



Legislation Text

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File #: O-344-18, Version: 1

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DPU082818APPROPRIATE4346DETROIT  
DPU Admin for Engineering Services  
Jamie Miller (x1409)  
(Revised)

**Authorizing the director of law to proceed with the appropriation of a portion of the property located at 4346 S. Detroit, required for the S. Detroit and Byrne Roadway and Intersection Improvement Project; authorizing the expenditure and payment to the Lucas County Clerk of Courts in the amount of \$111,637; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

The city is proceeding with the reconstruction of S. Detroit Avenue from the Anthony Wayne Trail to Copland Boulevard. Some of the improvements to be constructed as part of this public improvement project will include a complete reconstruction of Detroit Avenue roadway pavement, the construction of a single lane roundabout at the intersection of Byrne Road, and other necessary and related pedestrian walkway, utility and infrastructure improvements along Detroit Avenue between the Anthony Wayne Trail and Copland Boulevard. The project will require the purchase of a total of 0.0836 acre of land, more or less, of which the present road occupies 0.0141 acre of land, more or less, for a net take area of 0.0695 acre of land, more or less, in fee, and also requiring the purchase of a temporary construction easement consisting of 0.0585 acre of land, more or less, across portions of the property located at 4346 S. Detroit (consisting of TD Parcels 07-08244 and 07-08217). This appropriation is necessary because negotiations between the City of Toledo and the owner and/or other parties with interests in the subject property have failed. A copy of Resolution No. 291-18 has been served upon the title holder, as well as all other interested parties, via certified U.S. mail. It is the intent of the Division of Engineering Services to begin work related to the public improvement project as soon as possible upon the filing of the petition in Common Pleas Court, via "Quick Take" procedures. The funds necessary for this expenditure were anticipated and budgeted within the Engineering Services Matches and Planning CIP Fund.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the director of law is authorized to appropriate, in fee, a portion of the real estate located at and known as 4346 S. Detroit (TD 07-08244 and 07-08217, respectively), and more fully described below:

PARCEL 56-WD-A  
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE  
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS

Being a parcel of land situated within River Tract 18, Town 3 United States Reserve in Adams Township, Lucas County, Ohio, lying west of the Miami and Erie Canal and also being a part of

Lot 8 lying within a Plat in the name of "Heaton Park" recorded in Lucas County Plat Volume 41 on pages 6 & 7, all within the City of Toledo, State of Ohio, and more fully described as follows:

Commencing at an Iron Pipe Monument found within a Monument Box and marking the intersection of the centerline of Detroit Avenue, having a varying right-of-way width and the northeasterly line of Grant 581, also being the centerline of Byrne Road (having a full right-of-way of 60.00 feet, said Iron Pipe having a Plan Station of 18+67.80 at 0.00 feet Left along Detroit Avenue Station and a Plan Station of 27+16.42 at 0.00 feet Left along Byrne Road), thence NORTH 22°-40'-27" EAST for a distance of 93.71 feet to a point on said Detroit Avenue centerline, having a Plan Station of 19+61.51 at 0.00 feet Left, Thence NORTH 67°-19'-33" WEST for a distance of 30.00 feet to a point on the northwesterly right-of-way of Detroit Avenue and being the northeasterly corner of a right-of-way deed in the name of the "State of Ohio" recorded in Deed Volume 1766 on Page 48, having a Plan Station of 19+61.51 at 30.00 feet Left, said point also being the POINT OF BEGINNING for this description;

