

**Ordinance No. 295-2019**

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

**An emergency ordinance authorizing the Director of Public Works to execute two deeds of easement granting to the Ohio Department of Transportation certain temporary easement rights in property needed for its Detroit-Superior Bridge Rehabilitation Project; and declaring the easement rights not needed for the City's public use.**

**WHEREAS**, the Ohio Department of Transportation ("ODOT") has requested the Director of Public Works to convey certain temporary easement rights in property needed for its Detroit-Superior Bridge Rehabilitation 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 two temporary easement interests located on parts of the current Canal Basin Parking Lot and a portion of Settler's Landing are not needed for the City's public use and are further described as follows:

PARCEL 009-T  
CUY-006-14.56

Situated in the State of Ohio, County of Cuyahoga, City of Cleveland, and being known as a part of Original Lot No. 70 and more particularly bounded and described as follows:

Commencing at the intersection of the West Street (50 feet wide) northern right of way with the Merwin Avenue (variable width) southeastern right of way at Station 121+48.36, 33.38 feet right of U.S. 6 centerline of right of way and the TRUE POINT OF BEGINNING of the parcel of land being described;

1. Thence, along the Merwin Avenue southeastern right of way North 30 degrees 37 minutes 35 seconds East a distance of 62.21 feet to an angle break at Station 122+07.96, 15.56 feet right of U.S. 6 centerline of right of way;
2. Thence, continuing along the Merwin Avenue southeastern right of way North 20 degrees 04 minutes 01 second East a distance of 206.93 feet to Station 123+92.00, 79.05 feet left of U.S. 6 centerline of right of way;

3. Thence, South 70 degrees 25 minutes 13 seconds East a distance of 21.52 feet to Station 124+02.00, 60.00 feet left of U.S. 6 centerline of right of way;
4. Thence, along a line parallel with the U.S. 6 centerline of right of way North 47 degrees 16 minutes 28 seconds East a distance of 95.87 feet to the James Street (50 feet wide) southern right of way at Station 124+97.87, 60.00 feet left of U.S. 6 centerline of right of way;
5. Thence, along the James Street southern right of way South 72 degrees 00 minutes 12 seconds East a distance of 110.69 feet to Station 125+52.00, 36.55 feet right of U.S. 6 centerline of right of way;
6. Thence, South 34 degrees 24 minutes 37 seconds West a distance of 37.95 feet to Station 125+15.00, 45.00 feet right of U.S. 6 centerline of right of way;
7. Thence, along a line perpendicular with the U.S. 6 centerline of right of way South 42 degrees 43 minutes 32 seconds East a distance of 15.00 feet to Station 125+15.00, 60.00 feet right of U.S. 6 centerline of right of way;
8. Thence, along a line parallel with the U.S. 6 centerline of right of way South 47 degrees 16 minutes 28 seconds West a distance of 100.00 feet to Station 124+15.00, 60.00 feet right of U.S. 6 centerline of right of way;
9. Thence, along a line perpendicular with the U.S. 6 centerline of right of way South 42 degrees 43 minutes 32 seconds East a distance of 40.00 feet to Station 124+15.00, 100.00 feet right of U.S. 6 centerline of right of way;
10. Thence, South 44 degrees 43 minutes 47 seconds West a distance of 45.04 feet to Station 123+70.00, 102.00 feet right of U.S. 6 centerline of right of way;
11. Thence, South 21 degrees 19 minutes 56 seconds West a distance of 82.29 feet to Station 122+96.00, 138.00 feet right of U.S. 6 centerline of right of way;
12. Thence, North 73 degrees 15 minutes 19 seconds West a distance of 90.55 feet to Station 122+50.00, 60.00 feet right of U.S. 6 centerline of right of way;
13. Thence, along a line parallel with the U.S. 6 centerline of right of way South 47 degrees 16 minutes 28 seconds West a distance of 86.54 feet to the West Street northern right of way at Station 121+63.46, 60.00 feet right of U.S. 6 centerline of right of way;
14. Thence, along the West Street northern right of way North 72 degrees 17 minutes 47 seconds West a distance of 30.60 feet to the TRUE POINT OF BEGINNING and enclosing an area of 0.9837 acres, more or less, 0.0712 acres of which is present road occupied (P.R.O.).

Excepting the following three (3) P.R.O. parcels of land conveyed to The County of Cuyahoga, Ohio for the purpose of constructing and maintaining bridge piers:

1. Parcel No. 2 as described in Volume 1479, Page 629 containing 0.0139 acres
2. Parcel No. 1 as described in Volume 1479, Page 632 containing 0.0241 acres
3. Parcel No. 2 as described in Volume 1479, Page 632 containing 0.0332 acres

Grantor claims title by deed dated November 15, 1988, and recorded in deed Volume 88-5988, Page 64 of the Cuyahoga County Records, PN 101-15-021.

Bearings for the above description are based upon the Ohio State Plane Coordinates System, North Zone, NAD83 (Conus)(Mol) datum.

The stations referred to herein are from U.S. 6 centerline of right of way, as found on Ohio Department of Transportation Right of Way Plan CUY-006-14.56.

This description was prepared and reviewed under the supervision of Scott A. Horan, P.S., Registered Surveyor No. 8678 and based upon a survey by Euthenics, Inc. for the Ohio Department of Transportation, District 12 between November 2016 and November 2017.

PARCEL 011-T  
CUY-006-14.56

Situated in the State of Ohio, County of Cuyahoga, City of Cleveland, and being known as a part of Original Lot No. 70 and more particularly bounded and described as follows:

Commencing at the intersection of the southwest property line of the Grantor with the West Superior Avenue (variable width) southeast right of way at Station 127+56.48, 187.74 feet left of U.S. 6 centerline of right of way and the TRUE POINT OF BEGINNING of the parcel of land being described;

1. Thence, along the West Superior Avenue southeast right of way North 71 degrees 24 minutes 15 seconds East a distance of 33.00 feet to the northern property line of the Grantor at Station 127+86.59, 174.25 feet left of U.S. 6 centerline of right of way;
2. Thence, along the northern property line of the Grantor South 39 degrees 27 minutes 31 seconds East a distance of 94.28 feet to a point on curve at Station 127+81.22, 80.12 feet left of U.S. 6 centerline of right of way;
3. Thence, continuing along the northern property line of the Grantor along an arc of curve to the right having a radius of 1055.25 feet, an arc length of 119.22 feet, a chord bearing South 34 degrees 58 minutes 53 seconds East, a chord length of 119.16 feet and a delta of 06 degrees 28 minutes and 23 seconds to a point of tangency at Station 127+65.17, 37.95 feet right of U.S. 6 centerline of right of way;

4. Thence, continuing along the northern property line of the Grantor South 31 degrees 44 minutes 41 seconds East a distance of 60.40 feet to Station 127+53.66, 97.24 feet right of U.S. 6 centerline of right of way;
5. Thence, South 47 degrees 39 minutes 23 seconds West a distance of 36.66 feet to Station 127+17.00, 97.00 feet right of U.S. 6 centerline of right of way;
6. Thence, North 31 degrees 21 minutes 31 seconds West a distance of 30.44 feet to Station 127+23.00, 67.15 feet right of U.S. 6 centerline of right of way;
7. Thence, South 47 degrees 33 minutes 53 seconds West a distance of 32.61 feet to Station 126+90.39, 66.99 feet right of U.S. 6 centerline of right of way;
8. Thence, along a line perpendicular to the U.S. 6 centerline of right of way North 42 degrees 43 minutes 32 seconds West a distance of 59.55 feet to Station 126+90.39, 7.44 feet right of U.S. 6 centerline of right of way;
9. Thence, North 08 degrees 07 minutes 14 seconds West a distance of 17.05 feet to the southern property line of the Grantor at Station 127+00.07, 6.59 feet left of U.S. 6 centerline of right of way;
10. Thence, along the southern property line of the Grantor North 42 degrees 41 minutes 58 seconds West a distance of 41.32 feet to Station 127+00.09, 47.91 feet left of U.S. 6 centerline of right of way;
11. Thence, continuing along the southern property line of the Grantor North 06 degrees 10 minutes 16 seconds West a distance of 23.84 feet to Station 127+14.29, 67.07 feet left of U.S. 6 centerline of right of way;
12. Thence, continuing along the southern property line of the Grantor North 46 degrees 58 minutes 11 seconds East, a distance of 30.71 feet to Station 127+45.00, 67.23 feet left of U.S. 6 centerline of right of way;
13. Thence, continuing along the southern property line of the Grantor North 37 degrees 17 minutes 05 seconds West a distance of 121.06 feet to the TRUE POINT OF BEGINNING and enclosing an area of 0.3428 acres, more or less, none of which is present road occupied.

Grantor claims title by deed dated April 27, 1990, and recorded as Volume 90-2362, Page 4 of the Cuyahoga County Records, PN 101-15-009.

Bearings for the above description are based upon the Ohio State Plane Coordinates System, North Zone, NAD83 (Conus)(Mol) datum.

The stations referred to herein are from U.S. 6 centerline of right of way, as found on Ohio Department of Transportation Right of Way Plan CUY-006-14.56.

This description was prepared and reviewed under the supervision of Scott A. Horan, P.S., Registered Surveyor No. 8678 and based upon a survey by Euthenics, Inc. for the Ohio Department of Transportation, District 12 between November 2016 and November 2017.

**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 two exclusive temporary easement interests to ODOT at the appraised value of \$259,900, which is determined to be fair market value.

**Section 3.** That the purpose of the easements shall be to provide protection under the bridge from damage during the project, to provide access to evaluate the condition of the bridge, and to provide access to make repairs to the bridge.

**Section 4.** That the duration of the temporary easements shall be until the Detroit-Superior Bridge Rehabilitation Project is completed; that the temporary easements shall include reasonable right of entry rights to the City and its contractors and partners for the Towpath Trail and Canal Basin Park projects; that the temporary easements shall not be assignable without the consent of the Director of Public Works; that the temporary easements shall require that ODOT or its contractor provide reasonable insurance, and pay any applicable taxes and assessments.

**Section 5.** That the conveyances referred to above shall be made by 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 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 6.** 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.**