

Ordinance No. 824-2020

By Council Members: Johnson, Brancatelli 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 construct improvements at various intersections in the City under their Pedestrian Safety Improvement Project; and authorizing agreements.

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 their Pedestrian Safety Improvement Project, including enhancements to pavement markings, signage, roadway features, such as median, curb ramps, sidewalks, and signals, PID 11330 (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 an 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 and contribute 100% of the cost of any item, included in the construction contracts at the request of the City, which are determined by the Director of Transportation to be ineligible or 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 this ordinance. 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 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 consultants shall be responsible for ongoing consultant 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 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 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. 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 5. That the City agrees to allow the Director of Transportation to act as contractual agent for the Improvement and to execute any appropriate documents of affect the assignment of all rights, title and interest of the City to the State 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 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 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.

Referred to the Directors of Capital Projects; City Planning Commission; Finance; and Law; Committees on Municipal Services and Properties; Development, Planning and Sustainability; and Finance.