

Ordinance No. 647-2023 AS AMENDED

By Council Members Bishop and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

Giving consent of the City of Cleveland to the Director of Transportation of the State of Ohio to construct improvements at various intersections in the City under its Pedestrian Safety Improvement Project; and authorizing agreements and to cause payment of the City's share of the improvement to the State.

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: construct improvements at various intersections in the City of Cleveland under its Pedestrian Safety Improvement Project, including enhancements to pavement markings, signage, and roadway features, such as median, curb ramps, sidewalks, and signals, PID 117537 (the "Improvement").

Section 2. That the City gives its consent to the Improvement and its administration by the State. The City shall cooperate with the Director of Transportation in the development and construction of the Improvement and shall enter into a LPA Federal ODOT Let Project Agreement, if applicable, as well as any other agreement necessary to develop and construct the Improvement. The City agrees to participate in the cost of the Improvement. 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 the Improvement from funds allocated by the Federal Highway Administration, United States Department of Transportation. The City agrees to assume 100% of the cost of the right-of-way and construction engineering/inspection activities. ODOT shall provide to the City ninety percent (90%) of the eligible costs in Highway Safety Improvement Program ("HSIP") federal funds associated with the preliminary engineering preliminary development, and the City agrees to assume and bear ten percent (10%) of the costs associated with the preliminary engineering preliminary development within its municipal limits. ODOT shall

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provide to the City ninety percent (90%) of the eligible costs in HSIP federal funds associated with the preliminary engineering detailed design, and the City agrees to assume and bear ten percent (10%) of the costs associated with the preliminary engineering detailed design within its municipal limits. ODOT shall provide to the City ninety percent (90%) of the eligible costs in HSIP federal funds associated with the actual construction of the transportation improvements, and the City agrees to assume and bear ten percent (10%) of the costs associated with the actual construction of the transportation improvements within its municipal limits. The City agrees to assume and bear one hundred percent (100%) of the cost of construction engineering/inspection activities. The City further agrees to pay one hundred percent (100%) of the cost of those features requested by the City which are determined by the State and Federal Highway Administration to be unnecessary for 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. Authority to Sign. That the Director of Capital Projects is authorized to enter into 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 ODOT, the Director of Capital Projects is also empowered to execute any appropriate documents to affect the assignment of all rights, title, and interests of the City to ODOT from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to

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errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

Section 4. Utilities and Right-of-Way Statement. The City agrees to acquire and/or make available to ODOT, all necessary right-of-way required for the Improvement in accordance with current State and Federal regulations. 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 5. Maintenance. That 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 law, including, but not limited to Title 23, U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for the 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 6. That this Council requests the State to proceed with the Improvement.

Section 7. That the Director of Capital Projects is authorized to enter into any agreements necessary to implement the Improvement.

Section 8. 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 9. That this Council authorizes payment to the State of Ohio for the City's share of the cost of the Improvement from Fund Nos. 20 SF 568, 20 SF 574, 20 SF 579, 20 SF 586, 20 SF 592, 20 SF 597, 20 SF 702, 20 SF 712, from the fund or funds to which are credited the proceeds from the sale of future bonds, if issued for this purpose, and from any other funds approved by the Director of Finance. (RQS 0103, RLA 2023-55)".

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Section 9- 10. 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.

JS:nl
5-22-2023
FOR: Director DeRosa

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**REPORT
after second Reading**

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READ FIRST TIME **REPORTS**

and referred to _____

by the council _____

CITY CLERK

READ SECOND TIME

by the council _____

CITY CLERK

READ THIRD TIME

by the council _____

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. _____ Page _____

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