1. Thence SOUTH 22°-40'-27" WEST for a distance of 34.00 feet to the intersection of the northwesterly right-of-way of Detroit Avenue with the northeasterly right-of-way of Byrne Road and being the southerly corner of said right-of-way deed, having a Plan Station of 19+27.51 at 30.00 feet Left along Detroit Avenue alignment and a Plan Station of 26+56.71 at 30.00 feet Left along Byrne Road alignment;
2. Thence NORTH 30°-40'-30" WEST for a distance of 45.00 feet to the northwesterly corner of said right-of-way deed, having a Plan Station of 19+54.38 at 66.10 feet Left along Detroit Avenue alignment and a Plan Station of 26+11.71 at 30.00 feet Left along Byrne Road alignment;
3. Thence continuing NORTH 30°-40'-30" WEST for a distance of 75.00 feet to a point, having a Plan Station of 19+99.15 at 126.27 feet Left along Detroit Avenue alignment and a Plan Station of 25+36.71 at 30.00 feet Left along Byrne Road alignment;
4. Thence NORTH 59°-33'-57" EAST for a distance of 12.43 feet to an Iron Bar Set with Plastic Cap on the non-tangent curvature of a curve to the left, having a Plan Station of 20+09.09 at 118.81 feet Left along Detroit Avenue alignment and a Plan Station of 25+36.76 at 42.43 feet Left along Byrne Road alignment;
5. Thence on said non-tangent curvature to the left having a Delta of 10°-21'-29", a Radius of 381.50 feet, a Curve Length of 68.97 feet, and having the Chord Bearing of SOUTH 46°-47'-40" EAST for a Chord Distance of 68.87 feet to an Iron Bar Set with Plastic Cap, having a Plan Station of 19+84.94 at 54.31 feet Left along Detroit Avenue alignment and a Plan Station of 26+02.93 at 61.56 feet Left along Byrne Road alignment;
6. Thence NORTH 74°-24'-41" EAST for a distance of 30.96 feet to an Iron Bar Set with Plastic Cap on the northwesterly right-of-way of Detroit Avenue, having a Plan Station of 20+04.11 at 30.00 feet Left;

7. Thence SOUTH 22°-40'-27" WEST for a distance of 42.60 feet to the POINT OF BEGINNING.

The above described area contains 3,163.7349 Square Feet or 0.0726 Acre of land more or less, of which the present road occupies, 613.7506 Square feet or 0.0141 Acre of land, more or less, for a NET TAKE AREA of 2,549.9843 Square feet or 0.0585 Acre of land more or less, subject to all legal highways, leases, easements and restrictions of record. The land in the above description is contained all within Lucas County Permanent Parcel Number 07-08244.; and

PARCEL 56-WD-B

ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE  
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS

Being a parcel of land situated within River Tract 18, Town 3 United States Reserve in Adams Township, Lucas County, Ohio, lying west of the Miami and Erie Canal and also being a part of Lot 8 lying within a Plat in the name of "Heaton Park" recorded in Lucas County Plat Volume 41 on pages 6 & 7, all within the City of Toledo, State of Ohio, and more fully described as follows:

Commencing at an Iron Pipe Monument found within a Monument Box and marking the intersection of the centerline of Detroit Avenue, having a varying right-of-way width and the northeasterly line of Grant 581, also being the centerline of Byrne Road (having a full right-of-way of 60.00 feet, said Iron Pipe having a Plan Station of 18+67.80 at 0.00 feet Left along Detroit Avenue Station and a Plan Station of 27+16.42 at 0.00 feet Left along Byrne Road), thence NORTH 22°-40'-27" EAST for a distance of 93.71 feet to a point on said Detroit Avenue centerline, having a Plan Station of 19+61.51 at 0.00 feet Left, Thence NORTH 67°-19'-33" WEST for a distance of 30.00 feet to a point on the northwesterly right-of-way of Detroit Avenue and being the northeasterly corner of a right-of-way deed in the name of the "State of Ohio" recorded in Deed Volume 1766 on Page 48, having a Plan Station of 19+61.51 at 30.00 feet Left, Thence NORTH 78°-30'-34" WEST for a distance of 36.80 feet to the northwesterly corner of said right-of-way deed and being the northeasterly right-of-way of Byrne Road, having a Plan Station of 19+54.38 at 66.10 feet Left along Detroit Avenue alignment and a Plan Station of 26+11.71 at 30.00 feet Left along Byrne Road alignment; Thence on said northeasterly right-of-way, NORTH 30°-40'-30" WEST for a distance of 75.00 feet to a point, having a Plan Station of 19+99.15 at 126.27 feet Left along Detroit Avenue alignment and a Plan Station of 25+36.71 at 30.00 feet Left along Byrne Road alignment; said point also being the POINT OF BEGINNING for this description;

1. Thence continuing on said northeasterly right-of-way of said Byrne Road, NORTH 30°-40'-30" WEST for a distance of 57.18 feet to an Iron Bar Set with Plastic Cap, having a Plan Station of 20+33.28 at 172.15 feet Left along Detroit Avenue alignment and a Plan Station of 24+79.53 at 30.00 feet Left along Byrne Road alignment;
2. Thence NORTH 59°-33'-14" EAST for a distance of 5.80 feet to an Iron Bar Set with Plastic Cap on the non-tangent curvature of a curve to the left, having a Plan Station of 20+37.93 at 168.68 feet Left along Detroit Avenue alignment and a Plan Station of 24+79.54 at 35.80 feet

Left along Byrne Road alignment;

3. Thence on said non-tangent curvature to the left having a Delta of 8°-39'-33", a Radius of 381.50 feet, a Curve Length of 57.66 feet, and having the Chord Bearing of SOUTH 37°-17'-09" EAST for a Chord Distance of 57.60 feet to an Iron Bar Set with Plastic Cap, having a Plan Station of 20+09.09 at 118.81 feet Left along Detroit Avenue alignment and a Plan Station of 25+36.76 at 42.43 feet Left along Byrne Road alignment;
4. Thence SOUTH 59°-33'-57" WEST for a distance of 12.43 feet to the POINT OF BEGINNING.

The above described area contains 479.6126 Square Feet or 0.0110 Acre of land more or less, of which the present road occupies, 0.0000 Acre of land, more or less, for a NET TAKE AREA of 479.6126 Square feet or 0.0110 Acre of land more or less, subject to all legal highways, leases, easements and restrictions of record. The land in the above description is contained all within Lucas County Permanent Parcel Number 07-08217.

SECTION 2. That the director of law is further authorized to appropriate a temporary easement, for grading and property restorations purposes, across portion of the real estate located at and known as 4346 S. Detroit (TD 07-08244), as more fully described below:

**56A-T**

A NON-EXCLUSIVE TEMPORARY CONSTRUCTION EASEMENT  
FOR A PERIOD OF 12 MONTHS IMMEDIATELY FOLLOWING  
THE DATE ON WHICH WORK IS COMMENCED ON THE SUBJECT PROPERTY FOR  
THE PUBLIC IMPROVEMENT PROJECT

That part of Lot number eight (8) in Heaton Park, a Subdivision in the City of Toledo, Lucas County, Ohio in accordance with Volume 41 of Plats, page 6, described as follows:

1. Beginning at a point on the Northwesterly line of Detroit Avenue that is one hundred twenty (120) feet Northeasterly of its intersection with the Northeasterly line of Byrne Road;
2. Thence Southwesterly along the Northwesterly line of Detroit Avenue one hundred twenty (120) feet to its intersection with the Northeasterly line of Byrne;
3. Thence Northwesterly along the northeasterly line of Byrne Road one hundred and twenty (120) feet;
4. Thence Northeasterly on a line that is drawn at right angles from the Northeasterly line of Byrne Road sixty and sixteen hundredth (60.16) feet;
5. Thence Southeasterly on a line that is drawn at right angles from the Northwesterly line of Detroit Avenue sixty and sixteen hundredth (60.16) feet to the place of beginning.

Excepting from the fore mentioned parcel the following deed to the "State of Ohio" recorded in the Lucas County Recorded Deed Volume 1766 on page 48, and the following parcel of land;

Being a parcel of land situated within River Tract 18, Town 3 United States Reserve in Adams Township, Lucas County, Ohio, lying west of the Miami and Erie Canal and also being a part of Lot 8 lying within a Plat in the name of "Heaton Park" recorded in Lucas County Plat Volume 41 on pages 6 & 7, all within the City of Toledo, State of Ohio, and more fully described as follows:

