

# Ordinance No. 723-2025 AS AMENDED

By Council Members Bishop and Griffin  
(by departmental request)

## **AN EMERGENCY ORDINANCE**

Determining the method of making the public improvement of designing, installing and constructing various energy conservation measures at the City's Division of Police District facilities; authorizing the ~~Director of Capital Projects~~ Directors of Capital Projects, Finance and Public Safety to enter into one or more guaranteed energy saving performance contracts for a guaranteed maximum price with Leopardo Energy, LLC for the making of the improvement and professional services for procurement modifications; authorizing the Director of Public Works to enter into one or more maintenance agreements for the HVAC improvements; authorizing the Director of Finance to enter into one or more installment payment contracts and ~~loan contracts~~ to finance the improvements; and authorizing other documents.

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WHEREAS, the Office of Capital Projects issued a request for quotation, or RFQ, for Public Safety Energy Improvements, conducted interviews of the qualified respondents, and has selected Leopardo Energy, LLC ("Leopardo Energy") to prepare an energy conservation report in accordance with R.C. 717.02(B) for all five of the City's Division of Police District facilities; and

WHEREAS, Leopardo's Energy Conservation Report dated May 20, 2025, as amended, (the "Energy Conservation Report") contains the following energy and conservation measures for such District facilities: (1) HVAC replacements at Districts 1, 4, and 5; (2) roof repairs at District 3 and replacement at ~~Districts~~ District 5; (3) acoustical ceiling replacements at Districts 1, 2, 4 and 5; (4) replace windows and doors at Districts 1, 2, 4, and 5; (5) whole building back-up generator power at ~~District~~ Districts 1 and 5; (6) modify District 4 electrical systems for full building back-up power on the existing generator; and (7) LED lighting fixture replacements, plumbing fixture replacements, building façade repairs, interior finish upgrades, roof solar installation with battery storage, and electrical wiring and service modifications at all Districts (collectively the "Project"); and

WHEREAS, the City desires to contract with Leopardo Energy to design, install, and implement the Project; and

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WHEREAS, under R.C. ~~712.02~~ 717.02, the City is authorized to procure energy conservation measures, as defined therein, in any manner authorized by the City's Charter and ordinances and to enter into installment payment contracts or other appropriate financing for the Project upon such terms and conditions as the City deems advisable; and

WHEREAS, the City may desire to finance all or some portion of the Project by entering into one or more installment payment contracts under R.C. ~~712.02(D)~~ 717.02(D), the contracts which are not subject to competitive bidding requirements; and

WHEREAS, Leopardo Energy has executed a project labor agreement with the Cleveland Building and Construction Trades Council as part of a comprehensive qualification process to identify multiple contractors by utilizing the local trades; and

WHEREAS, the unique design, time, budgetary, or other material elements of the Project can benefit from the special care, coordination, and expeditiousness by the performance of both the professional design services and the construction of public improvements comprising the Project in one or more design-build approach contracts with a single entity; 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 Council hereby finds that, based upon the Energy Conservation Report, placed in File No. 723-2025-A, the amount of the money that would be spent on the Project is not likely to exceed the amount of money the City would save in energy, operating, maintenance and avoided capital costs over the average life of the Project.

Section 2. That, under Section 167 of the Charter of the City of Cleveland and notwithstanding and as an exception to ~~the Codified Ordinances of the Codified~~

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Ordinances of the City of Cleveland, Ohio, 1976, this Council determines to make the public improvement of the Project, for the Division of Police, Department of Public Safety, by one or more guaranteed energy saving performance contracts duly let to Leopardo Energy, based on its November 22, 2024 proposal and the Energy Conservation Report, to design, install, and implement the Project (the "Improvement Contract"). The total cost of the Improvement Contract shall be for a guaranteed maximum price not to exceed twenty-one million dollars (\$21,000,000). The Improvement Contract may be implemented in accordance with RC 717.02 and may also include professional services for procurement modifications to achieve additional cost savings for the City as further described in the Energy Conservation Report, and shall be prepared by the Director of Law, approved by the ~~Director of Capital Projects~~ Directors of Capital Projects, Finance and Public Safety and certified by the Director of Finance.

~~Section 3. That the Director of Public Works is authorized to enter into one or more agreements with Leopardo Energy for the maintenance of equipment and accomplishment of savings required by the Improvement Contract for a total term not to exceed the aggregate terms of any the financing agreements entered into under Sections 4 and 7 of this ordinance or twenty (20) years, whichever is greater (the "Maintenance Contract").~~

Section 3. That the Director of Public Works is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a total term not to exceed the aggregate of the terms of any financing agreements entered into under Section 4 of this ordinance or twenty (20) years, whichever is greater, of the necessary items of labor and materials necessary to maintain, test, inspect, repair, or enhance the HVAC replacements of the Project, including, but not limited to, environmental controls, associated software, and components, and the rental of component parts, to be

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purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Police, Department of Public Safety ("Maintenance Contract"). Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines.

That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of any purchase under the contract, each of which purchases shall be made on order of the Commissioner of Purchases and Supplies by a delivery order issued against the contract or contracts and certified by the Director of Finance.

