

Ordinance No. 723-2025

**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 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; authorizing the Director of Public Works to enter into one or more maintenance agreements for the 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.

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 (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 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 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

WHEREAS, under R.C. 712.02, 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

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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), 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, 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 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

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Improvement Contract may be implemented in accordance with RC 717.02, and shall be prepared by the Director of Law, approved by the Director of Capital Projects, 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 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 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%) 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).

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 special tax counsel and underwriters and/or placement agents for the

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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").

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.

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Section 9. 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. That the Director of Capital Project and Director of Public Works, as appropriate, are authorized to enter into any other agreements and to sign documents, all to be approved for legal form and correctness by the Director of Law, to effectuate the transactions described in this ordinance.

Section 11. 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.

Section 12. 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 bonds if issued for this purpose. That the cost of the Maintenance Contract, Installment Contract and Loan Contract authorized in Sections 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.

Section 13. 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.

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6-2-2025
FOR: Director DeRosa

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READ FIRST TIME on JUNE 2, 2025
and referred to DIRECTORS of Capital Projects,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Finance Diversity Equity and Inclusion

	CITY CLERK
READ SECOND TIME	
	CITY CLERK
READ THIRD TIME	
PRESIDENT	
	CITY CLERK
APPROVED	
MAYOR	

REPORT
after second Reading

PASSAGE RECOMMENDED BY COMMITTEE ON MUNICIPAL SERVICES AND PROPERTIES	
FILED WITH COMMITTEE	

PASSAGE RECOMMENDED BY COMMITTEE ON FINANCE, DIVERSITY, EQUITY and INCLUSION	
FILED WITH COMMITTEE	