

Ordinance No. 683-2021

**By Council Members Bishop, Brancatelli
and Kelley (by departmental request)**

AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects to apply for and accept funding from the Ohio Department of Transportation for the preliminary alternative study of the Lakefront Pedestrian Bridge; authorizing the Director to apply for and accept gifts, grants, and other funding from other entities; to enter into contract with Osborn Engineering Company for traffic modeling and engineering services; authorizing other agreements; and authorizing the Commissioner of Purchases and Supplies to acquire, accept, and record for right-of-way purposes real property and easements.

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 for and accept state funding from the Ohio Department of Transportation (“ODOT”) for the following infrastructure preliminary alternative study: CUY 2-15.26 – Lakefront Pedestrian Bridge Connector to the Lakefront (the “Project”); 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 described in this ordinance.

Section 2. That the Director of Capital Projects is authorized to apply for and accept gifts or grants or other funding from public or private entities for the Project; 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 3. That the City of Cleveland is obligated to provide cash matching funds in the amount of the local share.

Section 4. That the Director of Capital Projects is authorized to enter into one or more contracts with Osborn Engineering Company for professional services necessary for traffic modeling and preliminary engineering services necessary to arrive at the preferred roadway network to compliment the Project, in the estimated sum of \$5,000,000.

Section 5. 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

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the City of Cleveland in order to provide professional services necessary to implement the Project, including but not limited to, providing representation for the City and performing management services.

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 authorized shall be prepared by the Director of Law, approved by the Director of Capital Projects, and certified by the Director of Finance.

Section 6. 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 including but not limited to fee simple acquisitions, temporary easements, and permanent easements necessary to complete the Project. The consideration to be paid for the property and easements shall not exceed fair market value to be determined by the Board of Control.

Section 7. 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 for the Project.

Section 8. That the Director of Capital Projects is authorized to enter into any agreements, including but not limited to work agreements and right of entry agreements, needed to implement the Project and to apply for permits, licenses, or other authorizations required by an regulatory agency or public authority to permit performance of the Project.

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Section 9. 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 for the Project.

Section 10. That the Director of Capital Projects is authorized to enter into one or more agreements with the State necessary to complete the planning of the Project, which LPA-ODOT-Let agreements shall contain terms and conditions that the Director of Law determines shall best protect the public interest.

Section 11. Right-of-Way Statement. The City agrees to acquire and/or make available to ODOT, under current State and Federal regulations, all necessary right-of-way required for the Project.

Section 12. That the Director of Capital Projects is authorized to enter into contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Project and to enter into contracts with the Director of Transportation necessary to complete the Project. Upon the request of ODOT, the Director of Capital Projects is also authorized to assign all rights, title, and interests of the City to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

Section 13. That the City agrees that if Federal Funds are used to pay the cost of any consultant contract, the City shall comply with 23 CFR 172 in the selection of its consultant and the administration of the consultant contract. Further, the City agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The City agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the Project.

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Section 14. That the cost of the contracts, payments, property acquisition, agreements, or other expenditures authorized in this ordinance, shall be paid from the fund or funds to which are credited any gift, grant, or other funds received under this ordinance, the cash match, from cash contributions accepted and appropriated under this ordinance, Fund Nos. 20 SF 568, 20 SF 574, 20 SF 579, 20 SF 586, 20 SF 592, 20 SF 597, 20 SF 702, and any other funds approved by the Director of Finance, including future bond funds if issued for this purpose. (RQS 0103, RLA 2021-52)

Section 15. 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:nl
8-18-2021
FOR: Interim Director Spronz

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READ FIRST TIME on AUGUST 18, 2021

and referred to DIRECTORS of Capital Projects

City Planning Commission, Finance, Law;

COMMITTEES on Municipal Services and Properties,

Development Planning and Sustainability, Finance

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Page _____

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

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