


**ORDINANCE NO. 67-19**

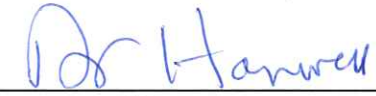
**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT AND CONTRACT WITH OHIO EDISON IN ORDER TO ALLOW THE REMOVAL AND RELOCATION OF SEVERAL UTILITY POLES ON CITY OWNED PROPERTY FOR THE PLANNED CITY HALL PARKING STRUCTURE PROJECT, AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

- SEC. 1:** That the Mayor is hereby authorized and directed to execute an Agreement and Contract with Ohio Edison in order to allow Ohio Edison to remove and relocate several utility poles on City owned property that will be in conflict with the planned City Hall Parking Structure.
- SEC. 2:** That the funds to cover the agreement in the estimated amount of \$38,033.00 are available in Account No. 301-0725-52215.
- SEC. 3:** That a copy of the Agreement is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 4:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason that construction for the parking facility is scheduled to begin in early May, 2019; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

**PASSED:** April 22, 2019      **SIGNED:**   
**President of Council**

**ATTEST:**       **APPROVED:** April 23, 2019  
**Clerk of Council**

**SIGNED:**   
**Mayor**

ORD 67-19 Exh. A

**CUSTOMER INFORMATION: (Please Print)**

CUSTOMER NAME <b>CITY OF MEDINA</b>		ACCOUNT NO	
SERVICE ADDRESS <b>132 N ELMWOOD ST</b>		SUITE NO	CUSTOMER PHONE <b>(330) 350-0213</b>
CITY <b>MEDINA</b>	STATE <b>OH</b>	ZIP CODE <b>44256</b>	CUSTOMER PHONE (ALT) <b>(330) 350-0213</b>
MAILING ADDRESS <b>132 N ELMWOOD ST</b>			
CITY <b>MEDINA</b>	STATE <b>OH</b>	ZIP CODE <b>44256</b>	
I request to have the Ohio Edison Company perform the work described below at the above address. I agree that final scheduling of this work will not begin until payment of the agreed price below is received by the Ohio Edison Company. I understand that quoted prices remain in effect for only 90 days. In Jobbing and Contracting related work I understand that other providers are available to perform this work. The regulated services I currently receive from the Ohio Edison Company will not be impacted in any way regardless of the provider I select to do this work. This is not a invoice.			
CUSTOMER NAME (Or DBA/INC) PRINT:		CUSTOMER NAME (Or DBA/INC) SIGN:	
IF COMMERCIAL OR INDUSTRIAL CUSTOMER - SIGNEE'S TITLE IN THE COMPANY			DATE

If there are any questions concerning this work please call the Ohio Edison Company at 1-800-633-4766.

**FOR THE OHIO EDISON COMPANY USE ONLY**

CREWS WORK REQUEST NO	CODE	BILLABLE ID	WORK DESCRIPTION	PRICE
59926779		A	RELOCATE OVERHEAD FACILITIES FOR NEW PARKING GARAGE	\$ 33,510.03
<b>Total Federal Income Tax:</b>				
<b>Total State Tax:</b>				
State: OHIO		Rate:		
County: MEDINA		<b>Total Sales Tax:</b>	\$	4,522.15
<b>Total to be Billed:</b>				\$ 38,032.18

REMARKS  
 RELOCATE OVERHEAD FACILITIES FOR NEW PARKING GARAGE

OHIO EDISON COMPANY REPRESENTATIVE (Print) BRAD COWLING	OHIO EDISON COMPANY REPRESENTATIVE (Signature) <i>Brad Cowling</i>
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Please return one SIGNED copy to:

BRAD COWLING 6326 LAKE AVE ELYRIA, OHIO 44035



**Ohio Line Extension Customer Work Approval and Payment Designation – Form X-3847  
Terms and Conditions**

Ohio Edison Company, Illuminating Company, or Toledo Edison Company ("Operating Company") and Owner agree the terms and conditions herein shall constitute the complete and final agreement between the parties, superseding all other agreements, written or oral. These terms and conditions may not be modified hereafter except by written agreement of Operating Company.

**BILLING AND PAYMENT**

In the event that Operating Company performs the agreed to work prior to payment, Operating Company will invoice Owner for the work performed pursuant to this Agreement. Payment shall be made to Operating Company upon Owner's receipt of invoice. All invoices past due thirty (30) days or more shall be charged the lesser of one and one-half percent (1 ½%) per month or the maximum rate of interest allowable by law. Owner agrees to reimburse Operating Company in full for all costs of collection, including attorney fees, incurred or paid by Operating Company in connection with collecting, or attempting to collect, any amounts due under this Agreement.

~~**INDEMNIFICATION**~~

~~Owner agrees for itself, its successors and assigns, to defend, indemnify and save Operating Company, its successors and assigns, harmless from all claims, demands, damages, losses, judgments, actions or causes of actions, costs or expenses, including litigation expenses and legal fees, in connection therewith or related thereto, including lack of authority to enter into this Agreement, asserted by or for any person or persons for personal injuries, death, or property damage caused by, arising out of, or in any way related to the work performed by Operating Company under this Agreement, unless initiated or proximately caused by the sole negligence of Operating Company. Notwithstanding the foregoing, Operating Company shall have no responsibility to the Owner or third parties if the work scope as defined by Owner violates the rights of or causes damage to any third party or governmental authority.~~ (PA)

**LIMITATION OF LIABILITY**

Neither Operating Company, its affiliated companies, its subcontractors, nor its employees shall be liable for loss of anticipated profits, loss by reason of plant or other facility shutdown, non-operation or increased expense of operation, service interruption, claims of Owner's customers, subcontractors, vendors or suppliers, cost of money, loss of use of capital or revenue arising out of Operating Company's work or out of or in connection with Owner's use, or inability to use, the facilities, or for any special, incidental or consequential damages of any nature, arising at any time or from any cause whatsoever.

**FORCE MAJEURE**

Neither party shall be liable to the other for any expenses, loss or damage resulting from delays or prevention of performance arising from causes beyond its reasonable control caused by fire, flood, accident, strike, civil commotion, governmental or military authority, insurrection, riots, embargoes, unavoidable delays in transportation, acts of God, or public enemy.

**ASSIGNMENT**

This Agreement shall be binding upon and insure to the benefit of the parties hereof, their successors and assigns. Owner, however, shall not assign to any other person or association not affiliated with Owner any rights or privileges hereby granted, or authorize any person or association not affiliated with Owner the exercise of any rights or privileges herein provided for, without the written consent of Operating Company.

**ARBITRATION**

Any question in dispute between the parties arising out of the Agreement (except any claim for damages because of bodily injuries, including death at any time resulting there from, except for any claim for damages because of injuries to or destruction of property and, except for major breach or repudiation with respect to this Agreement) which is not amicably settled shall be submitted to final and binding arbitration. Such arbitration shall be conducted in Akron, Ohio, before an arbitrator mutually acceptable to the parties; provided, however, that should the parties be unable to agree, the arbitrator shall be selected by the presiding Judge of the Court of Common Pleas of Summit County, Ohio. The request for arbitration shall be in writing setting forth the claim or claims to be arbitrated and the remedy sought. It shall be delivered to the other party within 90 days of the occurrence giving rise to the dispute. Any failure to request arbitration within such 90-day period shall be deemed a waiver of the right to arbitrate the claim upon which the dispute is based.

**NON-WAIVER**

The failure of either party to insist or enforce in any instance strict performance of any of the terms hereof or to exercise any of its rights herein shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms on any future occasion.

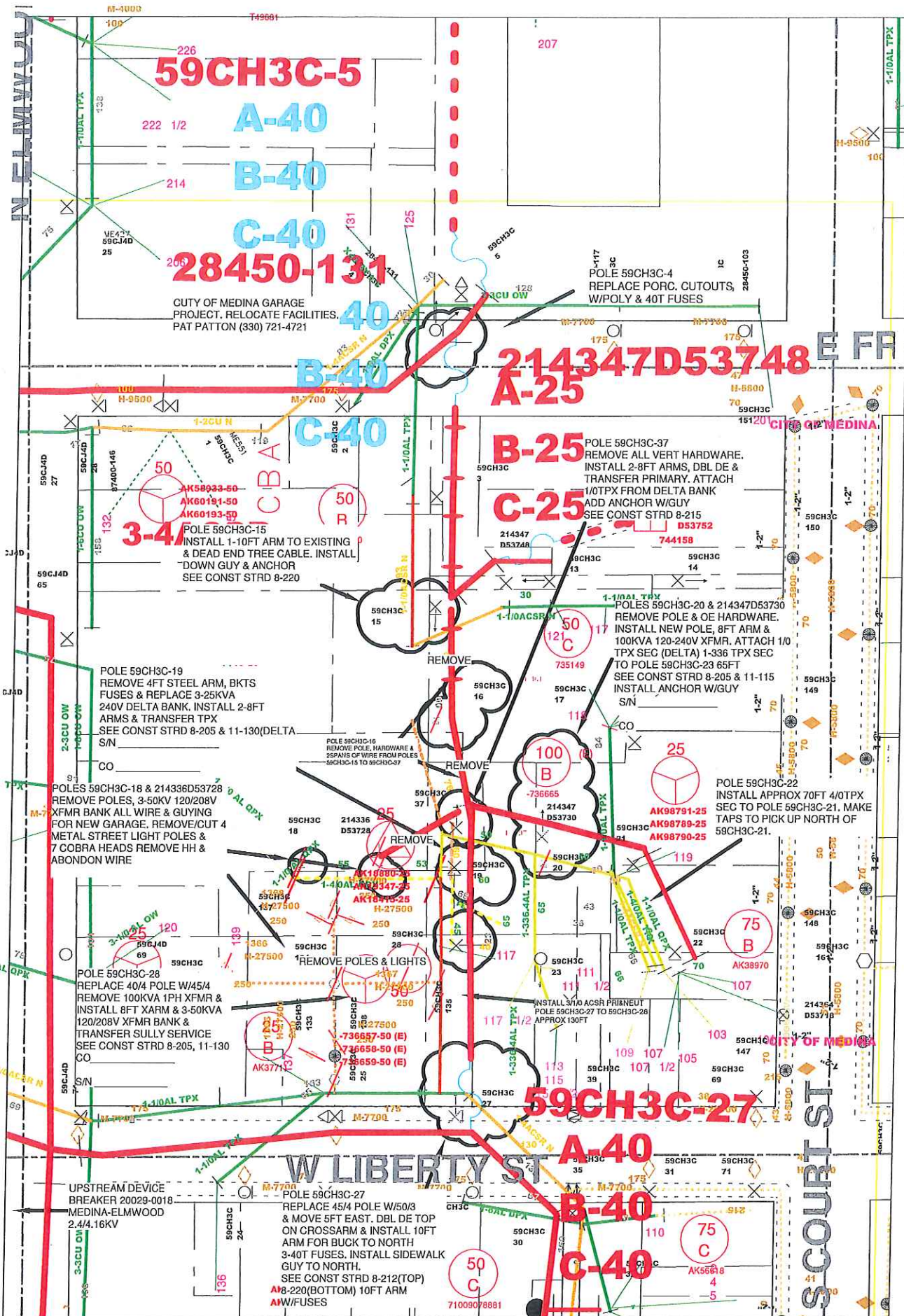
**APPLICABLE LAW**

This Agreement shall be governed in all respects by the laws of the State of Ohio and only the Courts of Ohio, or Federal Courts in Ohio shall have jurisdiction.

**Customer Initials** DTT **Date** 4-30-19



Ord. 67-19



Designer : COWLING, BRAD A	Phone : (440)328-3238	WR Name : 59926779	FirstEnergy Region : Ohio Edison - Ohio Central Region
Sales Rep : COWLING, BRAD A	Phone : (440)326-3238	Township - County : -----	Substation : MEDINA Circuit : ELMWOOD
Schedular : LANCE, ERN	Phone : (330)723-9212 ext.	Cust/Elect Name : -----	Upstream Device : SEE MAP
Work Request : 59926779	SAP Order # : 16099847	Cust/Elect Phone : -----	Primary Voltage : 2.4/4.16 KV
Apprv : _____ Date : _____	Apprv : _____ Date : _____	Street No : 132	Forestry Req : N Easement : N
Proposal : [ Y or N ] # : Y		City : MEDINA	Zip : 44256
			Foreman's Signature : _____ Const. Comp. Date : _____



Scale : 1 : 58

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