

# Ordinance No. 143-2019

**Council Members Cleveland and Kelley  
(by departmental request)**

## **AN EMERGENCY ORDINANCE**

To amend the title and Sections 1, 2, and 4 of Ordinance No. 700-16, passed August 10, 2016, as amended; and to supplement the ordinance by adding new Sections 3a and 3b, relating to the public improvement of rehabilitating the storm and sanitary sewer systems in and around the IX Center and discharge centers and constructing infrastructure improvements needed for the rehabilitation and to authorize a design build contract to make the improvement and real estate and easement acquisition.

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WHEREAS, Ordinance No. 700-16, passed August 10, 2016, as amended by Ordinance No. 1329-18, passed December 3, 2018, authorized the Director of Port Control to enter into a public improvement contract for the rehabilitation of the storm and sanitary sewer system in and around the IX Center and discharge centers and constructing infrastructure improvements needed for the rehabilitation; and

WHEREAS, the unique design, time, budgetary, or other material elements of this project can benefit from the special care, coordination, and expeditiousness possible by performance of both the professional design services and the construction under a design-build approach contract with a single entity; and

WHEREAS, the Department of Port Control wishes to amend Ordinance No. 700-16, to authorize a design-build contract for the improvement; 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 the title and Sections 1, 2, and 4 of Ordinance No. Ordinance No. 700-16, passed August 10, 2016, as amended by Ordinance No. 1329-18, passed December 3, 2018, are amended to read as follows:

An emergency ordinance determining the method of making the public improvement of designing and constructing the rehabilitation of ~~rehabilitating~~ the storm and sanitary sewer systems in and around the IX Center and discharge centers, and constructing infrastructure improvements needed for the rehabilitation; ~~and~~ authorizing the Director of Port Control to enter into one or more public improvement contracts for the making of the improvement; ~~and~~ authorizing the Commissioner of Purchases and Supplies to acquire various rights and interests in real property.

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Section 1. That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of designing and constructing the rehabilitation of ~~rehabilitating~~ the storm and sanitary sewer systems in and around the IX Center and discharge centers, and constructing infrastructure improvements needed for the rehabilitation (the "Improvement"), for the Department of Port Control, by one or more design-build contracts duly let to the ~~lowest responsible bidder or bidders after competitive bidding on a unit basis for the improvement~~ the person, firm, or corporation or combination of them submitting the best proposal, taking into consideration the engineering and design, the construction method, the proposed design and construction costs, the total life-cycle costs, the qualifications of the proposed design professional and construction firm, and the other objectives of the Improvement.

Section 2. ~~That the Director of Port Control is authorized to enter into one or more contracts for the making of the public improvement with the lowest responsible bidder or bidders after competitive bidding on a unit basis for the improvement, provided, however, that each separate trade and each distinct component part of the improvement may be treated as a separate improvement, and each, or any combination, of the trades or components may be the subject of a separate contract on a unit basis. That the selection of the person, firm, or corporation to design and construct the Improvement shall be made by the Board of Control on the nomination of the Director of Port Control from a list of qualified and available persons, firms, or corporations, as may be determined by the Director of Port Control after making a full and complete canvass for the purpose of compiling the list. The Board of Control shall fix the total compensation to be paid for all design and construction and procurement necessary for the Improvement. The contract or contracts shall be prepared by the Director of Law, approved by the Director of Port Control, and certified by the Director of Finance.~~

Section 4. That the cost of the improvement, property and interest acquisition, and other expenditures authorized shall be paid from Fund Nos. 60 SF 001, 60 SF 104, 60 SF 105, 60 SF 106, 60 SF 115, 60 SF 116, 60 SF 122, 60 SF 126, 60 SF 128, 60 SF 130, 60 SF 141, 60 SF 160, 60 SF 167, 60 SF 168, passenger facility charges if authorized, from the fund or subfunds to which are credited the proceeds from the sale of bonds authorized by Ordinance No. 666-18, passed May 21, 2018, if the City sells such bonds and are authorized for the purposes of this ordinance, and from the fund or subfunds to which are credited the proceeds of any grant received for this project, Request No. RQS 3001, RL 2016-64.

Section 2. That the existing title and Sections 1, 2, and 4 of Ordinance No. Ordinance No. 700-16, passed August 10, 2016, as amended by Ordinance No. 1329-18, passed December 3, 2018, are repealed.

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Section 3. That Ordinance No. 700-16, passed August 10, 2016, as amended by Ordinance No. 1329-18, passed December 3, 2018, is supplemented by adding new Sections 3a. and 3b. to read as follows:

Section 3a. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is authorized to purchase, lease, or otherwise acquire easements, fee interests, licenses, permits and other rights or interests in real property necessary for the Improvement. The consideration to be paid shall not exceed fair market value.

Section 3b. That the Director of Port Control is authorized to execute on behalf of the City, all documents necessary to acquire rights or interests in real property and to employ and pay all fees for title companies, surveys, escrows, appraisers, and other consultants and all other costs necessary for the acquisition or use of the rights or interests in the property.

Section 4. 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.

RB:nl  
1-28-19

FOR: Director Kennedy

Council Members Cleveland and Kelley (by departmental request)

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**READ FIRST TIME on JANUARY 28, 2019**  
**and referred to DIRECTORS of Port Control,**  
**City Planning Commission, Finance, Law;**  
**COMMITTEES on Transportation, Finance**

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

PASSAGE RECOMMENDED BY  
COMMITTEE ON  
TRANSPORTATION

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY  
COMMITTEE ON  
FINANCE

FILED WITH COMMITTEE