That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative arrangements with other governmental agencies. The Director of Public Works may sign all documents that are necessary to make the purchases and may enter into one or more contracts with the vendors selected through that cooperative process. The Director of Public Works shall provide written notice to the Clerk of Council ("Clerk") whenever any purchase is made through the cooperative process, which notice shall include the details of such cooperative purchases.

Section 4. That the Director of Finance is authorized to enter into one or more installment payment contracts, or other appropriate financing instruments, for the design, purchase, ~~installation, and implementation of the conservation~~ and installation of the ~~conservations~~ measures under the Improvement Contracts, with one or more lending institutions or banks, for an aggregate principal amount not to exceed twenty-one million dollars (\$21,000,000) (the "Installment Contract"). Not less than ~~twenty percent (20%)~~ five percent (5%) of the cost of the Installment Contract shall be paid within two (2) years of the date of purchase, with the remaining balance to be paid in accordance with R.C. 717.02(D)(2).

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The selection of the lending institutions or banks for the Installment Contract shall be made by the Board of Control on the nomination of the Director of Finance from a list of qualified and available lending institutions or banks after making a full and complete canvass for the purpose of compiling the list. The Board of Control shall fix, together or separately through one or more resolutions, the term of and the interest rate per annum under the Installment Contract.

Section 5. That the Director of Finance is authorized to take all actions necessary or reasonably required by the parties to the Installment Contract to carry out, give effect to and consummate the transactions contemplated thereby, including engaging financial advisors, special tax counsel and underwriters and/or placement agents for the Installment Contract, and executing and delivering any escrow agreement, federal tax certificate or agreement, memorandum of understanding with Leopardo Energy or the applicable vendor, disbursement requests, final acceptance certificate, or other closing or other documents or certificates as contemplated in or required by the Installment Contract.

Section 6. That, if the Director of Finance enters into the Installment Contract, the City may be reimbursed out of the proceeds thereof for expenditures paid or incurred in connection with the Project ~~prior to the date of this ordinance~~ in accordance with the reimbursement requirements set forth in Treasury Regulations Section 1.150-2 of the Internal Revenue Service. This ordinance shall constitute a declaration of the City's intent with respect to reimbursing expenses of the Project with proceeds of an Installment Contract within the meaning of Treasury Regulations Section 1.150-2.

~~Section 7. That, additionally and alternatively to Section 4 of this ordinance, the Director of Finance is authorized to enter into one or more loan agreements with one or more lending institutions or banks, for an aggregate principal amount not to exceed twenty-one million dollars (\$21,000,000) ("Loan Contract").~~

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~~The selection of the lending institutions or banks for the Loan Contract shall be made by the Board of Control on the nomination of the Director of Finance from a list of qualified and available lending institutions or banks after making a full and complete canvass for the purpose of compiling the list. The Board of Control shall fix, together or separately through one or more resolutions, the term of and the interest rate per annum under the Loan Contract.~~

~~Section 8. That the funds from the Loan Contract may deposited into a fund to be approved by the Director of Finance, and the Director of Finance is authorized to repay the loan funds to the lender in accordance with the terms and conditions of the Loan Contract from funds appropriated for such purpose.~~

~~Section 9.~~ 7. That the Director of Capital Projects 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 10.~~ 8. That the Director of Capital Project and Director of Public Works, as appropriate, are authorized to enter into any other agreements and to sign and documents, all to be approved for legal form and correctness by the Director of Law, to effectuate the transactions described in this ordinance. That all contracts otherwise authorized by this ordinance shall be approved by the Director of Law and shall contain any terms and conditions as are required to protect the interests of the City.

~~Section 11.~~ 9. That the Director of Public Safety or Director of Capital Projects, as appropriate, is authorized to apply for and accept any gifts or grants for this purpose from any public or private entity; and that the appropriate director is authorized 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.

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Section 12. 10. That the cost of Improvement Contract authorized in Section 2 shall be paid from the principal amount under the Installment Contract ~~or Loan Contract~~ authorized in Section 4 ~~or Section 7, respectively,~~ the fund or funds to which are credited grant funds or cash gifts received, or any funds approved by the Director of Finance, including future 2025 bonds if issued for this purpose. That the cost of the Maintenance Contract, ~~Installment Contract and Loan Contract~~ and Installment Contract authorized in Sections 3 and 4 ~~3, 4, and 7,~~ respectively, shall be paid from annual funds appropriated for this purpose. That the cost of all other contracts and expenditures authorized in this ordinance shall be paid from funds approved by the Director of Finance. (RQS 0103, RLA 2025-54)

Section 11. That the Director of Capital Projects shall provide quarterly reports to the Clerk during Project construction and annual reports to the Clerk of cost savings after the Project completion.

Section 13. 12. 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.

SM:KR:uo  
6-2-2025  
FOR: Director DeRosa

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REPORT  
after second Reading

By Council Members Bishop and Griffin (by departmental request)

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and referred to  
by the council

READ FIRST TIME

REPORTS

CITY CLERK

by the council

READ SECOND TIME

CITY CLERK

by the council

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR