

Ordinance No. 995-2021

**By Council Members McCormack,
Hairston, Bishop, Brancatelli and Kelley
(by departmental request)**

AN EMERGENCY ORDINANCE

Authorizing the Directors of Public Works and Public Utilities to execute various deeds of permanent and temporary easements granting to the Northeast Ohio Regional Sewer District certain easement rights at or under several City properties near South Marginal Road for the NEORSD’s Shoreline Consolidation Sewer Project and declaring the easement rights not needed for the City’s public use.

WHEREAS, the Northeast Ohio Regional Sewer District (“NEORSD”) has requested the Directors of Public Works and Public Utilities to convey certain easement rights and temporary easement rights at or under several City properties near South Marginal Road for NEORSD’s Shoreline Consolidation Sewer Project (“Consolidation 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 permanent easement interests in the following described properties are not needed for the City’s public use:

**Permanent Surface Access Easement
104-01-001-P1 at Parks Mall Maintenance & Streets Operations
0.1055 Acres**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot No. 154. Also being part of the land conveyed to City of Cleveland as recorded in Volume 7876, Page 604 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the northeasterly right of way of East 40th Street (99.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the northeasterly right of way of E. 40th Street, North 32° 47' 25" West, 74.77 feet to the **True Point of Beginning** for the easement herein described;

Thence, continuing along said northeasterly right of way, North 32° 47' 25" West, 39.04 feet;

Thence, leaving said northeasterly right of way, North 57° 12' 35" East, 89.60 feet;

Thence, North 87° 05' 36" East, 14.78 feet;

Thence, South 29° 42' 34" East, 18.28 feet;

Thence, North 60° 13' 07" East, 21.31 feet;

Thence, South 29° 44' 01" East, 18.80 feet;

Thence South 60° 15' 02" West, 121.89 feet to the point of beginning.

Containing within said bounds 0.1055 acres (4,594 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

**Permanent Surface Access Easement
104-01-001-P2 at Parks Mall Maintenance & Streets Operations
0.0542 Acres**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot No. 154. Also being part of the land conveyed to City of Cleveland as recorded in Volume 7876, Page 604 of the Cuyahoga County Records, being more definitely described as follows;

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Commencing at the intersection of the northeasterly right of way of East 40th Street (99.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the northeasterly right of way of East 40th Street, North 32° 47' 25" West, 51.12 feet to the **True Point of Beginning** for the easement herein described;

Thence, continuing along said northeasterly right of way, North 32° 47' 25" West, 23.65 feet;

Thence, leaving said northeasterly right of way, North 60° 15' 02" East, 100.57 feet;

Thence South 29° 44' 01" East, 23.62 feet;

Thence South 60° 15' 02" West, 99.31 feet to the point of beginning.

Containing within said bounds 0.0542 acres (2,360 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

Permanent Subterranean Easement 104-01-001-P3 at Parks Mall Maintenance & Streets Operations 0.3902 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot Nos. 154, 155 and 156. Also being part of the land conveyed to City of Cleveland as recorded in Volume 7876, Page 604 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the northeasterly right of way of East 40th Street (99.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the northeasterly right of way of E. 40th Street, North 32° 47' 25" West, 113.82 feet;

Thence, leaving said northeasterly right of way, North 57° 12' 35" East, 89.60 feet to the **True Point of Beginning** for the easement herein described;

Thence, North 58° 26' 46" East, 580.51 feet to the northeasterly line of said land conveyed to the City of Cleveland;

Thence, along the northeasterly line of said land conveyed to the City of Cleveland, South 32° 47' 25" East, 30.01 feet;

Thence, leaving the northeasterly line of said land conveyed to the City of Cleveland, South 58° 26' 46" West, 547.60 feet;

Thence, North 29° 44' 01" West, 3.98 feet;

Thence, South 60° 13' 07" West, 21.31 feet;

Thence, North 29° 42' 34" West, 18.28 feet;

Thence South 87° 05' 36" West, 14.78 feet to the point of beginning.

Containing within said bounds 0.3902 acres (16,998 square feet) of land and having a lower elevation of 509.00 and an upper elevation of 539.00 as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

Permanent Surface Easement 104-01-002A-P1 at Kirtland Park 0.0244 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot No. 158. Also being part of the land conveyed to City of Cleveland as recorded in Volume 2035, Page 630 of the Cuyahoga County Records, being more definitely described as follows;

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Commencing at the intersection of the southwesterly right of way of East 49th Street (60.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the southwesterly right of way of East 49th Street, North 32° 47' 52" West, 86.57 feet;

Thence, leaving said southwesterly right of way, South 57° 35' 40" West, 345.87 feet to the **True Point of Beginning** for the easement herein described;

Thence, South 31° 38' 29" East, 18.33 feet;

Thence, North 89° 11' 37" East, 19.14 feet;

Thence, South 00° 48' 23" East, 10.00 feet;

Thence, South 89° 06' 02" West, 13.16 feet;

Thence, South 58° 00' 47" West, 30.00 feet;

Thence, North 31° 38' 05" West, 30.00 feet;

Thence North 58° 00' 28" East, 30.00 feet to the point of beginning.

