

# Ordinance No. 633-2019

**Council Members McCormack, Johnson and Kelley (by departmental request)**

## **AN EMERGENCY ORDINANCE**

Giving consent of the City of Cleveland to the County of Cuyahoga for the resurfacing Rockefeller Avenue from Broadway Avenue to Central Furnace Drive; to apply for and accept an allocation of County Motor Vehicle License Tax Funds for the improvement; authorizing the Director of Capital Projects to enter into one or more contracts for the construction, design, and any relative agreements in making the improvement.

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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 participate in the cost of resurfacing Rockefeller Avenue from Broadway Avenue to Central Furnace Drive, County Project ID No. 1259 (the "Improvement").

### Section 2. Cooperation

- (a) That the City will cooperate with the County in the Improvement.
- (b) That the City will arrange for the preparation of construction plans and specifications, including necessary engineering reports for the improvements to conform to generally accepted engineering practices and principles.
- (c) That the City will arrange for the supervision and administration of the construction project.
- (d) That the County will review the construction plans for conformance with division (b) of this section. County approval of plans and specifications is required prior to the advertisement of the construction contract. The County will make an inspection of the completed project.
- (e) That the City shall agree to provide the County with a complete set of as-built plans upon the completion of the 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; and by applying to the County to use the License Tax Funds for the Improvement.
- (b) That the County shall contribute fifty percent (50%) of the cost of construction which is determined to be eligible by the Cuyahoga County Engineer's policies up to a maximum of \$250,000. The anticipated construction cost for this project is \$728,040. To determine funding eligibility, the County shall be notified immediately of any significant changes to the scope of work and/or construction cost.

# Ordinance No. 633-2019

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(c) That 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 County not eligible or made necessary by 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 the structural elements of any bridge (defined as a structure with a span of twenty 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, if applicable, 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.

# Ordinance No. 633-2019

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## 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.

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

## Section 7. Utilities

(a) The City will make arrangements with and obtain agreements from privately owned public utility companies whose lines or structures will be affected by the said improvement, and said 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 of said improvement, and said companies have agreed to make such necessary arrangements immediately after notification by said City.

(b) That the County will pay the cost of alterations of governmentally-owned utility facilities which come within the provisions of Section 8301 (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 project, provided, however, that such participation will not extend to any additions or betterments of existing facilities.

(c) The City shall cooperate with the County to, make all arrangements of governmentally-owned utilities and/or appurtenances thereto which do not comply with the Provisions of Section 8301 (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 said improvement.

(d) That the construction, reconstruction, and/or arrangement of all utilities shall be done in such a manner as not to interfere unduly with the operation of the contractor constructing the improvement, and all backfilling of trenches made necessary by such utility rearrangements shall be performed in accordance with the provision of the Ohio Department of Transportation 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 City agrees to pay, or make arrangements for the payment of the cost of the construction, the 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.

# Ordinance No. 633-2019

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(c) That, under the provisions of Chapters 304 and 1306 of the Revised, code, 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.

Section 9. That the Director of Capital Projects is authorized to apply to the County for an allocation from the County Motor Vehicle License Tax Fund to pay the County portion of the Improvement.

Section 10. That the Director of Capital Projects is authorized to enter into agreements with the County necessary to complete the Improvement.

Section 11. That this Council requests the County to proceed with the Improvement.

Section 16. That this Council authorizes payment of the City’s share of the Improvement which is currently estimated to be \$478,040, payable 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, 20 SF 586, from future bonds if issued for this purpose, and from any fund or funds approved by the Director of Finance. (RQS 0103, RL 2019-32)

Section 12. 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 13. 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  
5-13-19  
FOR: Director Spronz

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REPORT  
after second Reading

Council Members McCormack, Johnson and Kelley (by departmental request)

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READ FIRST TIME on MAY 13, 2019  
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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PASSAGE RECOMMENDED BY  
COMMITTEE ON  
MUNICIPAL SERVICES  
AND PROPERTIES

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY  
COMMITTEE ON  
FINANCE

FILED WITH COMMITTEE