Commencing at an Iron Pipe Monument found within a Monument Box and marking the intersection of the centerline of Detroit Avenue, having a varying right-of-way width and the northeasterly line of Grant 581, also being the centerline of Byrne Road (having a full right-of-way of 60.00 feet, said Iron Pipe having a Plan Station of 18+67.80 at 0.00 feet Left along Detroit Avenue Station and a Plan Station of 27+16.42 at 0.00 feet Left along Byrne Road), thence NORTH 22°-40'-27" EAST for a distance of 93.71 feet to a point on said Detroit Avenue centerline, having a Plan Station of 19+61.51 at 0.00 feet Left, Thence NORTH 67°-19'-33" WEST for a distance of 30.00 feet to a point on the northwesterly right-of-way of Detroit Avenue and being the northeasterly corner of a right-of-way deed in the name of the "State of Ohio" recorded in Deed Volume 1766 on Page 48, having a Plan Station of 19+61.51 at 30.00 feet Left, said point also being the POINT OF BEGINNING for this description;

1. Thence NORTH 78°-30'-34" WEST for a distance of 36.80 feet to the northwesterly corner of said right-of-way deed, having a Plan Station of 19+54.38 at 66.10 feet Left along Detroit Avenue alignment and a Plan Station of 26+11.71 at 30.00 feet Left along Byrne Road alignment;
2. Thence NORTH 30°-40'-30" WEST for a distance of 75.00 feet to a point, having a Plan Station of 19+99.15 at 126.27 feet Left along Detroit Avenue alignment and a Plan Station of 25+36.71 at 30.00 feet Left along Byrne Road alignment;
3. Thence NORTH 59°-33'-57" EAST for a distance of 12.43 feet to an Iron Bar Set with Plastic Cap on the non-tangent curvature of a curve to the left, having a Plan Station of 20+09.09 at 118.81 feet Left along Detroit Avenue alignment and a Plan Station of 25+36.76 at 42.43 feet Left along Byrne Road alignment;
4. Thence on said non-tangent curvature to the left having a Delta of 10°-21'-29", a Radius of 381.50 feet, a Curve Length of 68.97 feet, and having the Chord Bearing of SOUTH 46°-47'-40" EAST for a Chord Distance of 68.87 feet to an Iron Bar Set with Plastic Cap, having a Plan Station of 19+84.94 at 54.31 feet Left along Detroit Avenue alignment and a Plan Station of 26+02.93 at 61.56 feet Left along Byrne Road alignment;
5. Thence NORTH 74°-24'-41" EAST for a distance of 30.96 feet to an Iron Bar Set with Plastic Cap on the northwesterly right-of-way of Detroit Avenue, having a Plan Station of 20+04.11 at 30.00 feet Left;
6. Thence SOUTH 22°-40'-27" WEST for a distance of 42.60 feet to the POINT OF BEGINNING.

The above described area contains 2,549.9843 Square Feet or 0.0585 Acre of land more or less, of which the present road occupies, 0.0000 Acre of land, more or less, for a net take area of

2,549.9843 Square feet or 0.0585 Acre of land more or less, subject to all legal highways, leases, easements and restrictions of record. The land in the above description is contained all within Lucas County Permanent Parcel Number 07-08244.

SECTION 3. That the director of law is authorized to petition a court of proper jurisdiction to have a jury impaneled to inquire into and assess the compensation to be paid for the real estate and property rights described in Sections 1 and 2 of this ordinance.

SECTION 4. That the total expenditure of \$111,637 is authorized from account code 5040-35000-8CP1705STREET to the Lucas County Clerk of Courts, for the purpose of appropriating the aforementioned property required for the S. Detroit and Byrne Roadway and Intersection Improvement Project.

SECTION 5. That the director of finance is authorized to draw a warrant or warrants in payment of obligations from the above listed account code in a total amount not to exceed \$111,637 upon presentation of proper vouchers.

SECTION 6. That it is found and determined that all formal actions of Council concerning and relating to the passage of this ordinance were adopted in a open meeting of Council, and that all deliberations of Council and any of its committees that result in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that the same is necessary for the immediate preservation of the public peace, health, safety, and property, and for the further reason that the filing of an appropriation action to acquire a fee interest, and a temporary construction easement, across portions of the property located at 4346 S. Detroit is necessary for the timely construction of certain public roadway and other public improvements required for the Detroit and Byrne Roadway and Intersection Improvement Project being undertaken in conjunction with the Ohio Department of Transportation.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

\_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council