

# Ordinance No. 635-2019

**Council Members Conwell, Hairston, Johnson, Brancatelli and Kelley (by departmental request)**

## **AN EMERGENCY ORDINANCE**

Authorizing the Mayor to apply to the District One Public Works Integrating Committee for state funding for the rehabilitation of portions of East 105th Street; to apply for and accept gifts and grants from various entities for the improvement; authorizing the Director of Capital Projects to enter into contracts and agreements to design and construct the improvement and other agreements needed to implement the improvement; and authorizing the Commissioner of Purchases and Supplies to acquire, accept, and record for right-of-way purposes real property and easements necessary to make the improvement.

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WHEREAS, under Article VIII, Section 2k of the Ohio Constitution, the State of Ohio is authorized to issue bonds and other obligations of the State for the purpose of financing public infrastructure capital improvements of political subdivisions as designated by law; and

WHEREAS, under Section 164.03 of the Revised Code, the District One Public Works Integrating Committee has been created to evaluate applications for state financing of capital improvement projects of local subdivisions in Cuyahoga County; 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 Mayor is authorized to apply to the District One Public Works Integrating Committee for state funding for the rehabilitation of portions of East 105<sup>th</sup> Street from Greenlawn Avenue to North City Limits ( the "Improvement").

Section 2. That the Mayor is authorized to apply to the District One Public Works Integrating Committee for state funding in the form of a loan or grant, or a combination of both, to obtain credit enhancements and loan assistance in support of the city's bonds issued for bridge and road improvements for the Improvement.

Section 3. That the Mayor is authorized to accept one or more loans or grants from the Ohio Public Works Commission, acting by and through its Director, to finance the Improvement; that the Mayor is authorized to file all papers and execute all

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documents necessary to receive the funds under the loan or grant; and that the funds are appropriated for the purposes described in this ordinance.

Section 4. That the Director of Capital Projects is authorized to apply for and accept gifts or grants or other funds from public or private entities, that the Director is authorized to file all papers and execute all documents necessary to receive the funds; and that the funds are appropriated for the purposes of this ordinance.

Section 5. That, provided the City sells future bonds authorized for the purposes of this ordinance, the City of Cleveland is obligated to provide cash matching funds in the amount of the local share.

Section 6. That, provided the City sells future bonds authorized for the purposes of this ordinance, the Director of Capital Projects is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional design, engineering and construction services necessary for the Improvement.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Capital Projects from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Capital Projects for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts shall be prepared by the Director of Law, approved by the Director of Capital Projects and certified by the Director of Finance.

Section 7. That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement as described in this ordinance, for the Office of Capital Projects, by one or more contracts duly let to the lowest

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responsible bidder or bidders after competitive bidding on a unit basis for the Improvement.

Section 8. That, provided the City sells future bonds authorized for the purposes of this ordinance, the Director of Capital Projects is authorized to enter into one or more contracts for the making of the Improvement with the lowest responsible bidder or bidders after competitive bidding on a unit basis for the Improvements, provided, however, that each separate trade and each distinct component part of the Improvements 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.

Section 9. That the Director of Capital Projects is authorized to accept cash contributions from public or private entities for infrastructure restoration costs associated with relocating, rehabilitating or reconstructing utility infrastructure for the Improvements and costs associated with implementing green infrastructure features to address combined sewer overflows. That the Director of Capital Projects is authorized to enter into agreements with the entities for this purpose.

Section 10. That, when appropriate, the Director of Capital Projects is authorized to enter into one or more contracts with railroads, the Greater Cleveland Regional Transit Authority, the Northeast Ohio Regional Sewer District and other public or private entities to obtain services or to acquire property rights such as easements and licenses, necessary to construct the Improvement described in this ordinance.

Section 11. That the Director of Capital Projects is authorized to accept right-of-entries from private property owners within the Improvement locations where access to private property is necessary to complete the proposed Improvement.

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Section 12. That the Director of Capital Projects is authorized to enter into one or more agreements with private utility companies to pay charges for the installation of underground lines in connection with the Improvement.

Section 13. That notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Commissioner of Purchases and Supplies is authorized to acquire, accept, and record for right-of-way purposes any real property including but not limited to fee simple acquisitions, temporary easements, permanent easements, and work agreements as is necessary to make the Improvement described in this ordinance. The consideration to be paid for the property and easements shall not exceed fair market value, as described by the Board of Control.

Section 14. That the Director of Capital Projects is authorized to execute, on behalf of the City, all documents necessary to acquire, accept, and record the property and easements and to employ and pay all fees for title companies, surveys, escrows, appraisers, and all other costs necessary for the acquisition of the property and easements.

Section 15. That the Mayor or Director of Capital Projects 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 the ordinance.

Section 16. That the Director of Capital Projects is authorized to enter into any agreements needed to implement the Improvement, including but not limited to, multi-party agreements between the City and other governmental entities regarding the funding and construction of the Improvement.

Section 17. That the Director of Capital Projects is authorized to accept cash contributions from the public or private entities, including but not limited to, the Greater

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Cleveland Regional Transit Authority and the Northeast Ohio Regional Sewer District, for the Improvement. That the Director of Capital Projects is authorized to enter into agreements with the entities for this purpose.

Section 18. That the cost of the contracts, payments, property acquisition, agreements, cash matches, and other expenditures authorized shall be paid 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 the fund or funds to which are credited any gift, grant, or other funds received under this ordinance, from cash contributions accepted and appropriated under this ordinance, and from any other funds approved by the Director of Finance, including future bond funds if issued for this purpose. (RQS 0103, RLA 2019-30)

Section 19. 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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**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,**  
**Development Planning and Sustainability, Finance**

## REPORTS

**CITY CLERK**

**READ SECOND TIME**

**CITY CLERK**

**READ THIRD TIME**

**PRESIDENT**

**CITY CLERK**

**APPROVED**

**MAYOR**

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

**REPORT**  
**after second Reading**

**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