

Ordinance No. 725-2019

Council Members: Johnson, Brancatelli and Kelley (by departmental request)

An emergency ordinance authorizing the Director of Public Works to enter into one or more agreements with West Creek Conservancy, or its designee, regarding the Mill Creek stream restoration project at Cleveland Enterprise Park in the Village of Highland Hills; and authorizing the Director to execute a deed of conservation easement and two deeds of temporary easement granting to West Creek Conservancy, or its designee, certain easement rights in property at the project location; and declaring the easement rights not needed for the City's public use.

WHEREAS, the West Creek Conservancy ("West Creek") was awarded grant funds from the Ohio Environmental Protection Agency ("Ohio EPA") to perform stream and floodplain restoration work on Mill Creek; and

WHEREAS, the segment of Mill Creek to be restored is within the Village of Highland Hills between Harvard Road and Mill Creek Boulevard and is on property owned by the City of Cleveland; 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 Director of Public Works is authorized to enter into one or more agreements with West Creek Conservancy, or its designee, regarding the Mill Creek stream restoration project at Cleveland Enterprise Park in the Village of Highland Hills.

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 two temporary easement interests located near the project site are not needed for the City's public use and are further described as follows:

**LEGAL DESCRIPTIONS
TEMPORARY CONSTRUCTION EASEMENTS
WITHIN CITY OF CLEVELAND'S LAND
PP #751-01-016 and #751-01-026
HARVARD AVE. & MILCREEK BLVD.
VILLAGE OF HIGHLAND HILLS
COUNTY OF CUYAHOGA, OHIO**

Easement No. 1

Situated in the Village of Highland Hills, County of Cuyahoga and State of Ohio and known as being part of Parcel No. 5 in Cleveland Enterprise Park Re-Subdivision of Phase 1 of part of Original Warrensville Township Lots Nos. 66 and 76, as shown by the recorded plat in Volume 295 of Maps, Page 88 of Cuyahoga County Records and being a **1.8339 acres (79,883 sq. ft.) Temporary Construction Easement** located within a 5.1572 acres (224,646 sq. ft.) of land as conveyed to the City of Cleveland, of Permanent Parcel #751-01-016, by plat dated November 30th, 1998, as recorded in Cleveland Enterprise Park Re-Subdivision of Phase 1 in Cuyahoga County Map Records Volume 295, Pages 88, and of Cuyahoga County Tax Map Records and further bounded and described as follows;

Beginning at the Southeast corner of said Permanent Parcel #751-01-016, as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 as Parcel 5, along the northerly side of Millcreek Boulevard (Width Varies), and being the place of beginning;

Thence along a curve deflecting to the right, **51.87 feet**, said curve having a radius of **457.43 feet**, a tangent of **25.97 feet**, a delta of **6°29'52"** and a chord which bears **North 57°23'40" West**, a distance of **51.85 feet** along the Southerly line of said Permanent Parcel #751-01-016, as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 as Parcel 5, to a point and being the Temporary Place of Beginning of the Premises herein intended to be described;

COURSE I Thence along a curve deflecting to the right, **193.23 feet**, said curve having a radius of **457.43 feet**, a tangent of **98.08 feet**, a delta of **24°12'13"** and a chord which bears **North 42°02'38" West**, a distance of **191.80 feet** along the Northerly line of said Millcreek Boulevard (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 to a point;

COURSE II Thence **North 15°23'30" West**, along the Easterly line of said Millcreek Boulevard (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 a distance of **50.43 feet** to a point;

COURSE III Thence **North 23°40'52" West**, along the Easterly line of said Millcreek Boulevard (Width Varies), as shown on the Cleveland Enterprise Park Re-Subdivision of Phase 1 a distance of **223.94 feet** to a point;

COURSE IV Thence **North 89°50'36" East** a distance of **355.17 feet** to a point;

COURSE V Thence **South 17°15'43" West**, a distance of **415.84 feet** to a point also the Principle Place of Beginning and containing **1.8339 acres (79,883 sq. ft.) Temporary Construction Easement** located within a 5.1572 acres (224,646 sq. ft.) of land as calculated and described by Donald F. Sheehy, Registered Surveyor #7849 of Chagrin Valley Engineering, Ltd., in April, 2019, be the same more or less;

Easement No. 2

Together with a **0.6885 of an acre (29,991 sq. ft.) Temporary Construction Easement**, described as follows;

