

Ordinance No. 869-17

**Council Members K. Johnson and Kelley
(by departmental request)**

AN EMERGENCY ORDINANCE

Giving consent of the City of Cleveland to the Director of Transportation of the State of Ohio to resurface Chester Avenue from East 93rd to Euclid Avenue and Mayfield Road from Euclid Avenue to the east corporation line; authorizing any other relative agreements; and to cause payment to the State for the City's share of the improvement.

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: resurface Chester Avenue from East 93rd to Euclid Avenue and Mayfield Road from Euclid Avenue to the east corporation line, PID No. 85401 (the "Improvement").

Section 2. That the City proposes to cooperate with the State in the cost of the Improvement by assuming and contributing the entire cost and expense of the Improvement, less the amount of federal funds allocated by the Federal Highway Administration, United States Department of Transportation. The City agrees to assume one hundred percent (100%) of the cost of preliminary and final engineering, right-of-way, and environmental engineering. Also, the City agrees to assume and contribute 100% of the cost of any items included in the construction contract at the request of the City, which are determined by the State not eligible or made necessary by the Improvement. The share of the cost of the City is estimated in the amount of \$1,004,940, but the estimated cost is to be adjusted in order that the City's ultimate share of the improvement shall correspond with the percentages of actual costs when the actual costs are determined.

Section 3. Utilities and Right-of-Way Statement. The City agrees to acquire and/or make available to ODOT, under current State and Federal regulations, all necessary right-of-way required for the Improvement. The City also understands that

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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 4. Maintenance. 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 laws, including, but not limited to, 23 USC 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 5. That the Director of Capital Projects is authorized to enter into contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Improvement and to enter into contracts with the Director of Transportation necessary to complete the above described project. Upon the request of ODOT, the Director of Capital Projects is also authorized to assign all rights, title, and interests of the City to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

Section 6. That the City agrees that if Federal Funds are used to pay the cost of any consultant contract, the City shall comply with 23 CFR 172 in the selection of its consultant and the administration of the consultant contract. Further, the City agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The City agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant

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involvement during the construction phase of the Improvement. The City agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

Section 7. That this Council requests the State to proceed with the Improvement.

Section 8. That the Director of Capital Projects is authorized to enter into any agreements necessary to implement the Improvement.

Section 9. That this Council authorizes payment to the State of the City's share of the Improvement in the estimated sum of \$1,004,940 from Fund Nos. 20 SF 520, 20 SF 528, 20 SF 534, 20 SF 540, 20 SF 546, 20 SF 554, 20 SF 563, 20 SF 568, 20 SF 574, 20 SF 579, and any and all funds approved by the Director of Finance, including future bond funds, if issued for this purpose, Request No. RQS 0103, RLA 2017-36.

Section 10. 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 11. 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.

RC:nl
7-12-17

FOR: Director Spronz

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READ FIRST TIME on JULY 12, 2017
and referred to **DIRECTORS** of Capital Projects,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties, Finance

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Published in the City Record _____

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

FILED WITH COMMITTEE

**PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE**

FILED WITH COMMITTEE
