

# Ordinance No. 1085-2023

**By Council Members Kazy, Slife, Bishop, Hairston and Griffin (by departmental request)**

## AN EMERGENCY ORDINANCE

Giving consent of the City of Cleveland to the County of Cuyahoga for the resurfacing of West 140<sup>th</sup> Street from Puritas Avenue to Lakewood Heights Boulevard; authorizing the Director of Capital Projects to enter into agreements; to apply for and accept an allocation of County Motor Vehicle License Tax Funds; to apply for and accept any gifts or grants from any public or private entity; and to cause payment to the County 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. Consent. That it is declared to be in the public interest that the consent of the City of Cleveland is given to the County of Cuyahoga (the "County") to construct the following improvement under plans, specifications, and estimates approved by the County: resurfacing of West 140<sup>th</sup> Street from Puritas Avenue to Lakewood Heights Boulevard, County ID No. 1383 (the "Improvement").

Section 2. Cooperation

- (a) That the City will cooperate with the County in the Improvement.
- (b) That the County will arrange for the preparation of construction plans and specifications, including necessary engineering reports for the Improvement, under current Cuyahoga County standards for construction of County roads and bridges.
- (c) That the County will arrange for the supervision and administration of the construction project.

Section 3. Funding

- (a) That the City agrees to participate with the County in the cost of the Improvement by an allocation from the County Motor Vehicle License Tax Fund to pay the County portion of the project.
- (b) That if the Improvement is financed with State or Federal-aid funds, eligible costs of the Improvement shall be financed from the aforesaid funds.
- (c) That if funds administered by the Ohio Public Works Commission are used for the Improvement, the amount of such funds will be deducted from designated project costs prior to the application of the participatory percentages specified in this ordinance.
- (d) Within the corporate limits of the City, the City will be responsible for 40% and the County will be responsible for 60% of the cost of the preparation of construction plans and specifications, including necessary engineering reports for the Improvement.
- (e) Within the corporate limits of the City, the City shall contribute 50% of the Non-Federal Share, and the County will be responsible for 50% of the Non-Federal Share of the cost of construction and construction supervision.

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(f) That the City agrees to deposit with the Treasurer of Cuyahoga County the City's share of the estimated cost of the project or agrees to enter into an escrow agreement with the County prior to an award of a contract for the Improvement.

Section 4. Maintenance. That upon completion of the Improvement, the City will keep the highway open to traffic at all times; and

(a) Maintain the Improvement in accordance with the provisions of the statutes relating thereto and make ample financial provisions for the maintenance;

(b) Maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the County and hold the right-of-way inviolate for public highway purposes and permit no signs, posters, billboards, roadside stands or other private installations within the right-of-way limits;

(c) That the County shall continue to maintain any bridge (defined as a structure with a span of ten feet or greater) located within the limits of the Improvement under the applicable sections of the Revised Code; and

(d) After construction of the Improvement is complete, the City agrees to follow and maintain post-construction Best Management Practices as outlined in the Municipal Storm Water Permit that is filed with the Ohio Environmental Protection Agency.

Section 5. Traffic. That on completion of the Improvement, the City will keep the highway open to traffic at all times; and

(a) Place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the Improvement in compliance with the provisions of Section 4511.11 of the Revised Code and other related sections of the Revised Code;

(b) That the street or highway within the limits of the Improvement is designated a through highway as provided in division (A)(6) of Section 4511.07 of the Revised Code;

(c) That stop signs affecting the movement of traffic on the street or highway within the Improvement shall be removed, and no stop signs shall be erected on same except at its intersection with another through highway where traffic does not warrant the installation of a traffic control signal but where the warrants for a "Four-Way Stop" as provided in the above-mentioned Manual are met;

(d) That no rule or regulation shall be enacted restricting the use of the Improvement by any class of vehicle or vehicle load permitted by the Revised Code to use a public highway. Any existing rule or regulation so restricting road usage is rescinded; and

(e) The City shall regulate parking in the following manner: Prohibit parking under Section 4511.66 of the Revised Code unless otherwise controlled by local ordinance or resolution.

Section 6. Right-of-Way

(a) That all existing street and public right-of-way within the City which is necessary for the Improvement shall be made available.

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(b) That in the event any additional right-of-way is required, the City will arrange for the acquisition.

