

CITY OF OBERLIN, OHIO

RESOLUTION No. R18-08 CMS

A RESOLUTION DECLARING THE NECESSITY FOR AND AUTHORIZING THE TRANSFER OF FUNDS BY THE CITY OF OBERLIN FROM THE ELECTRIC FUND TO A NEW SEPARATE SPECIAL REVENUE FUND, PURSUANT TO OHIO REVISED CODE 5705.15 AND DECLARING AN EMERGENCY

WHEREAS, the City Council would like to transfer the current balance of the net renewable energy credit revenue, currently held in the City's Municipal Electric Fund, to a separate fund, to be established to further the implementation of policies and measures articulated in the Oberlin Climate Action Plan; and

WHEREAS, this Resolution and the Fund Transfer Request have been prepared in accordance with the procedure outlined in Ohio Revised Code Section 5705.16.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That Council finds, determines and declares that it is necessary to transfer \$2,800,000 from the Municipal Electric Fund to a Special Revenue Fund to be created by ordinance of Council.

SECTION 2. The Finance Director is hereby authorized and directed to submit a Petition as is provided in Section 5705.16 of the Ohio Revised Code, to the Tax Commissioner of Ohio, together with a certified copy of this Resolution and a full statement of proceedings of Oberlin City Council related to passage of this Resolution.

SECTION 3. The Finance Director is authorized and directed to take any and all further action as may be necessary to carry out the purposes of this Resolution to effectuate the transfer of funds.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this resolution 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 actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit: to expedite the process for the approval for the transfer of funds so as to enable the creation of a Special Revenue Fund to further the goals outlined in the City Climate Action Plan, and shall take effect immediately upon passage.

PASSED: 1st Reading: August 20, 2018
2nd Reading: September 4, 2018(A)(E)
3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



BRYAN BURGESS
PRESIDENT OF COUNCIL

POSTED: 09/05/2018

EFFECTIVE DATE: 09/04/2018



Department of
Taxation

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FINAL DETERMINATION

Date: **OCT 04 2018**

Sal Talarico
Finance Director, City of Oberlin
85 S. Main Street
Oberlin, Ohio 44074

Re: Approval of a Transfer of Funds for the City of Oberlin, Lorain County, Ohio, from the Municipal Electric Fund to a Special Revenue Fund, to be called the Sustainable Reserve Fund.

The City of Oberlin filed a petition on September 6, 2018, with the Tax Commissioner for authority to transfer funds from Municipal Electric Fund to a Special Revenue Fund, to be called the Sustainable Reserve Fund, pursuant to Revised Code Sections 5705.15 and 5705.16. Additional information was provided on September 17 and October 3, 2018. The amount to be transferred from the Municipal Electric Fund is Two Million Eight Hundred Thousand Dollars and No Cents (\$2,800,000.00).

The source of the money in the Municipal Electric Fund includes electric consumer charges, fees, and net proceeds from the sale and repurchase of renewable energy credits. The City states in its application that the funds to be transferred are "derived from the net proceeds of the sale and repurchase of renewable energy certificates over several years." Money in an electric operating fund can be transferred to any other fund and be used for any municipal purpose, because no code section restricts the use of such money. *See Niles v. Union Ice Corp.*, (1938), 133 Ohio St. 169.

The City has not yet created the Special Revenue transferee fund, to be called the Sustainable Reserve Fund. However, the City states that it anticipates the approval of the Auditor of State and the creation of that fund. Pending the creation of the transferee fund, this fund transfer meets the three-factor test of R.C. 5705.16 in that the petition states sufficient facts, there are good reasons for the transfer, and no injury will result from the transfer. Based upon a review of all available documents, there are no restrictions on the use of these funds.

The Tax Commissioner finds, after examining Resolution R18-08 CMS passed on September 4, 2018, and the Transfer Request Form, that this request for a transfer of Two Million Eight Hundred Thousand Dollars and No Cents (\$2,800,000.00) complies with the provisions of Revised Code Sections 5705.15 and 5705.16 and hereby approves the fund transfer request, pending creation of the transferee fund.

THIS IS THE TAX COMMISSIONER'S FINAL DETERMINATION WITH REGARD TO THIS MATTER. UPON EXPIRATION OF THE SIXTY-DAY APPEAL PERIOD PRESCRIBED BY R.C. 5717.02, THIS MATTER WILL BE CONCLUDED AND THE FILE APPROPRIATELY CLOSED.

I CERTIFY THAT THIS IS A TRUE AND ACCURATE COPY OF THE
ENTRY RECORDED IN THE TAX COMMISSIONER'S JOURNAL

JOSEPH W. TESTA
TAX COMMISSIONER

/s/ Joseph W. Testa

Joseph W. Testa
Tax Commissioner