Containing within said bounds 0.0244 acres (1062 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

Permanent Subterranean Easement 104-01-002A-P2 at Kirtland Park 0.4704 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot Nos. 156, 157 and 158. Also being part of the land conveyed to City of Cleveland as recorded in Volume 1567, Page 268 and Volume 2035, Page 630 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the southwesterly right of way of East 49th Street (60.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the southwesterly right of way of East 49th Street, North 32° 47' 52" West, 86.57 feet;

Thence, leaving said southwesterly right of way, South 57° 35' 40" West, 345.87 feet;

Thence, South 58° 00' 28" West, 30.00 feet to the **True Point of Beginning** for the easement herein described;

Thence, South 31° 38' 05" East, 30.00 feet;

Thence, South 58° 24' 33" West, 682.66 feet to the southwesterly line of said land conveyed to the City of Cleveland;

Thence, along the southwesterly line of said land conveyed to the City of Cleveland, North 32° 47' 25" West, 30.01 feet;

Thence, leaving the southwesterly line of said land conveyed to the City of Cleveland, North 58° 24' 33" East, 683.26 feet to the point of beginning.

Containing within said bounds 0.4704 acres (20,489 square feet) of land and having a lower elevation of 507.00 and an upper elevation of 537.00 as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

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**Permanent Subterranean Easement
104-01-002A-P3 at Kirtland Park
0.2359 Acres**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot Nos. 156, 157 and 158. Also being part of the land conveyed to City of Cleveland as recorded in Volume 2035, Page 630 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the southwesterly right of way of East 49th Street (60.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the southwesterly right of way of East 49th Street, North 32° 47' 52" West, 56.57 feet to the **True Point of Beginning** for the easement herein described;

Thence, leaving said southwesterly right of way, South 57° 35' 40" West, 331.02 feet;

Thence, North 00° 48' 23" West, 1.92 feet;

Thence, South 89° 11' 37" West, 19.14 feet;

Thence, North 31° 38' 29" West, 18.33 feet;

Thence, North 57° 35' 40" East, 345.87 feet to the southwesterly right of way of East 49th Street;

Thence, along said southwesterly right of way, South 32° 47' 52" East, 30.00 feet to the point of beginning.

Containing within said bounds 0.2359 acres (10,276 square feet) of land and having a lower elevation of 506.00 and an upper elevation of 536.00 as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

**Permanent Subterranean Easement
104-02-010-P at Kirtland Pump Station
0.6170 Acres**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot Nos. 159, 160, 161 and 162. Also being part of the land conveyed to City of Cleveland as recorded in Volume 651, Page 224 and 226 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the Northeasterly right of way of East 49th Street (60.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the northeasterly right of way of East 49th Street, North 32° 47' 52" West, 43.14 feet to the **True Point of Beginning** for the easement herein described;

Thence, continuing along said northeasterly right of way, North 32° 47' 52" West, 30.00 feet;

Thence, leaving said northeasterly right of way, North 57° 35' 40" East, 895.84 feet to the northeasterly line of said land conveyed to the City of Cleveland;

Thence, along the northeasterly line of said land conveyed to the City of Cleveland, South 32° 48' 03" East, 30.00 feet;

Thence, leaving the northeasterly line of said land conveyed to the City of Cleveland, South 57° 35' 40" West, 895.90 feet to the point of beginning.

Containing within said bounds 0.6170 acres (26,876 square feet) of land and having a lower elevation of 505.00 and an upper elevation of 535.00 as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

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**Permanent Subterranean Easement
104-02-016-P at Vacant Parcel Adjacent to CPP Pole Yard
0.2714 Acres**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Parcel "C" in Lot Split Plat of part of Original Ten Acre Lot Nos. 162 and 163, as recorded in Volume 372, Page 66 of the Cuyahoga County Map Records. Also being part of the land conveyed to City of Cleveland as recorded in Volume 7606, Page 266 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the southwesterly corner of said Parcel "C";

Thence, along the southwesterly line of said Parcel "C", North 32° 48' 03" West, 43.77 feet to the **True Point of Beginning** for the easement herein described;

Thence, continuing along the southwesterly line of said Parcel "C", North 32° 48' 03" West, 30.00 feet;

Thence, leaving the southwesterly line of said Parcel "C", North 57° 33' 53" East, 394.08 feet to the northeasterly line of said Parcel "C";

Thence, along the northeasterly line of said Parcel "C", South 32° 47' 52" East, 30.00 feet;

Thence, leaving the northeasterly line of said Parcel "C", South 57° 33' 53" West, 394.07 feet to the point of beginning.

