



## Legislation Text

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**File #:** 181474, **Version:** 1

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### **..Number**

181474

### **SUBSTITUTE 1**

131035

ALD. MURPHY, KOVAC, AND JOHNSON

Resolution approving an equipment lease/purchase agreement for energy-efficient lighting and building system projects within the Milwaukee Public Library system.

This resolution authorizes the City to enter into an equipment lease purchase agreement for energy-efficient lighting and building system projects within the Milwaukee Public Library system. The Library Board has previously approved the Milwaukee Public Library to enter into a performance contract related to energy savings that will be financed through a combination of City Capital Appropriations and an equipment lease purchase agreement. The performance contract related to energy savings has been executed and this resolution authorizes the City to enter into a companion lease purchase agreement to finance not to exceed \$2,100,000 through financing procured by the Comptroller's Office and a contribution of not to exceed \$450,000 toward the performance contract related to energy savings.

WHEREAS, On December 17, 2013, the Common Council adopted File Number 131035, approving and directing implementation of the City's sustainability plan, ReFresh Milwaukee; and

WHEREAS, The City's sustainability plan calls on the City to reduce energy use 20% by 2020 and increase use of renewable energy to 25% by 2025; and

WHEREAS, pursuant to Section 66.0133 of the Wisconsin Statutes (the "*Act*") the City is authorized to enter into a performance contract with a qualified provider to reduce energy or operating costs, realize operational savings, conserve water resources, ensure state or local building code compliance, or enhance the protection of property of the local governmental unit; and

WHEREAS, June 8, 2018 the Library Board authorized the Milwaukee Public Library to seek competitive proposals for an Investment Grade energy audit and resulting energy savings performance contract; and

WHEREAS, Johnson Controls, Inc. ("*JCI*"), a "qualified provider" pursuant to the Act, was selected to conduct an investment-grade energy audit pursuant to Section (2)(b) of the Act (the "*Report*"); and

WHEREAS, Milwaukee Public Library, Environmental Collaboration Office, and Budget and Management Division reviewed the Report, including the proposed energy savings projects and financials; and

WHEREAS, November 27, 2018 the Library Board of Trustees approved the Milwaukee Public Library to enter into a Performance Contract with JCI (the "*Performance Contract*"), for the purpose of providing energy conservation measures, including energy-efficient lighting and building system projects, within the Milwaukee Public Library system, all pursuant to the Act (the "*Project*"); and

WHEREAS, the Project is expected to contribute towards the Central Library's 20% energy reduction goal and make needed replacements to the its mechanical systems and lighting; and

WHEREAS, at the request of Milwaukee Public Library, the Comptroller's office solicited lease proposals from financial institutions in January, 2019, reviewed the responses, and determined that Capital One Public Funding, L.L.C.'s ("*Capital One*") proposal best met the City's needs at an advantageous interest rate; and

WHEREAS, the Performance Contract dated January 31, 2019 has been executed and Project completion pursuant thereto is contingent upon execution and delivery of a companion Equipment Lease Purchase Agreement (the "*Equipment Lease Purchase Agreement*") between the City and Capital One, pursuant to which the City will agree to pay rental payments on the dates and in the amounts set forth therein (the "*Rental Payments*") and pursuant to which the City will acquire certain equipment as described therein (the "*Equipment*"), all pursuant to the Act; and

WHEREAS, the Performance Contract calls for the City to contribute an amount not to exceed \$450,000 toward the Project; and

WHEREAS, the City further desires to enter into an Escrow Agreement (the "*Escrow Agreement*") between the City and an escrow agent counterparty related to the disbursement of moneys for Project purposes; and

WHEREAS, there have been presented to the Common Council of the City at this meeting the proposed forms of Equipment Lease Purchase Agreement and the Escrow Agreement, as well as the executed Performance Contract and the Report; and

WHEREAS, the City has complied with the notice requirements pursuant to Section (3) of the Act related to the solicitation of bids and this Resolution is adopted pursuant to the Act;

NOW, THEREFORE, BE IT RESOLVED, BY THE COMMON COUNCIL OF THE CITY OF MILWAUKEE:

1. The execution, delivery and performance of the Equipment Lease Purchase Agreement in substantially the same form as presented at this meeting is hereby approved, provide that (i) the maximum principal amount shall not exceed \$2,100,000; (ii) the interest rate per annum shall not exceed 4.00%; (iii) the term thereunder shall not exceed 20 years from the date of execution and (iv) the debt service payments are determined to be reasonable by the City Comptroller.
2. The execution, delivery and performance of the Performance Contract is hereby ratified and approved, provide that the maximum contribution thereunder by the City shall not exceed \$450,000. The Library Department may use funds appropriated for energy costs to make lease payments due in 2019.
3. It is hereby found and determined that, pursuant to Section (2)(c) of the Act and the Report, that the amount the City would spend on the Project is not likely to exceed the amount to be saved in energy and operation costs, or the benefits to be obtained by improved metering accuracy, over the remaining useful life of the facilities to which the measures apply.

4. The Mayor of the City, City Clerk, or the City Comptroller, or any other officer or employee of the City authorized to perform specific acts or duties hereunder (an “*Authorized Officer*”) is hereby authorized to execute and deliver, in the name and on behalf of the City, the Equipment Lease Purchase Agreement, the Escrow Agreement, and any and all agreements, documents, certificates and instruments, including but not limited to a tax compliance agreement, and to do and cause to be done any and all acts and things, said Authorized Officer deems necessary or advisable to carry out the transactions contemplated by this Resolution within the limitations established herein and with such changes as may be recommended and approved by the City Attorney in consultation with the City Comptroller.

Milwaukee Public Library, Environmental Collaboration Office

Comptroller  
Richard Li  
2/28/2019