

Ordinance No. 619-2023

**By Council Members Howse, Bishop,
Hairston and Griffin (by departmental
request)**

AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects to apply to the District One Public Works Integrating Committee for state funding for the rehabilitation of a portion of Payne Avenue; to apply for and accept gifts and grants from various entities for the improvement; authorizing the Director of Capital Projects to enter into 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.

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 Director of Capital Projects is authorized to apply to the District One Public Works Integrating Committee for state funding for the rehabilitation of a portion of Payne Avenue from East 30th Street to East 55th Street (the “Improvement”).

Section 2. That the Director of Capital Projects is authorized to apply to the District One Public Works Integrating Committee for state funding to obtain credit enhancements and loan assistance in support of the city’s bonds issued for bridge and road improvements.

Section 3. That the Director of Capital Projects is authorized to accept one or more grants from the Ohio Public Works Commission, acting by and through its Director, to finance the Improvement; that the Director of Capital Projects is authorized

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to file all papers and execute all documents necessary to receive the funds under the 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 the City of Cleveland is obligated to provide cash matching funds in the amount of the local share.

Section 6. That 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 responsible bidder or bidders after competitive bidding on a unit basis for the Improvement.

Section 8. That 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 Improvement, 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

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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 Improvement 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.

Section 11. That the Director of Capital Projects, when necessary, is authorized to cause payment to any railroad, the Greater Cleveland Regional Transit Authority, and other entities for payment of any services which are necessary to construct the Improvement.

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 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.

Section 14. 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 and easements necessary to make the Improvement, including but not limited to gift, fee simple acquisitions, temporary and permanent easements, and work agreements. The

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consideration to be paid for the property and easements shall not exceed fair market value to be determined by the Board of Control.

Section 15. 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 16. That the 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 17. That the Director of Capital Projects is authorized to enter into any agreements needed to implement the Improvements, including but not limited to, multi-party agreements between the City and other governmental entities regarding the funding and construction of the Improvement.

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 568, 20 SF 574, 20 SF 579, 20 SF 586, 20 SF 592, 20 SF 597, 20 SF 702, 20 SF 712 and 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, from the fund or funds to which are credited the proceeds from the sale of future bonds, if issued for this purpose, and from any other funds approved by the Director of Finance. (RQS 0103, RLA 2023-42)

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.

JS:nl
5-15-2023
FOR: Director DeRosa

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READ FIRST TIME on MAY 15, 2023

**and referred to DIRECTORS of Capital Projects,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability,
Finance Diversity Equity and Inclusion**

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, DIVERSITY, EQUITY
and INCLUSION**

FILED WITH COMMITTEE

