

Ordinance No. 374-2022

By Council Members Bishop and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Public Works to execute a deed of easement and a deed of temporary easement granting to the Cuyahoga County Department of Public Works certain easement rights in property needed for the Warrensville Center Road Bridge Rehabilitation Project adjacent to Shaker Lakes Park; and declaring the easement rights not needed for the City's public use.

WHEREAS, the Cuyahoga County Department of Public Works (the "County") has requested the Director of Public Works to convey certain easement rights and temporary easement rights in property needed for the County's Warrensville Center Road Bridge Rehabilitation Project which is adjacent to Shaker Lakes Park (the "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 over a portion of Permanent Parcel No. 733-12-015 and further described as follows is not needed for the City's public use:

PARCEL 5-SH

Situated in the City of Shaker Heights and State of Ohio, County of Cuyahoga, Township of Warrensville, Original Lot 35 and being known as a part of "Parcel G" conveyed to The City of Cleveland by deed dated December 18, 1915 and recorded as Volume 1718, Page 568 of the Cuyahoga County Records and more particularly bounded and described as follows:

Commencing at a monument box with a 3/4 inch iron pin found at an angle break in the Warrensville Center Road (C.R. 4) (width varies) centerline of right of way and the northeast corner of said Original Lot 35 at Station 40+00.00 as shown on the Centerline Plat found in Cuyahoga County Department of Works Plan CUY-Warrensville Center Road (C.R. 4)-05.92, M-5049, thence, along the Warrensville Center Road centerline of right of way, South 00 degrees 42 minutes 48 seconds East, 171.80 feet to Station 38+28.20; thence, perpendicular with the Warrensville Center Road centerline of right of way, South 89 degrees 17 minutes 12 seconds West, 50.00 feet to the intersection of the Warrensville Center Road western right of way with the Shaker Boulevard northern right of way as shown on The Van Sweringen Co's Subdivision No. 28 plat and recorded as Plat Volume 97, Page 28 of the Cuyahoga County Records at Station 38+28.20, 50.00 feet left, and the TRUE POINT OF BEGINNING of the parcel herein;

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1. Thence, along the Shaker Boulevard northern right of way, South 89 degrees 19 minutes 57 seconds West, 12.00 feet to an iron pin set at Station 38+28.21, 62.00 feet left;
2. Thence, parallel with the Warrensville Center Road centerline of right of way, North 00 degrees 42 minutes 48 seconds West, 36.79 feet to an iron pin set at Station 38+65.00, 62.00 feet left;
3. Thence, perpendicular with the Warrensville Center Road centerline of right of way, North 89 degrees 17 minutes 12 seconds East, 7.00 feet to an iron pin set at Station 38+65.00, 55.00 feet left;
4. Thence, parallel with the Warrensville Center Road centerline of right of way, North 00 degrees 42 minutes 48 seconds West, 112.00 feet to an iron pin set at Station 39+77.00, 55.00 feet left;
5. Thence, perpendicular with the Warrensville Center Road centerline of right of way, North 89 degrees 17 minutes 12 seconds East, 5.00 feet to an iron pin set on the Warrensville Center Road western right of way at Station 39+77.00, 50.00 feet left;
6. Thence, along the Warrensville Center Road western right of way, South 00 degrees 42 minutes 48 seconds East, 148.80 feet to the TRUE POINT OF BEGINNING and enclosing an area of 0.0230 acres, more or less, 0.0060 acres of which is present road occupied.

The above-described parcel is a portion of Cuyahoga County Auditor's Parcel No. 733-12-015. Said parcel overlaps the present road occupied highway easement conveyed to the Board of County Commissioners of Cuyahoga County, Ohio by deed dated May 06, 1988 and recorded as Volume 88-1978, Page 32 of the Cuyahoga County Recorders.

The stations and offsets referred in the above description are based upon the Warrensville Center Road centerline of right of way as shown on the aforementioned M-5049 Centerline Plat.

"Iron Pin Set" in the above description is a 3/4 inch by 30 inch reinforcing rod with a 2 inch aluminum cap stamped "R/W" and "S. Horan PS8678".

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

This description was prepared by Scott A. Horan, P.S., Registered Surveyor No. 8678, and is based on a survey made by Euthenics, Inc. between April and August 2019 for the Cuyahoga County Department of Public Works.

