



## Legislation Details (With Text)

**File #:** 3434-2022      **Version:** 2

**Type:** Ordinance      **Status:** Passed

**File created:** 11/25/2022      **In control:** Finance Committee

**On agenda:** 12/5/2022      **Final action:** 12/7/2022

**Title:** To authorize the Director of Public Utilities, Director of Public Service, and Director of Recreation and Parks, and the Director of Finance and Management to modify existing construction and service contracts for the sole purpose of adding escalator and de-escalator clauses to allow for cost increases of various construction, materials, supplies, and services; and to declare an emergency. (\$0.00)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
12/7/2022	2	CITY CLERK	Attest	
12/6/2022	2	MAYOR	Signed	
12/5/2022	2	COUNCIL PRESIDENT	Signed	
12/5/2022	1	Columbus City Council	Amended as submitted to the Clerk	Pass
12/5/2022	1	Columbus City Council	Approved as Amended	Pass

### BACKGROUND

This legislation authorizes the Director of Public Utilities, Director of Public Service, ~~and~~ Director of Recreation and Parks, **and the Director of Finance and Management** to modify existing construction and service contracts for the sole purpose of adding escalator and de-escalator clauses to allow for costs increases to various construction materials and supplies and service costs.

Due to supply chain issues various commodities, supplies, and material costs have risen significantly and have impacted contractor's ability to maintain bid prices in their contracts. To remedy these unforeseen conditions, a modification of the original contract to include an escalator and de-escalator clause for such increases is necessary. Without this modification, contractors may terminate their current contracts, requiring the City to delay or cancel important projects and services and or seek additional competitive opportunities to complete the project or service. A modification to current contracts saves the City both the expense, avoids contract delays, and avoids time associated with seeking services from new contractors.

Current construction and service contracts do not have escalator and de-escalator provisions to allow for such price adjustments. The escalator and de-escalator clauses will allow contractors to add percentage increases and price adjustments to each invoice that covers work completed during a time of high/rising commodity, supply and material costs. The de-escalator portion of the modification will eliminate the additional charges if/when such costs fall closer in line with costs at the time that the contract was entered into.

Additional funds for individual projects may need to be added with future construction and service contract modifications if the cost of such increases is anticipated to exceed the contract's Maximum Financial Obligation or total contract amount.

Emergency action is requested in order to continue to provide construction and services without interruption.

**FISCAL IMPACT:** Additional costs to cover price escalations will use existing contract contingency dollars or existing contract balances.

To authorize the Director of Public Utilities, Director of Public Service, ~~and~~ Director of Recreation and Parks, **and the Director of Finance and Management** to modify existing construction and service contracts for the sole purpose of adding escalator and de-escalator clauses to allow for cost increases of various construction, materials, supplies, and services; and to declare an emergency. (\$0.00)

**WHEREAS**, the Director of Public Utilities, Director of Public Service, ~~and~~ Director of Recreation and Parks, **and the Director of Finance and Management** have identified the need to modify current construction and service contracts; and

**WHEREAS**, current contracts do not have existing escalator and de-escalator provisions to allow such increases to be paid from project contingency or the existing contract balances; and

**WHEREAS**, such price increases are beyond contractor's control due to supply chain issues, inflationary pressures, and limited supply of various commodities, materials, and supplies; and

**WHEREAS**, such contracts are not expected to exceed their Maximum Financial Obligation or total contract amount; and

**WHEREAS**, if additional funds for individual projects need to be added if the cost of such increases exceeds the contract's Maximum Financial Obligation or total contract amount, it will be submitted for Council approval; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Public Utilities, Department of Public Service, ~~and~~ Department of Recreation and Parks, **and the Department of Finance and Management** in that it is immediately necessary to modify these contracts for the sole purpose of adding escalator and de-escalator provisions in order to complete the projects and services without further delay, thereby preserving the public health, peace, property, safety and welfare; **NOW, THEREFORE**,

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

**SECTION 1.** That the Director of Public Utilities, Director of Public Service, ~~and~~ Director of Recreation and Parks, **and the Director of Finance and Management** be and are hereby authorized to modify existing construction and service contracts for the sole purpose of adding escalator and de-escalator clauses to allow for cost increases of various construction, materials, supplies, and services.

**SECTION 2.** That any future increase to the contract Maximum Financial Obligation or the total contract amount will be subject to City Council approval on an individual basis.

**SECTION 3.** That for the reasons stated 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 after its approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.