Situated in the Village of Highland Hills, County of Cuyahoga and State of Ohio and known as being part of Parcel No. 8 in Cleveland Enterprise Park Re-Subdivision of Phase 1 of part of Original Warrensville Township Lots Nos. 76 and 77, as shown by the recorded plat in Volume 295 of Maps, Page 88 of Cuyahoga County Records and being a **0.6885 acres (29,991 sq. ft.) Temporary Construction Easement** located within a 1.6403 acres (71,452 sq. ft.) of land as conveyed to the City of Cleveland, of Permanent Parcel #751-01-026, by plat dated November 30th, 1998, as recorded in Cleveland Enterprise Park Re-Subdivision of Phase 1 in Cuyahoga County Map Records Volume 295, Page 88, and of Cuyahoga County Tax Map Records and further bounded and described as follows;

Beginning at the Southeast corner of said Permanent Parcel #751-01-026, as shown on the Cleveland Enterprise Park Re-Subdivision of Phase 1, along the northerly side of Millcreek Boulevard (Width Varies), and being the Principal Place of Beginning of the Premises herein intended to be described;

COURSE I Thence along a curve deflecting to the left, **145.64 feet**, said curve having a radius of **839.12 feet**, a tangent of **73.00 feet**, a delta of **9°56'41"** and a chord which bears **South 80°08'40" West**, a distance of **145.46 feet** along the Northerly line of said Millcreek Boulevard (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1, to a point;

COURSE II Thence **South 75°10'20" West**, along the Northerly line of said Millcreek Boulevard (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 a distance of **79.37 feet** to a point;

COURSE III Thence **North 14°32'00" East** a distance of **196.76 feet** to a point on the Southerly line of Permanent Parcel #751-01-017, as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 as Parcel 2;

COURSE IV Thence **South 87°33'28" East**, along the Southerly line of said Permanent Parcel #751-01-017, as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 as Parcel 2, a distance of **158.98 feet** to a

5/8" iron pin found capped PS#7176 (0.16'E/0.08'S) on the Northeast corner of said parcel;

COURSE V Thence **South 4°53'00" East**, a distance of **138.99 feet** to a point also the Principle Place of Beginning and containing **0.6885 acres (29,991 sq. ft.) Temporary Construction Easement** located within a 1.6403 acres (71,452 sq. ft.) of land as calculated and described by Donald F. Sheehy, Registered Surveyor #7849 of Chagrin Valley Engineering, Ltd., in April, 2019, be the same more or less;

Basis of Bearing for this legal description is **North 87°03'55" West** as the centerline of Harvard Road (width varies) as evidence by monuments round and shown hereon and is the same as calculated and reproduced from Ohio State Plane Coordinate System North Zone by ties to the O.D.O.T. VRS Network.

Section 3. 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 a permanent conservation easement interest located at the project site is not needed for the City's public use and is further described as follows:

**LEGAL DESCRIPTION
PERPETUAL STREAM CONSERVATION EASEMENT
WITHIN CITY OF CLEVELAND'S LAND
PP #751-01-016, #751-01-017, #751-01-018, & #751-01-026
HARVARD AVE. & MILCREEK BLVD.
VILLAGE OF HIGHLAND HILLS
COUNTY OF CUYAHOGA, OHIO**

Situated in the Village of Highland Hills, County of Cuyahoga and State of Ohio and known as being part of Parcel No. 2, Parcel No. 4, Parcel No. 5, & Parcel No. 8 in Cleveland Enterprise Park Re-Subdivision of Phase 1 of part of Original Warrensville Township Lots Nos. 66, 67, 76, and 77, as shown by the recorded plat in Volume 295 of Maps, Pages 88 and 89 of Cuyahoga County Records and being a **8.0314 acres (349,846 sq. ft.) Perpetual Stream Conservation Easement** located within a combined 24.4820 acres (1,066,436 sq. ft.) of land as conveyed to the City of Cleveland, part of Permanent Parcel #751-01-016 including **0.4985 acres Stream Conservation Easement** of the 5.1572 acres, part of Permanent Parcel #751-01-017 including **4.7957 acres Stream Conservation Easement** of the 8.7321 acres, part of Permanent Parcel #751-01-018 including **1.7854 acres Stream Conservation Easement** of the 8.9524 acres, & part of Permanent Parcel #751-01-026 including **0.9518 acres Stream Conservation Easement** of the 1.6403 acres, by plat dated November 30th, 1998, as recorded in Cleveland Enterprise Park Re-Subdivision of Phase 1 in Cuyahoga County Map Records Volume 295, Pages 88-89, and of Cuyahoga County Tax Map Records and further bounded and described as follows;

Beginning at the Southwest corner of said Permanent Parcel #751-01-017, as shown on the Cleveland Enterprise Park Re-Subdivision of Phase 1 as Parcel 2, along the northerly

side of Millcreek Boulevard (width varies), and being the Principal Place of Beginning of the Premises herein intended to be described;