Containing within said bounds 0.2714 acres (11,822 square feet) of land and having a lower elevation of 503.00 and an upper elevation of 533.00 as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North. Elevations are based on NAVD88 vertical datum.

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 and determined that temporary easement interests in the following described properties are not needed for the City's public use:

**Temporary Construction Easement
104-01-001-T at Parks Mall Maintenance & Streets Operations
0.7066 Acres**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot Nos. 154 and 155. Also being part of the land conveyed to City of Cleveland as recorded in Volume 7876, Page 604 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the northeasterly right of way of East 40th Street (99.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the northeasterly right of way of East 40th Street, North 32° 47' 25" West, 113.82 feet to the **True Point of Beginning** for the easement herein described;

Thence, continuing along said northeasterly right of way, North 32° 47' 25" West, 42.99 feet;

Thence, leaving said northeasterly right of way, North 57° 25' 51" East, 185.01 feet;

Thence, North 28° 56' 38" East, 53.46 feet;

Thence, North 54° 40' 21" East, 128.24 feet;

Thence, South 35° 19' 39" East, 85.24 feet;

Thence, South 56° 44' 40" West, 180.86 feet;

Thence, South 36° 15' 57" East, 74.02 feet;

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Thence, South 57° 20' 18" West, 177.21 feet;
Thence, North 29° 20' 35" West, 23.56 feet;
Thence, North 60° 15' 02" East, 87.47 feet;
Thence, North 29° 44' 01" West, 23.62 feet;
Thence, North 60° 15' 02" East, 21.32 feet;
Thence, North 29° 44' 01" West, 18.80 feet;
Thence, South 60° 13' 07" West, 21.31 feet;
Thence, North 29° 42' 34" West, 18.28 feet;
Thence, South 87° 05' 36" West, 14.78 feet;
Thence South 57° 12' 35" West, 89.60 feet to the point of beginning.

Containing within said bounds 0.7066 acres (30,780 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

Temporary Construction Easement 104-01-002A-T at Kirtland Park 0.5767 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Ten Acre Lot Nos. 157 and 158. Also being part of the land conveyed to City of Cleveland as recorded in Volume 2035, Page 630 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the intersection of the southwesterly right of way of East 49th Street (60.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

Thence, along the southwesterly right of way of East 49th Street, North 32° 47' 52" West, 56.57 feet;

Thence, leaving said southwesterly right of way, South 57° 35' 40" West, 325.00 feet to the **True Point of Beginning** for the easement herein described;

Thence, South 37° 11' 13" East, 12.96 feet;

Thence, South 52° 48' 47" West, 174.93 feet;

Thence, North 37° 12' 25" West, 128.39 feet;

Thence, North 52° 43' 57" East, 217.73 feet;

Thence, along the arc of a curve which deflects to the left, 24.28 feet, said curve having a radius of 122.46 feet, a central angle of 11° 21' 37", and a chord of 24.24 feet which bears South 29° 56' 17" East;

Thence, South 33° 06' 01" East, 40.89 feet;

Thence, along the arc of a curve which deflects to the right, 35.89 feet, said curve having a radius of 45.36 feet, a central angle of 45° 19' 53", and a chord of 34.96 feet which bears South 12° 05' 51" East;

Thence, along the arc of a curve which deflects to the right, 24.86 feet, said curve having a radius of 45.48 feet, a central angle of 31° 19' 13", and a chord of 24.55 feet which bears South 26° 15' 21" West;

Thence, South 37° 11' 13" East, 8.27 feet to the point of beginning.

Containing within said bounds 0.6011 acres (26,185 square feet) of land

Excepting therefrom the following described parcel;

Commencing at the intersection of the southwesterly right of way of East 49th Street (60.00 feet wide) and the southeasterly line of said land conveyed to City of Cleveland;

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Thence, along the southwesterly right of way of East 49th Street, North 32° 47' 52" West, 86.57 feet;

Thence, leaving said southwesterly right of way, South 57° 35' 40" West, 345.87 feet to the **True Point of Beginning** for the easement herein described;

Thence, South 31° 38' 29" East, 18.33 feet;

Thence, North 89° 11' 37" East, 19.14 feet;

Thence, South 00° 48' 23" East, 10.00 feet;

Thence, South 89° 06' 02" West, 13.16 feet;

Thence, South 58° 00' 47" West, 30.00 feet;

Thence, North 31° 38' 05" West, 30.00 feet;

Thence North 58° 00' 28" East, 30.00 feet to the point of beginning.

