

Ordinance No. 542-2024 AS AMENDED

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

AN EMERGENCY ORDINANCE

To amend the title, the first and second whereas clauses, and Sections 1, 2, 3, and 4 of Ordinance No. 532-2023, passed May 15, 2023; and to add two additional whereas clauses and new Sections 1a, 3a and 3b, relating to the improvement for the West Side Market and to authorize, as an alternative, grant agreements with Cleveland Public Market Corporation, or an entity affiliated with or controlled by CPMC, to provide economic development assistance for the design and construction of the improvement through the grant agreements.

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 title, the first and second whereas clauses, and Sections 1, 2, 3, and 4 of Ordinance No. 532-2023, passed May 15, 2023, are amended to read as follows:

An Emergency Ordinance determining the method of making the public improvement of constructing basement, roof, façade, HVAC, and electrical improvements to the West Side Market; authorizing the Director of Capital Projects to enter into one or more contracts with Cleveland Public Market Corporation (“CPMC”), ~~for that purpose~~ for the making of the improvement; and to apply for and accept any gifts, grants or services from any public or private entity, or as an alternative to the public improvement, authorizing the Director of Public Works, Community Development, or appropriate Director, to enter into one or more grant agreements with CPMC, or an entity affiliated with or controlled by CPMC, to provide economic development assistance relating to designing and constructing for the design and construction of the improvement through the grant agreements.

WHEREAS, there is a developed concept and there are established goals (the “Masterplan”) for the West Side Market (the “Market”) ~~capital improvements~~, which have been prepared by leading public market experts and reviewed by the West Side Market committee, comprised of merchants, City officials, and stakeholders, to maximize the functionality and ~~revenue-generational~~ revenue-generating potential of the Market; and

WHEREAS, the unique design, time, budgetary, or other material requirements of this project ~~can~~ may benefit from the special care, coordination, and expeditiousness possible by combining the performance of both the professional design services and the construction under a design-build construction manager-at-risk contract with a single entity with operational control of the Market; and

Section 1. That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make various public improvements to the Market to enable the Masterplan to be carried out through various improvements to the Market, including but not limited to, reconfiguring and replacing the basement coolers and storage and constructing new food preparation areas,

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constructing roof and façade repairs, installing new heating, ventilation, and air conditioning systems, and performing electrical upgrades (the "Design-Build Public Improvement"), for the Department of Public Works and/or the Office of Capital Projects, under one or more design-build agreements with CPMC, obtaining the best proposal, taking into consideration the engineering and design, the construction method(s), the proposed design and construction costs, the total life-cycle costs, the qualifications of the proposed design professional(s) and construction firm(s), and the other objectives of the Design-Build Public Improvement.

~~for the Office of Capital Projects, by one or more construction manager-at-risk ("CMAR") contracts duly let for one or more phases of the Improvement to the person, firm, or corporation or combination of them submitting the best proposal, taking into consideration the engineering and design, the construction delivery method, the proposed design and construction costs, the schedule, the total life cycle costs, the qualifications of the proposed design professional(s) and construction firm(s), and the objectives of the Improvement.~~

~~The selection of the person, firm, or corporation to design and construct the Improvement shall be made by the Board of Control on the nomination of the Director of Capital Projects from a list of qualified and available persons, firms, or corporations, as may be determined by the Director of Capital Projects after making a full and complete canvass for the purpose of compiling the list. The Board of Control shall fix the total compensation to be paid for all design and construction and procurement necessary for the Improvement. 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 2. That, as necessary, the Director of Capital Projects, Public Works, and/or Community Development, as appropriate, are is authorized is authorized to apply and pay for permits, licenses, or other authorizations required by any regulatory agency or public authority to permit performance of the work authorized by this ordinance.

Section 3. That the Director of Capital Projects, Public Works, and/or Community Development, as appropriate, are is authorized to apply for and accept any gifts, grants, or services to implement this ordinance from any public or private entity; and that the appropriate Director is authorized to file all papers and execute all documents necessary to receive any gift, grant funds or services; and that any funds received are appropriated or the purposes described in this ordinance.

