



# City of Columbus

Office of City Clerk  
90 West Broad Street  
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columbuscitycouncil.org

## Legislation Text

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**File #:** 1153-2016, **Version:** 1

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This ordinance authorizes and directs the Director of Public Service to execute a loan agreement with the Ohio Department of Transportation and authorizes the issuance of a limited tax general obligation promissory note in an amount not to exceed \$8,375,000.00 for the purpose of constructing and reconstructing Hamilton Road near the State Route 161 interchange (\$8,375,000.00).

To authorize and direct the Director of Public Service to execute a loan agreement with the Ohio Department of Transportation and authorize the issuance of a limited tax general obligation promissory note in an amount not to exceed \$8,375,000.00 for the purpose of constructing and reconstructing Hamilton Road near the State Route 161 interchange (\$8,375,000.00).

Section 44-1(b) of the City Charter.

**WHEREAS**, by Ordinances No. 1800-2015, passed by this City Council (“Council”) on July 13, 2015 and Ordinance No. 0428-2016, passed by this Council on February 29, 2016 (collectively, the “Application Ordinances”), this Council has authorized the City of Columbus (the “Municipality”) to apply for a State Infrastructure Bank Loan (the “Loan”) for the purpose of financing a portion of the costs of the acquisition, construction, equipping and installation of the public street improvements, including constructing an “S” curve on Hamilton Road, relocating a portion of State Route 161, reconfiguring the exit ramp at State Route 161, and improving the entry ramp at State Route 161 (the “Project”); and

**WHEREAS**, such application has been approved, and the Municipality has determined to proceed with the Project and to finance a portion of such Project using the Loan, which involves entering into a loan agreement (the “Loan Agreement”) with the Director of Transportation of the State of Ohio (the “State”) and executing and delivering to the State a promissory note (the “Note”) in an amount not to exceed \$8,375,000; and

**WHEREAS**, the City Auditor (the “City Auditor”) of the Municipality has certified to this Council that the estimated life of the Project exceeds 5 years, the maximum maturity of any bonds that are general obligation Ohio Revised Code Chapter 133 securities, such as the Note, being twenty (20) years; now therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** In order to fund a portion of the costs of the Project, (a) the Public Service Director, City Auditor, and Director of Finance and Management, or any of them individually, are hereby authorized and directed to negotiate, execute and deliver, in the name and on behalf of the Municipality, the Loan Agreement, the Bond Purchase Agreement (the "Purchase Agreement") among the Municipality, the State, acting by and through its Treasurer of State and the Director of Transportation of the State (the "Director"), and KeyBanc Capital Markets Inc. (the "Underwriter"), (b) it is hereby declared necessary to issue the Note in the maximum principal sum of Eight Million Three Hundred Seventy-Five Thousand Dollars (\$8,375,000) to finance the Project (the Note, this Ordinance, the Application Ordinances, the Loan Agreement, and the Purchase Agreement are collectively referred to as the "Loan Documents"), and (c) the Municipality hereby authorizes any and all action as may be required on its part to carry out, give effect to and consummate the transaction contemplated by the Loan Documents.

The Note shall be a general obligation of the Municipality, and the full faith, credit and revenue of the Municipality are hereby pledged for the prompt payment of the same. The Note shall mature in not more than (20) annual installments. Interest (calculated upon a basis of a year consisting of twelve thirty-day months) on the Note shall be paid semi-annually on such dates as shall be specified in the Certificate of Fiscal Officer (as defined herein) and shall be payable as provided on the "Borrower Payment Schedule" attached to the Note and to be specified in the Certificate of Fiscal Officer. Payments shall be made to the Director, provided that the amount of the last installment shall be equal to the balance of the principal sum then outstanding, together with all interest accrued thereon.

The entire principal balance hereon, and accrued and unpaid interest thereon, and all other obligations of the Municipality hereunder, if not sooner paid, shall be due and payable in full on the date of last payment as shown on the Borrower Payment Schedule to be specified in the Certificate of Fiscal Officer (as defined herein).

The annual rate of interest stated herein shall apply to a 360-day period and amounts of interest due hereunder shall be computed upon the basis of 30-day months. Installments of principal and interest shall be applied first to interest as provided herein and the balance to principal due hereunder.

The Note shall be subject to prepayment as specified in the Certificate of Fiscal Officer. All such prepayments shall be applied to the payment of the principal installments due on the Note in the inverse order of its maturity, and shall be accompanied by the payment of accrued interest on the amount of the prepayment to the date thereof.

The Note shall provide that, for the period during which a default shall exist in the payment of any amount due and payable hereunder (excluding any amount due and payable upon maturity) (the "Amount Due") a late charge equal to five percent (5%) of Amount Due shall be assessed, in addition to all other sums due hereunder, for each month during which the default exists.

**Section 2.** The City Auditor and the Director of Finance and Management, or either of them individually, are authorized and directed to execute on behalf of the Municipality a Certificate of Fiscal Officer Relating to Loan Terms (the "Certificate of Fiscal Officer") setting forth the principal amount of the Note, the dated date of the Note, the interest rate on the Note (not to exceed five percent (5.0%) per annum), the interest payment dates, the Borrower Payment Schedule (provided that the first principal payment on the Note shall not be later than August 1, 2018 and the latest principal payment on the Note shall not be later than December 31<sup>st</sup> of the year that is 20 years after the first principal payment on the Note), the provisions for prepayment, and shall set forth and determine such additional terms and other matters pertaining to the Note, its issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

**Section 3.** There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which the Note is outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Note as and when the same falls due and to provide a fund for the repayment of the principal of the Note at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

**Section 4.** The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Note when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Note in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Note in accordance with law.

**Section 5.** To the extent that moneys are required to pay any of the costs or expenses of negotiating the Loan Documents or to pay the fees and other expenses payable pursuant to the Loan Documents, the sum of \$20,000, or so much therefore as may be needed, is hereby deemed appropriated and authorized to be expended from BRDI000092 Fund 1000.

**Section 6.** This Council hereby authorizes and directs the Public Service Director, City Auditor, Director of Finance and Management, or other appropriate officers of the Municipality, to prepare and sign the Loan Documents, and any amendments thereto (except for the Note, which shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that either but not both of those signatures may be a facsimile) such that the character of those changes is not substantially adverse to the Municipality, and further, such officers are hereby authorized and directed to take such action and to execute and deliver, on behalf of the Municipality, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

**Section 7.** It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Note in order to make it a legal, valid and binding obligation of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Note.

**Section 8.** It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**Section 9.** The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

**Section 10.** In accordance with Section 44-1(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.