



## Legislation Text

File #: 2381-2017, Version: 1

**1. BACKGROUND:** The Department of Public Utilities submitted a letter of intent to apply for an Ohio Energy Loan through the State of Ohio Development Services Agency on May 15, 2017. The loan application required a certified energy audit to be submitted by June 1, 2017. The loan will provide \$2,000,000 in partial funding for the City's Street Light Modernization program which intends to replace the majority of its existing 52,853 streetlight fixtures with LED equivalents over several years. These upgrades would occur throughout the City's arterial roadways, neighborhood streets, downtown central district, and bridge underpasses. To convert all the City's current streetlights to LED it would cost approximately \$40,000,000, potentially yielding \$2 million in annual energy savings through a reduction of 28,344,902 kilowatt hours of energy usage. Based on funding availability, the City intends to pursue the conversion in several stages, over multiple years, with multiple contract awards. For the first phase of the conversion, it is anticipated that the City will contribute \$1.5-\$2.5 million in funds from the Division of Power, coupled with the loan proceeds, for a total contract award of approximately \$3.5-\$4.5 million. Additional future funding from the Ohio Energy loan program may provide additional resources for the City to use each year.

On July 24, 2017 the Ohio Development Services Agency sent the Department a term sheet outlining the terms and conditions of the loan. This was not a commitment by the State or the City. A final commitment is subject to City Council approval, payment of \$20,000 in loan fees, Director signature of the term sheet, completion of due diligence by the State, and final approval of the loan documentation. The terms of the loan include a \$2,000,000 loan at a fixed interest rate of 2.0%, over 15 years, with no penalty for early pay-off. The loan is required to be closed on December 31, 2017. The City's required cost share commitment is approximately 10% of the loan award, or \$222,223. This cost share shall be committed through an amendment to the Capital Improvements Budget in a separate ordinance when the construction contract is awarded. The City is also required to pay a \$20,000 loan commitment fee and legal fees of \$4,200.

**2. CONTRACT COMPLIANCE NUMBER:** Treasurer of State of Ohio, government agency, FID 31-1334820, Vendor #: 005089; Bricker and Eckler LLP, FID31-4359739, Vendor # 006047.

**3. EMERGENCY DESIGNATION:** An emergency designation **is requested** at this time.

**4. ENVIRONMENTAL IMPACT:** NA

**5. FISCAL IMPACT:** The loan will be paid back over 15 years or less at a fixed interest rate of 2.0%. The required minimum cost share by the City is \$222,223. For the first phase of the conversion it is anticipated that the City will contribute \$1.5-\$2.5 million in City funds to the project to make the total contract award approximately \$3.5-\$4.5 million. The City's contribution will fulfill the cost share requirement and will be committed through an amendment to the Capital Improvements Budget in a separate ordinance when the construction contract is awarded.

To authorize and direct the Director of Public Utilities to enter into a loan agreement for an Ohio Energy Loan with the Ohio Development Services Agency; to authorize the issuance of a limited tax general obligation promissory note in an amount not to exceed \$2,000,000.00 for the purpose of financing costs associated with converting the City's existing streetlight system to LED equivalents (\$2,000,000.00); to authorize the payment of \$24,200.00 for the City's cost share and loan fees from the Power Operating Fund; to transfer \$24,200.00 between object classes in the Electricity Operating Fund; to amend the 2017 Capital Improvements Budget; and to declare an emergency.

**WHEREAS**, on behalf of the City of Columbus, Ohio (the “City”), the Department of Public Utilities applied for an Ohio Energy Loan with the Ohio Development Services Agency in May 2017 for the purpose of financing a portion of costs associated with converting the City’s existing streetlight system to LED equivalents under its LED Conversion Project (the “Project”) which will occur in several phases; and

**WHEREAS**, the Ohio Development Services Agency conditionally approved a \$2,000,000 loan for program year 2017, at 2.00% per annum, for a term of 15 years (the “Loan”), provided that the City contribute \$222,223 as a cost-sharing contribution (the “Cost-Sharing Contribution”) towards the Project and pay a Loan processing and commitment fee of \$20,000 (the “Processing and Commitment Fee”); and

**WHEREAS**, the Ohio Development Services Agency requires approval of the conditionally approved terms of the Loan (the “Term Sheet”) by no later than September 2017 and closing of the Loan by no later than December 31, 2017; and

**WHEREAS**, the City has determined to proceed with the Loan, and therefore must enter into a loan agreement (the “Loan Agreement”) with the Ohio Development Services Agency and execute and deliver to the Ohio Development Services Agency a promissory note (the “Note”) in an amount not to exceed \$2,000,000; and

**WHEREAS**, it is necessary to amend the 2017 Capital Improvements Budget for purposes of creating and providing sufficient budget authority for the aforementioned expenditures; and

**WHEREAS**, the City anticipates incurring certain Original Expenditures (as defined in Section 1.150-2(c) of the Treasury Regulations (The “Treasury Regulations”) promulgated pursuant to the Internal Revenue Code of 1986, as amended) with respect to the Project; and

**WHEREAS**, an emergency exists in the usual daily operations of the Department of Public Utilities in that it is immediately necessary to authorize the Director of the Department of Public Utilities to accept and enter into the Loan with the Ohio Development Services Agency at the earliest practical date in order to meet Loan deadlines;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That, in order to fund a portion of the costs of the Project, this City Council (the “Council”) hereby authorizes and directs the Director of the Department of Public Utilities, City Auditor, Director of Finance and Management, or other appropriate officers of the City, to negotiate and execute, on behalf of the City, the Term Sheet, Loan Agreement and Commitment Letter (the “Commitment Letter”), and any amendments thereto, with the Ohio Development Services Agency, provided that the character of any such amendments is not substantially adverse to the City.