Containing within said bounds 0.0244 acres (1,062 square feet) of land

Net parcel containing within said bounds 0.5767 acres (25,123 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

Temporary Construction Easement 104-02-016-T at Vacant Parcel Adjacent to CPP Pole Yard 0.8057 Acres

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Parcel "C" in Lot Split Plat of part of Original Ten Acre Lot Nos. 162 and 163, as recorded in Volume 372, Page 66 of the Cuyahoga County Map Records. Also being part of the land conveyed to City of Cleveland as recorded in Volume 7606, Page 266 of the Cuyahoga County Records, being more definitely described as follows;

Commencing at the southwesterly corner of said Parcel "C";

Thence, along the southwesterly line of said Parcel "C", North 32° 48' 03" West, 189.35 feet;

Thence, leaving said southwesterly line of said Parcel "C", North 57° 11' 57" East, 86.36 feet to the **True Point of Beginning** for the easement herein described;

Thence, North 54° 45' 24" East, 199.38 feet;

Thence, South 35° 03' 09" East, 131.05 feet;

Thence, North 62° 04' 47" East, 103.74 feet to the northeasterly line of said Parcel "C";

Thence, along the northeasterly line of said Parcel "C", South 32° 47' 52" East, 20.01 feet;

Thence, leaving the northeasterly line of said land conveyed to the City of Cleveland, South 62° 07' 59" West, 102.96 feet;

Thence, South 35° 03' 09" East, 20.26 feet;

Thence, South 57° 59' 19" West, 156.90 feet;

Thence, South 54° 45' 24" West, 42.16 feet;

Thence North 35° 14' 36" West, 162.47 feet to the point of beginning.

Containing within said bounds 0.8057 acres (35,098 square feet) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor, No. 7730 in August, 2020.

Bearings are based on the Ohio State Plane, North Zone, NAD83(2011) Grid North.

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Section 3. That by and at the direction of the Board of Control, the Director of Public Works or Public Utilities, as applicable, and the Commissioner of Purchases and Supplies is authorized to convey the above-described easement interests to the NEORS D subject to any conditions stated in this ordinance at an appraised price of \$150,434, which is determined to be fair market value. Specifically, \$94,534 shall be revenue for the Department of Public Works; \$32,900 shall be revenue for the Department of Public Utilities, Cleveland Public Power; and \$23,000 shall be revenue for the Department of Public Utilities, Division of Water.

Section 4. That the purpose of the easements shall be for the implementation of NEORS D's Consolidation Project; and that said improvements shall be subterranean and also include surface and/or subsurface improvements at shaft sites.

Section 5. That the duration of the non-exclusive permanent easements described in Section 1 shall be perpetual; that the duration of the exclusive temporary easements described in Section 2 shall not exceed two years; that the permanent and temporary easements may include reasonable right of entry rights to the City; that the permanent and temporary easements shall not be assignable without the consent of the Directors of Public Works or Public Utilities, as applicable; that the permanent and temporary easements shall require that the NEORS D provide reasonable insurance, and pay any applicable taxes and assessments caused by its usage of the easement properties.

Section 6. That the conveyances referred to above shall be made by official deeds of easement prepared by the Director of Law and executed by the Director of Public Works or Director of Public Utilities, as applicable, 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. The Directors of Public Works or Public Utilities, as applicable, and Director of 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 7. 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.

LW:nl
11-8-2021
FOR: Directors Cox and Interim Director Keane

Ord. No. 995-2021

REPORT
after second Reading

By Council Members McCormack, Hairston, Bishop, Brancatelli and Kelley
(by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Directors of Public Works and Public Utilities to execute various deeds of permanent and temporary easements granting to the Northeast Ohio Regional Sewer District certain easement rights at or under several City properties near South Marginal Road for the NEORS D's Shoreline Consolidation Sewer Project and declaring the easement rights not needed for the City's public use.

READ FIRST TIME on NOVEMBER 8, 2021
and referred to DIRECTORS of Public Works, Public Utilities,
City Planning Commission, Finance, Law
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability, Finance

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. **108** Page _____

Published in the City Record _____

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

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
**DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE