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

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and determined that a temporary easement interest located over Permanent Parcel No. 733-12-015 and further described as follows is not needed for the City's public use:

PARCEL 5-T

Situated in the City of Shaker Heights and State of Ohio, County of Cuyahoga, Township of Warrensville, Original Lot 35 and being known as a part of "Parcel G" conveyed to The City of Cleveland by deed dated December 18, 1915 and recorded as Volume 1718, Page 568 of the Cuyahoga County Records and more particularly bounded and described as follows:

Commencing for reference on the Warrensville Center Road (**C.R. 4**) (width varies) western right of way at the intersection with the Shaker Boulevard northern right of way as shown on The Van Sweringen Co's Subdivision No. 28 plat and recorded as Plat Volume 97, Page 28 of the Cuyahoga County Records at Station 38+28.20, 50.00 feet left as shown on the Centerline Plat found in Cuyahoga County Department of Works Plan CUY-Warrensville Center Road (C.R. 4)- 05.92, M-5049, thence, along the Shaker Boulevard northern right of way, South 89 degrees 19 minutes 57 seconds West, 12.00 feet to an iron pin set at Station 38+28.21, 62.00 feet left and the TRUE POINT OF BEGINNING of the parcel herein described;

1. Thence, continuing along the Shaker Boulevard northern right of way, South 89 degrees 19 minutes 57 seconds West, 13.00 feet to Station 38+28.22, 75.00 feet left;
2. Thence, parallel with the Warrensville Center Road centerline of right of way, North 00 degrees 42 minutes 48 seconds West, 21.78 feet to Station 38+50.00, 75.00 feet left;
3. Thence, North 05 degrees 52 minutes 07 seconds East, 130.86 feet to Station 39+80.00, 60.00 feet left;
4. Thence, perpendicular with the Warrensville Center Road centerline of right of way, North 89 degrees 17 minutes 12 seconds East, 10.00 feet to the Warrensville Center Road western right of way at Station 39+80.00, 50.00 feet left;
5. Thence, along the Warrensville Center Road western right of way, South 00 degrees 42 minutes 48 seconds East, 3.00 feet to an iron pin set at Station 39+77.00, 50.00 feet left;
6. Thence, perpendicular with the Warrensville Center Road centerline of right of way, South 89 degrees 17 minutes 12 seconds West, 5.00 feet to an iron pin set at Station 39+77.00, 55.00 feet left;
7. Thence, parallel with the Warrensville Center Road centerline of right of way, South 00 degrees 42 minutes 48 seconds East, 112.00 feet to an iron pin set at Station 38+65.00, 55.00 feet left;

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Thence, perpendicular with the Warrensville Center Road centerline of right of way, South 89 degrees 17 minutes 12 seconds West, 7.00 feet to an iron pin set at Station 38+65.00, 62.00 feet left;

1. Thence, parallel with the Warrensville Center Road centerline of right of way, South 00 degrees 42 minutes 48 seconds East, 36.79 feet to the TRUE PLACE OF BEGINNING and enclosing an area of 0.0417 acres, more or less, and is from Cuyahoga County Auditor's Parcel No. 733-12-015.

The stations and offsets referred in the above description are based upon the Warrensville Center Road centerline of right of way as shown on the aforementioned M-5049 Centerline Plat.

"Iron Pin Set" in the above description is a 3/4 inch by 30 inch reinforcing rod with a 2 inch aluminum cap stamped "R/W" and "S. Horan PS8678".

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

This description was prepared by Scott A. Horan, P.S., Registered Surveyor No. 8678, and is based on a survey made by Euthenics, Inc. between April and August 2019 for the Cuyahoga County Department of Public Works.

Section 3. That the purposes of the permanent easement shall be to construct and maintain the Project and the purposes of the temporary easement shall be for grading, pullbox adjustment, and brush removal on the Project site.

Section 4. That the duration of the permanent easement shall be perpetual; that the duration of the temporary easement shall be for 24 months or until the Project is completed; that the easements may include reasonable right of entry rights to the City; that the easements shall not be assignable without the consent of the Director of Public Works; that the easements shall require that the County 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 deed of easement and official 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 deeds of easement shall contain any additional terms and conditions as are required to protect the interest of the City within the bounds of the easements. The Directors of

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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 is authorized to enter into one or more agreements with the County to implement the Project on City property.

Section 7. That by and at the Director 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 non-exclusive temporary easement interest to the County at a cost of \$1.00 and other valuable consideration, which is determined to be fair market value.

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.

GB:nl
4-18-2022
FOR: Acting Director Johnson

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REPORT
after second Reading

By Council Members Bishop and Griffin (by departmental request)

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READ FIRST TIME on APRIL 18, 2022

REPORTS

and referred to DIRECTORS of Public Works, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Finance Diversity Equity and Inclusion

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. **109** Page _____

Published in the City Record _____

PASSAGE RECOMMENDED BY
COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
**FINANCE, DIVERSITY, EQUITY
and INCLUSION**

FILED WITH COMMITTEE

