

Ordinance No. 642-2024

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

AN EMERGENCY ORDINANCE

Determining the method of making the public improvement of designing and constructing or constructing, rehabilitating, renovating, replacing or otherwise improving public facilities, buildings, and other similar structures, including site improvements and appurtenances; and authorizing the Director of Public Works or Capital Projects, as appropriate, to enter into one or more public improvement contracts for the making of the improvements; enter into one or more professional services and other contracts needed to implement the improvement; to apply for and accept grants and gifts; and authorizing the direct employment of the necessary labor, for the Department of Public Works or the Office of Capital Projects.

WHEREAS, the unique design, time, budgetary, or other material elements may benefit from the special care, coordination, and expeditiousness possible by combining the performance of both the professional design services and the construction under one or more design-build contract 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 under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of constructing, rehabilitating, renovating, replacing or otherwise improving public facilities, buildings, and other similar structures, including site improvements and appurtenances (the “Improvement” or “Improvements”), for the Department of Public Works or the Office of Capital Projects, as appropriate, by one or more contracts duly let to the lowest responsible bidder or bidders after competitive bidding for a gross price for each Improvement.

The Director of Public Works or Director of Capital Projects, as appropriate, is authorized to enter into one or more contracts for the making of the Improvements with the lowest responsible bidder or bidders after competitive bidding for a gross price for each 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 combination, of the trades or components may be the subject of a separate contract for a gross price. On request of the director, the contractor shall furnish a correct schedule of unit prices, including profit and overhead, for all items constituting units of the Improvement.

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Section 2. That the Director of Public Works or Director of Capital Projects, as appropriate, 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 services for the Improvements.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Works or Director of Capital Projects, as appropriate, from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Works or Director of Capital Projects, as appropriate, 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 authorized shall be prepared by the Director of Law, approved by the Director of Public Works or Director of Capital Projects, as appropriate, and certified by the Director of Finance.

Section 3. That, alternatively to Sections 1 and 2 of this ordinance, under Section 167 of the Charter of the City of Cleveland, this Council determines to make one or more of the Improvements, for the Department of Public Works or the Office of Capital Projects, as appropriate by one or more design-build or engineer-procure-construct contracts duly let to the person, firm, or corporation or combination of them submitting the best proposal, taking into consideration the engineering and design, the construction method, the proposed design and construction costs, the total life-cycle costs, the qualifications of the proposed design professional and construction firm, the community benefits offered, and the objectives of the Improvement.

The selection of the person, firm, or corporation to design and construct each Improvement shall be made by the Board of Control on the nomination of the Director of Public Works or Director of Capital Projects, as appropriate, from a list of qualified and available persons, firms, or corporations, as may be determined by the Director of

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Public Works or Director of Capital Projects, as appropriate, 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 each Improvement. The contract or contracts shall be prepared by the Director of Law, approved by the Director of Public Works or Director of Capital Projects, as appropriate, and certified by the Director of Finance.

Section 4. That the Director of Public Works or Director of Capital Projects, as appropriate, 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 5. That the Director of Public Works or Director of Capital Projects, as appropriate, is authorized to make one or more written standard purchase and/or written requirement purchase contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for a term to be determined by the Director of Public Works or Director of Capital Projects, as appropriate, to procure each or all of the items comprising the necessary supplies and materials, equipment and services for the Improvements, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Works or Office of Capital Projects, as appropriate. 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. Alternate bids for a period less than the entire term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. In lieu of utilizing the authority contained in this ordinance, and notwithstanding the provisions of Sections 131.67 or 181.101 of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, nothing shall prohibit purchases described in this section from being procured under an

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existing or future requirements contract authorized under Codified Ordinances Sections 131.67 or 181.101 payable from the funds identified in this ordinance.

Section 6. That under Section 167 of the Charter of the City of Cleveland, it is determined to make the Improvements, including all site improvements and appurtenances necessary and incidental, which are not covered by the contract or contracts authorized otherwise in this ordinance, by the direct employment of the necessary labor, and the purchase or rental of the necessary supplies and materials for the making of the Improvements which supplies and materials are not covered by the contract or contracts authorized otherwise in this ordinance, with a separate accounting for each Improvement made.

Section 7. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements with other governmental agencies. The Director of Public Works or Director of Capital Projects, as appropriate, 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.

Section 8. That the Director of Public Works 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 9. That the cost of any requirement contract or contracts shall be paid from Fund Nos. 20 SF 566, 20 SF 573, 20 SF 578, 20 SF 585, 20 SF 588, 20 SF 591, 20 SF 596, 20 SF 701, 20 SF 705, 20 SF 709, 20 SF 710, 20 SF 711, 20 SF 715, 20 SF 716, 20 SF 717, from the fund or funds to which are credited the proceeds from the sale of future bonds, if issued for this purpose, and shall also be charged against the proper appropriation accounts, and the Director of Finance shall certify the amount of any

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purchase under the requirement contracts, each of which purchases shall be made on order of the Commissioner of Purchases and Supplies by a delivery order issued under the requirement contract and certified by the Director of Finance. The costs of any other contract or eligible expenditure shall be paid from Fund No. 20 SF 566, 20 SF 573, 20 SF 578, 20 SF 585, 20 SF 588, 20 SF 591, 20 SF 596, 20 SF 701, 20 SF 705, 20 SF 709, 20 SF 710, 20 SF 711, 20 SF 715, 20 SF 716, 20 SF 717, from the fund or funds to which are credited the proceeds from the sale of future bonds, if issued for this purpose, the fund or funds to which are credited grant funds or cash gifts received, and any other funds deemed appropriate by the Director of Finance. (RQS 0103, RLA 2024-54)

Section 10. 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.

JBM:nl
6-3-2024
FOR: Directors Williams and DeRosa

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REPORT
after second Reading

By Council Members Bishop and Griffin (by departmental request)

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READ FIRST TIME on JUNE 3, 2024

**and referred to DIRECTORS of Public Works, Capital Projects,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
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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COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

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**FINANCE, DIVERSITY, EQUITY
and INCLUSION**

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