Section 4. That the total cost of the ~~Design-Build Public Improvement~~ authorized in Sections 1 and 1a and Section 3a of this ordinance shall not exceed Ten-Million Dollars (\$10,000,000.00) and shall be paid from Fund No. 10 SF 400, and from the fund or funds to which are credited any gift or grant funds accepted under this ordinance, ~~and from any other funds approved by the Director of Finance.~~ (RQS 0103, RL 2023-42)

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Section 2. That the existing title, the first and second whereas clauses, and Sections 1, 2, 3, and 4 of Ordinance No. 532-2023, passed May 15, 2023, are repealed.

Section 3. That Ordinance No. 532-2023, passed May 15, 2023, is supplemented by adding two additional whereas clauses to follow the second existing one and new Sections 1a, 3a and 3b to read as follows:

WHEREAS, consistent with Ordinance No. 1093-2023, the City and Cleveland Public Market Corporation ("CPMC") entered into a Management Agreement, Contract No. CT-7005-PS 2024-0119, effective April 12, 2024 (the "Management Agreement"); and

WHEREAS, this ordinance seeks an amendment to Ordinance No. 532-2023, passed May 15, 2023, to authorize the Director of Capital Projects and/or Director of Public Works to enter into one or more design-build public improvement contracts with CPMC, or in the alternative, to authorize the Director of Public Works, Community Development, or appropriate Director, to enter into one or more grant agreements with CPMC, or an entity affiliated with or controlled by CPMC, to provide economic development assistance for the design and construction of improvements to the Market, including but not limited to, reconfiguring and replacing the basement coolers and storage and constructing new food preparation areas, constructing roof and façade repairs, installing new heating, ventilation, and air conditioning systems, and performing electrical upgrades; and

Section 1a. That the Director of Capital Projects, Public Works, and/or Community Development, as appropriate, are authorized to enter into one or more contracts with CPMC ~~or one or more amendments to the Management Agreement,~~ for the design and construction of the Design-Build Public Improvement. The Board of Control shall fix the total compensation to be paid for all design and construction and procurement necessary for the Design-Build Public Improvement.

Section 3a. That as an alternative to Sections 1 and 1a of this ordinance, as necessary to secure funding through tax credits for capital improvements to benefit the Market, the Director of Public Works, Community Development, and/or appropriate Director, are authorized to enter into one or more grant agreements with CPMC, or an entity affiliated with or controlled by CPMC, to provide economic development assistance for the design and construction of the improvements to the Market to enable the Masterplan to be carried out through various improvements to the Market, including but not limited to, reconfiguring and replacing the basement coolers and storage and constructing new food preparation areas, constructing roof and façade repairs, installing new heating, ventilation, and air conditioning systems, and performing electrical upgrades (the "Grant Agreement Improvement"). The grant agreement(s) for the Grant Agreement Improvement shall require, without limitation, the following: a competitive procurement process according to applicable provisions of the

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Codified Ordinances; compliance with the prevailing wage requirements set forth in Section 185.33 of the Codified Ordinances and Chapter 4115 of the Ohio Revised Code; compliance with Chapter 187 of the Codified Ordinances to meet Cleveland small business, minority business and female business participation goals; and compliance with Chapter 190A of the Codified Ordinances regarding community benefits agreements, as applicable.

Section 3b. That the agreements, amendments, and any other appropriate documents needed to complete the transaction authorized by this ordinance shall be prepared by the Director of Law, approved by the appropriate Director, and, as necessary, certified by the Director of Finance.

Section 4. 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.

GB:KR:nl
5-13-2024
FOR: Director DeRosa

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**REPORT
after second Reading**

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

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READ FIRST TIME **REPORTS**
and referred to _____

by the council _____

_____ **CITY CLERK**

READ SECOND TIME

_____ **CITY CLERK**

READ THIRD TIME

by the council _____

_____ **PRESIDENT**

_____ **CITY CLERK**

APPROVED

_____ **MAYOR**

Recorded Vol. _____ Page _____
Published in the City Record _____