL PLACE OF BEGINNING of the premises herein described;

Course No. 1: Thence continuing North 00 degrees 08 minutes 42 seconds East along the easterly line of West 97th Street, a distance of 12.00 feet to a point;

Course No. 2: Thence South 89 degrees 51 minutes 18 seconds East a distance of 29.57 feet to a point of curvature;

Course No. 3: Thence with the arc of a curve deflecting to the left, having a radius of 163.00 feet, a central angle of 65 degrees 04 minutes 19 seconds, the chord of which bears North 57 degrees 36 minutes 33 seconds East 175.33 feet, an arc distance of 185.12 feet to a point of tangency;

Course No. 4: Thence North 25 degrees 04 minutes 23 seconds East a distance of 39.16 feet to a point of curvature;

Course No. 5: Thence with the arc of a curve deflecting to the left, having a radius of 300.00 feet, a central angle of 05 degrees 38 minutes 33 seconds, the chord of which bears North 22 degrees 15 minutes 07 seconds East 29.53 feet, an arc distance of 29.54 feet to a point;

Course No. 6: Thence South 70 degrees 40 minutes 03 seconds East a distance of 10.00 feet to a point;

Course No. 7: Thence with arc of a non-tangent curve deflecting to the right, having a radius of 310.00 feet, a central angle of 00 degrees 29 minutes 23 seconds, the chord of which bears South 19 degrees 40 minutes 20 seconds West 2.65 feet, an arc distance of 2.65 feet to a point of reverse curvature;

Course No. 8: Thence with a reverse curve deflecting to the left, having a radius of 4.00 feet, a central angle of 133 degrees 08 minutes 03 seconds, the chord of which bears South 46 degrees 39 minutes 00 seconds East 7.34 feet, an arc distance of 9.29 feet to a point of reverse curvature;

Course No. 9: thence with a reverse curve deflecting to the right, having a radius of 62.00 feet, a central angle of 69 degrees 43 minutes 37 seconds, the chord of which bears South 78 degrees 21 minutes 13 seconds East 70.88 feet, an arc distance of 75.45 feet to a point of tangency;

Course No. 10: Thence South 43 degrees 29 minutes 24 seconds East a distance of 3.96 feet to a point on the centerline of Sunrise Road S. W., vacated by the aforementioned Volume 194, Page 41;

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Course No. 11: Thence South 46 degrees 28 minutes 57 seconds West along the centerline of said vacated Sunrise Road S. W., a distance of 12.00 feet to a point;

Course No. 12: Thence North 43 degrees 29 minutes 24 seconds West a distance of 3.97 feet to a point of curvature;

Course No. 13: Thence with the arc of a curve deflecting to the left, having a radius of 50.00 feet, a central angle of 111 degrees 26 minutes 13 seconds, the chord of which bears South 80 degrees 47 minutes 30 seconds West 82.63 feet, an arc distance of 97.25 feet to a point of tangency;

Course No. 14: Thence South 25 degrees 04 minutes 23 seconds West a distance of 23.46 feet to a point of curvature;

Course No. 15: Thence with the arc of a curve deflecting to the right, having a radius of 175.00 feet, a central angle of 65 degrees 04 minutes 19 seconds, the chord of which bears South 57 degrees 36 minutes 33 seconds West 188.24 feet, an arc distance of 198.75 feet to a point of tangency;

Course No. 16: Thence North 89 degrees 51 minutes 18 seconds West a distance of 29.57 feet to the Principal Place of Beginning, as described by Christopher J. Dempsey, Professional Land Surveyor No. 6914 of Dempsey Surveying Company on June 30, 2021.

Bearings are based on Grid North of the Ohio State Plane Coordinate System North Zone, NAD 83 Datum.

Section 2. That, by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to convey the above-described easement interest to CEI or its designee subject to any conditions stated in this ordinance. The consideration to be paid for this property shall be equal to the costs to be incurred by CEI related to relocation of its existing easement, and is determined to be fair market value.

Section 3. That the easement shall be non-exclusive and the purpose of the easement shall be to provide access to CEI's property located adjacent to Mercedes Cotner Park on Permanent Parcel Nos. 017-26-079 and 017-26-080.

Section 4. That the duration of the easement shall be perpetual; that the easement shall not be assignable without the consent of the Director of Public Works; that the easement shall require that CEI provide reasonable insurance or self insurance, and pay any applicable taxes and assessments attributable to the use of the easement property; and shall contain such other terms and conditions that the Director of Law determines to be necessary to protect and benefit the City.

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Section 5. That the conveyance referenced above shall be made by official deed of easement prepared by the Director of Law and executed by the Director of Public Works on behalf of the City of Cleveland. 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 6. That the Director of Public Works shall pay CEI the amount of \$18,200 in exchange for CEI releasing its existing easement authorized under the authority of Ordinance No. 1926-64, which sum represents the costs to CEI associated with the relocation of the easement, payable from Fund Nos. 20 SF 552, 20 SF 558, 20 SF 561, 20 SF 565, 20 SF 572, 20 SF 577, 20 SF 584, 20 SF 590, 20 SF 595, and 20SF 700. (RQS 0103, RL 2021-59). The Director may also pay any other costs associated with the property transaction authorized herein.

Section 7. 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  
10-4-2021  
FOR: Director Cox