- COURSE I** Thence along a curve deflecting to the right, **51.87 feet**, said curve having a radius of **457.43 feet**, a tangent of **25.97 feet**, a delta of **6°29'52"** and a chord which bears **North 57°23'40" West**, a distance of **51.85 feet** along the Northerly line of said Millcreek Boulevard (Width Varies), as shown on the Cleveland Enterprise Park Re-Subdivision of Phase 1 to a point;
- COURSE II** Thence **North 17°15'43" East** a distance of **508.99 feet** to a point;
- COURSE III** Thence **North 6°21'40" West** a distance of **270.00 feet** to a point;
- COURSE IV** Thence along a curve deflecting to the right, **308.44 feet**, said curve having a radius of **1,869.86 feet**, a tangent of **154.57 feet**, a delta of **9°27'04"** and a chord which bears **North 84°27'34" East**, a distance of **308.09 feet** along the Southerly line of said Harvard Road (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 to a 5/8" iron pin found capped PS#7176 (0.01'W/0.10'S);
- COURSE V** Thence **South 89°20'41" East**, along the Southerly line of said Harvard Road (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 a distance of **113.60 feet** to a 5/8" iron pin found capped PS#7176 (0.08'W/0.11'S) at the Northeasterly corner of Permanent Parcel #751-01-017;
- COURSE VI** Thence **South 87°23'01" East**, along the Southerly line of said Harvard Road (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1, a distance of **73.75 feet** to a point;
- COURSE VII** Thence **South 14°32'00" West** a distance of **876.34 feet** to a point on the Northerly line of Millcreek Boulevard (Width Varies);
- COURSE VIII** Thence **South 75°10'20" West**, along the Northerly line of said Millcreek Boulevard (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1, a distance of **10.40 feet** to a point;
- COURSE IX** Thence along a curve deflecting to the right, **199.81 feet**, said curve having a radius of **457.50 feet**, a tangent of **101.52 feet**, a delta of **25°01'25"** and a chord which bears **South 87°41'03" West**, a distance of **198.23 feet** along the Northerly line of said Millcreek Boulevard (Width Varies), as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1, to a point;

COURSE X Thence along a curve deflecting to the right, **153.03 feet**, said curve having a radius of **457.49 feet**, a tangent of **77.24 feet**, a delta of **19°09'57"** and a chord which bears **North 70°13'17" West**, a distance of **152.32 feet** along the Southerly line of said Permanent Parcel #751-01-017, as shown on said Cleveland Enterprise Park Re-Subdivision of Phase 1 to a point also the Principle Place of Beginning and containing **8.0314 of an acre (349,846 sq. ft.) Perpetual Stream Conservation Easement** of land as calculated and described by Donald F. Sheehy, Registered Surveyor #7849 of Chagrin Valley Engineering, Ltd., in April, 2019, be the same more or less;

Basis of Bearing for this legal description is **North 87°03'55" West** as the centerline of Harvard Road (width varies) as evidence by monuments round and shown hereon and is the same as calculated and reproduced from Ohio State Plane Coordinate System North Zone by ties to the O.D.O.T. VRS Network.

Section 4. That by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to convey the above-described non-exclusive permanent conservation easement interest and the two exclusive temporary easement interests to West Creek at a price of \$1.00 and other valuable consideration which is determined to be fair market value.

Section 5. That the purpose of the permanent conservation easement shall be to restrict development of the land and for West Creek's maintenance of the site in perpetuity.

Section 6. That the purpose of the temporary easements shall be for access to the construction site, construction staging, and related construction activities.

Section 7 That the duration of the permanent conservation easement shall be perpetual; that the duration of the temporary easements shall be until the Mill Creek improvement project is completed; that the permanent conservation easement and temporary easements shall include reasonable right of entry rights to the City; that the permanent conservation easement and temporary easements shall not be assignable without the consent of the Director of Public Works; that the permanent conservation easement and temporary easements shall require that West Creek or its contractor provide reasonable insurance, and pay any applicable taxes and assessments.

Section 8. That the conveyances referred to above shall be made by official deed of conservation easement and official deeds of temporary easement prepared by the Director of Law and executed by the Director of Public Works on behalf of the City of Cleveland. The deed of conservation easement and the deeds of temporary easement shall contain any additional terms and conditions as are required to protect the interest of the City. The Directors of Public Works and Law are authorized to execute any other documents, including without limitation, contracts for right of entry, as may be necessary to affect this ordinance.

Section 9. 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.

Passed July 24, 2019.

Effective July 26, 2019.