Furthermore, it is hereby declared necessary to issue the Note (which shall be executed by the Mayor and the City Auditor, in their official capacities, provided that either of those signatures may be a facsimile) in the maximum principal sum of Two Million Dollars (\$2,000,000) (the Note, this Ordinance, the Term Sheet, the Loan Agreement and the Commitment Letter are collectively referred to as the “Loan Documents”).

This Council 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.

**SECTION 2.** That the Director of the Department of Public Utilities is hereby authorized to commit the City’s Cost-Sharing Contribution (\$222,223) and to pay the Processing and Commitment fee (\$20,000), as required by the Term Sheet. The City’s Cost-Sharing Contribution of \$222,223 shall be committed through an amendment to the Capital

Improvements Budget in a separate ordinance.

**SECTION 3.** That the Note shall be a general obligation of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The Note shall mature in not more than 15 annual installments, payable in the manner as shall be specified in the Loan Agreement. The Note shall bear interest at 2.00% per annum (based on a 360-day year of twelve thirty-day months), payable semi-annually on such dates and in such manner as shall be specified in the Loan Agreement. Payments shall be made to the Director of the Ohio Development Services Agency, 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 City hereunder, if not sooner paid, shall be due and payable in full on the date of last payment as shall be specified in the Loan Agreement.

Prepayment of the Note shall not result in a penalty. 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.

**SECTION 4.** That the Director of the Department of Public Utilities, City Auditor, and Director of Finance and Management, or any of them individually, are authorized and directed to execute on behalf of the City the Loan Agreement setting forth the principal amount of the Note, the dated date of the Note, the interest rate on the Note (not to exceed 2.00% per annum), the interest payment dates, the payment schedule, the provisions for prepayment, and such additional terms and other matters pertaining to the Note as are directed to be determined therein by this Ordinance or necessary for the Note's execution.

**SECTION 5.** That there shall be and is hereby levied annually on all the taxable property in the City, 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 prepayment. 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 6.** That 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 interest on and principal of the Note when and as the same falls due. Notwithstanding the foregoing, if the City 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 City shall appropriate such funds to the payment of the Note in accordance with law.

**SECTION 7.** That from the unappropriated monies in the Power Reserve Fund, Fund 6301, and all estimated monetary receipts to the Power Reserve Fund, Fund 6301, that are not appropriated during the fiscal year ending December 31, 2017, the amount of \$2,000,000 is hereby appropriated to the Division of Power Fund, Fund 6301, per the account codes in the DAX Financial Attachment in Exhibit A to this Ordinance.

**SECTION 8.** That the City Auditor is hereby authorized to transfer a total of \$2,000,000 from the Division of Power

Fund, Fund 6301, to the Ohio Energy Loan Fund, Fund 6315, for the Project, P670878-100000, at such time as the City Auditor shall deem necessary or as may be necessary per the account codes in the DAX Financial Attachment in Exhibit A to this Ordinance.

**SECTION 9.** That the appropriation and expenditure of \$2,000,000, or such amount as may be determined necessary for the Project, is hereby authorized from the Ohio Energy Loan Fund, Fund 6315, per the account codes in the DAX Financial Attachment in Exhibit A to this Ordinance.

**SECTION 10.** That the transfer of \$24,200 or so much thereof as may be needed, is hereby authorized between Object Classes within Fund 6300 Electricity Operating Fund per the accounting codes in the attachment to this ordinance

**SECTION 11.** That the expenditure of \$20,000, or such amount as may be determined necessary to pay the Processing and Commitment fee (\$20,000), collectively, is hereby authorized from Power Operating Fund, Fund 6300, per the account codes in the DAX Financial Attachment in Exhibit A to this Ordinance.

**SECTION 12.** That the expenditure of \$4,200, or such amount as may be determined necessary to pay bond counsel fees incurred in connection with the execution of the Loan Documents, is hereby authorized from Electricity Operating Fund 6300.

**SECTION 13.** That upon obtaining other funds to support the financing needs of the Project, the City Auditor is hereby authorized to reimburse the Power Reserve Fund, Fund 6301, the amount transferred in Section 8 hereto, and said funds are hereby deemed appropriated for such purpose.

**SECTION 14.** That the funds necessary to carry out the purpose of this ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

**SECTION 15.** That the 2017 Capital Improvements Budget is hereby amended as follows:

Fund # | Project No. | Project Name | Current Authority | Revised Authority | Change

6315 (Ohio Energy Loan Fund) | P670878-100000 | LED Streetlight Modernization Project | \$0 | \$2,000,000 | \$2,000,000

**SECTION 16.** That the City Auditor is hereby authorized to establish proper project accounting numbers as appropriate and is hereby authorized to make any accounting changes necessary to revise the funding source for all contracts or contract modifications associated with this Ordinance.

**SECTION 17.** That this Council hereby authorizes and directs the Director of the Department of Public Utilities, City Auditor, Director of Finance and Management, or other appropriate officers of the City, to take such action and to execute and deliver, on behalf of the City, 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.

**SECTION 18.** That 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 City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City 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 19.** That 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 Ohio Revised Code Section 121.22.

**SECTION 20.** That the Clerk of Council is hereby directed to forward certified copies of this Ordinance to the Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

**SECTION 21.** That, for the reasons state in the Preamble hereto, which is hereby made a part hereof, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and immediately after its passage and approval by the Mayor, or 10 days after passage if the Mayor neither approves nor vetoes the same.