## Section 7. Utilities

(a) That the City will make arrangements with and obtain agreements from all privately-owned public utility companies whose lines or structures will be affected by the Improvement, and the companies have agreed to make any and all necessary arrangements in such a manner as to be clear of any construction called for by the plans for the Improvement, and the companies have agreed to make necessary arrangements immediately after notification by the City.

(b) That the County will pay the costs of alterations of governmentally-owned utility facilities which come within the provisions of Section 8204 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual to the same extent that it participates in the other costs of the Improvement, provided, however, that such participation will not extend to any additions or betterments of existing facilities.

(c) That it is agreed that the City shall cooperate with the County to make all arrangements of governmentally-owned utilities and/or appurtenances that do not comply with the provisions of Section 8204 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual, whether inside or outside the corporate limits, as may be necessary to conform to the Improvement.

(d) That the construction, reconstruction, and/or arrangement of all utilities shall be done in a manner as not to interfere unduly with the operation of the contractor constructing the Improvement, and all backfilling of trenches made necessary by utility rearrangements shall be performed under the provisions of the ODOT Construction and Material Specifications.

## Section 8. Miscellaneous

(a) That if the County is formally requested by ordinance of this Council to include the construction of sanitary sewers, water lines, area sewers (drainage of area surrounding the Improvement), sidewalks, alternate bid items, or other items in the Improvement that are in addition to those now existing and not provided for elsewhere in this ordinance, the County will do so, provided that the construction meets with the approval of the County and the City; and that the City agrees to pay, or make arrangements for the payment of the cost of the construction, cost of preliminary and design engineering, and construction supervision.

(b) For purposes of this ordinance, the agent for the County and liaison officer shall be the County Engineer of Cuyahoga County, Ohio, and/or such members of his staff as he may designate.

(c) That the City agrees to conduct this transaction by electronic means and agrees that all documents requiring County signatures may be executed by electronic means, and that the electronic signatures affixed by the County to the documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. The City also agrees on behalf of the aforementioned entities and persons to be bound by the provisions of Chapters 304 and 1306 of the Revised Code as they pertain to electronic signature policy of the County.

Section 9. That the Director of Capital Projects is authorized to enter into any agreements necessary to implement this ordinance.

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Section 10. That the Director of Capital Projects is authorized to apply to the County for approval to use County Motor Vehicle License Tax funds to pay for the Improvement, to accept the funds and to file all papers and execute all documents necessary to receive the funds; and that the funds are appropriated for the purposes set forth above.

Section 11. That the Director of Capital Projects is authorized to apply for and accept any gifts or grants for this purpose from any public or private entity; and that the Director is authorized to file all papers and execute all documents necessary to receive the funds under this ordinance; and that the funds are appropriated for the purposes described in this ordinance.

Section 12. That the Director of Capital Projects is authorized to accept cash contributions from public or private entities, for infrastructure costs associated with the Improvement. That the Director of Capital Projects is authorized to enter into agreements with the entities for this purpose.

Section 13. That this Council requests the County to proceed with the Improvement.

Section 14. That the Clerk of Council is directed to transmit to the County three (3) certified copies of this ordinance immediately on its taking effect.

Section 15. That this Council authorizes payment to the County for the City's share of the Improvement, payable 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, 20 SF 718, from the fund or funds to which are credited grant proceeds or cash gifts and the proceeds from the sale future bonds, if issued for this purpose, and from any funds approved by the Director of Finance. (RQS 0103, RLA 2023-84)

Section 16. 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.

SM:nl  
9-25-2023  
FOR: Director DeRosa

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By Council Members Kazy, Slife, Bishop, Hairston and Griffin  
(by departmental request)

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**READ FIRST TIME on SEPTEMBER 25, 2023**

**REPORTS**

and referred to **DIRECTORS of Capital Projects, City Planning Commission, Finance, Law; COMMITTEES on Municipal Services and Properties, Development Planning and Sustainability, Finance Diversity Equity and Inclusion**

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CITY CLERK

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READ SECOND TIME

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CITY CLERK

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READ THIRD TIME

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PRESIDENT

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CITY CLERK

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APPROVED

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MAYOR

Recorded Vol. **110** Page \_\_\_\_\_

Published in the City Record \_\_\_\_\_

**REPORT**  
after second Reading

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

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

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

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