



Legislation Details (With Text)

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Type: Ordinance **Status:** Passed

File created: 4/26/2023 **In control:** Public Utilities Committee

On agenda: 5/22/2023 **Final action:** 5/24/2023

Title: To authorize an amendment to the 2022 Capital Improvement Budget; to authorize the appropriation and transfer of funds from the Sanitary Reserve Fund to the Ohio Water Development Authority Loan Fund; to authorize the Director of the Department of Public Utilities to enter into a construction contract with Brown and Caldwell, for the Southerly Waste Water Treatment Plant Organics Receiving and Bioenergy Utilization Facility project; to authorize the appropriation and expenditure of up to \$21,224,775.42 from the Ohio Water Development Authority Loan Fund for the contract; and to declare an emergency. (\$21,224,775.42)

Sponsors:

Indexes: MBE Participation, WBE Participation

Code sections:

Attachments: 1. ORD 1297-2023 Accounting Template, 2. ORD 1297-2023 Utilization

Date	Ver.	Action By	Action	Result
5/24/2023	1	CITY CLERK	Attest	
5/23/2023	1	MAYOR	Signed	
5/22/2023	1	COUNCIL PRESIDENT	Signed	
5/22/2023	1	Columbus City Council	Approved	Pass

1. BACKGROUND

This ordinance authorizes the Director of Public Utilities to enter into a professional services contract with Brown and Caldwell for professional design services for the SWWTP Organics Receiving and Bioenergy Utilization Facility project, CIP #650353-100007, in an amount up to \$21,224,775.42.

This project is for preliminary and detailed design services and will provide a preliminary design report and design for the installation of Digesters 8 and 9, a Fats, Oils, and Grease (FOG) and high strength organic waste (HSW) receiving station, a combined heat and power (cogeneration) facility to utilize the digester gas, new waste gas burners, and relocation of the gravity bypass at the Southerly Wastewater Treatment Plant.

A future modification will be requested for Step 3 - Services during Construction.

The Community Planning Area is “99 - Citywide”

TIMELINE: The total term of the Step 1 Preliminary Design and Step 2: Detailed Design Services contract will be for twenty one (21) months after notice to proceed is given. Notice to proceed is expected to be in May of 2023 with bidding completed in August of 2024. Once a Contractor has been selected, a contract modification will be requested for Step 3: Services during Construction and is currently anticipated to be for five years, ending in September of 2029.

ESTIMATED COST OF PROJECT: The negotiated award amount for engineering services is \$21,224,775.42 including a 5% contingency and if authorized tasks that will be utilized to fund needed and approved changes in the work. One contract modification is anticipated for Step 3 - Services during Construction.

Original Contract	\$21,224,775.42
Future Anticipated Needs	<u>\$15,792,000.00</u>
CONTRACT TOTAL	\$37,016,775.42

2. ECONOMIC IMPACT/ADVANTAGES; COMMUNITY OUTREACH; PROJECT DEVELOPMENT; ENVIRONMENTAL FACTORS/ADVANTAGES OF PROJECT

This project was created by combining the SWWTP Cogeneration, SWWTP Digester Expansion, Phase III project, and SWWTP FOG/HSW Receiving Station projects. These projects were combined and accelerated in order to take advantage of the Inflation Reduction Act (IRA) rebate program. Under the current guidance provided from the IRS, this project is eligible for up to 50% rebate on the total construction cost. This rebate will save the City of Columbus up to \$70,000,000 on the construction of facilities that were already in the capital budget.

In addition to IRA rebates, this project is eligible for additional funding and grants due to greenhouse gas reductions, electrical usage reduction, and FOG/HSW diversion from landfills.

The creation of a FOG/HSW program will generate a revenue stream from the tipping fees associated with the acceptance of the material. There will also be a reduction in outside electricity demands from the biogas powered generators that will be installed.

From an environmental perspective, this project will reduce SWWTP’s greenhouse gas footprint by capturing methane from the digesters. The HSW diversion program will divert food and other organic waste from the SWACO landfill to SWWTP for biogas and power production.

3. BID INFORMATION

This project was formally advertised on the Vendor Services and Bonfire websites from 2/14/2023 through 3/17/23. One proposal was received:

<u>Name</u>	<u>C.C. No.</u>	<u>Exp. Date</u>	<u>City/State</u>	<u>Status</u>
Brown and Caldwell, LLC	CC-010815	10/12/23	Columbus, OH	MAJ

The proposal was deemed responsive. The evaluation committee reviewed the proposal and recommended the contract for the SWWTP Organics Receiving and Bioenergy Utilization Facility project be awarded to Brown and Caldwell.

Brown and Caldwell’s certification was in good standing at the time of the contract award.

4. EMERGENCY DESIGNATION

This project is being undertaken to take advantage of the Inflation Reduction Act rebate being offered to energy communities and municipalities. Under the available IRS guidance, the City of Columbus will be eligible for a rebate up to 50% of the construction cost. According to our current construction cost estimate, this project would be eligible for approximately \$67.5 million in rebates. However, to obtain this rebate, this project must meet what the IRS is calling the “Beginning of Construction” deadline. This deadline is currently set to December 31, 2024. This means that this project must either have 5% of the construction cost paid to the Contractor (5% Safe Harbor) or must have substantial construction begin and continue through the completion of the project (Substantial Work Test). The rebate amount will be reduced if the deadline is missed. Emergency legislation is being requested to aid in meeting these deadlines. Design Services will take approximately 14 months and would allow enough time to procure a contractor and meet the December 31, 2024 deadline.

5. CONTRACT COMPLIANCE INFORMATION

Brown and Caldwell’s contract compliance number is CC-010815 and expires 10/12/23. Searches in the Excluded Party List System (Federal) and the Findings for Recovery list (State) produced no findings against Brown and Caldwell.

6. MINORITY AND WOMAN OWNED BUSINESS ENTERPRISE & SMALL LOCAL BUSINESS

ENTERPRISE PROGRAM

This contract was bid with an anticipated City of Columbus MBE/WBE Program goal of 15% as assigned by the City’s Office of Diversity and Inclusion (ODI). After ODI’s review of the Utilization Plan and other related information the contractor submitted with their bid response, ODI has approved an MBE/WBE Program goal of 13.95% for this contract. Failure by the contractor to meet this goal subjects the contractor to the Penalties for Non-Compliance as described in the “City’s Minority and Women-Owned Business Enterprise & Small Local Business Enterprise Program Manual” and in the bid documents for this contract.

As part of their proposal, Brown and Caldwell has proposed the following eight subcontractors to perform contract work:

Company Name	City/State	ODI Certification Status
DLZ		Columbus, Ohio
MBE		
Jacobs Engineering Group		Columbus, Ohio
MAJ		
Black and Veatch		Columbus, Ohio
MAJ		
Arcadis		Columbus, Ohio
MAJ		
Advanced Engineering Consultants		Columbus, Ohio
MBE		
Regency Construction		Columbus, Ohio
WBE		
Resource International		Columbus, Ohio
WBE		
T&M Associates		Dublin, Ohio
MAJ		

The certification of the above companies was in good standing at the time the bid was awarded.

7. FISCAL IMPACT

Funding for this contract will be obtained through the Ohio Water Development Authority Direct Loan Program. City Council authorized this loan application and acceptance of loan funding via Ordinance 0997-2023, passed by Council on 4/24/23. This was passed as 30-day legislation so this ordinance is contingent upon Ordinance 0997-2023 becoming effective 5/24/23.

A transfer of funds from the Sanitary Reserve Fund, Fund 6102, to the OWDA Loan Fund, Fund 6111 in the amount of \$ 21,224,775.42 is needed to fund construction for this project. This transaction is a temporary measure that is required until a loan is executed with the OWDA to reimburse the Sanitary Reserve Fund. The loan is expected to be approved in June, 2023. These funds will also need to be appropriated to be transferred and then appropriated after transfer to the new fund. An amendment to the 2022 Capital Improvement Budget is needed to align budget authority with the proper project.

To authorize an amendment to the 2022 Capital Improvement Budget; to authorize the appropriation and transfer of funds from the Sanitary Reserve Fund to the Ohio Water Development Authority Loan Fund; to authorize the Director of the Department of Public Utilities to enter into a construction contract with Brown and Caldwell, for the Southerly Waste Water Treatment Plant Organics Receiving and Bioenergy Utilization Facility project; to authorize the appropriation and expenditure of up to \$21,224,775.42 from the Ohio Water Development Authority Loan Fund for the contract; and to declare an emergency. (\$21,224,775.42)

WHEREAS, the Department of Public Utilities is engaged in the SWWTP Organics Receiving and Bioenergy Utilization Facility project; and

WHEREAS, one proposal for the SWWTP Organics Receiving and Bioenergy Utilization Facility project was received

and evaluated by the evaluation committee; and

WHEREAS, the evaluation committee recommended Brown and Caldwell be awarded the contract for this project; and

WHEREAS, it is necessary to authorize the Director of the Department of Public Utilities to enter into a professional services and construction services contract with Brown and Caldwell for the SWWTP Organics Receiving and Bioenergy Utilization Facility project; and

WHEREAS, the 2022 Capital Improvements Budget must be modified to align budget authority with the proper project; and

WHEREAS, it is necessary to both appropriate and transfer funds from the Sanitary Reserve Fund to the Ohio Water Development Authority Loan Fund in order to temporarily fund this expenditure until such time as the City receives loan proceeds from the Ohio Water Development Authority to reimburse the Sanitary Reserve Fund; 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 construction of the Project described in this Ordinance (collectively, the "Project"); and

WHEREAS, it is necessary to appropriate and expend funds from the Ohio Water Development Authority Loan Fund to pay for the construction of this project; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Public Utilities in that it is immediately necessary to authorize the Director to execute the design contract to meet the construction deadline and benefit from the available rebate of 50% of construction costs, 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 2022 Capital Improvements Budget authorized by Ordinance 1896-2022 be amended as follows to establish sufficient budget authority for this project:

Fund / Project Number / Project Name (Funding Source) / Current Authority/ Revised Authority / Change
TBD / 650353-100007 / SWWTP Organics Receiving and Bioenergy Utilization Facility (WPCLF/OWDS) / \$0.00 / \$21,224,775.00 / \$21,224,775.00 (To match loan amount)

SECTION 2. That from the unappropriated monies and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2023, the sum of \$21,224,775.42 is appropriated in the Sanitary Reserve Fund, Fund 6102, per the account codes in the attachment to this ordinance.

SECTION 3. That the transfer of \$21,224,775.42, or so much thereof as may be needed, is hereby authorized between the Sanitary Reserve Fund, Fund 6102, and the OWDA Loan Fund, Fund TBD, per the account codes in the attachment to this ordinance.

SECTION 4. That the appropriation of \$21,224,775.42, or so much thereof as may be needed, is hereby authorized in the OWDA Loan Fund, Fund TBD, per the accounting codes in the attachment to this ordinance.

SECTION 5. That the Director of Public Utilities is hereby authorized to enter into a professional services and construction services contract for the SWWTP Organics Receiving and Bioenergy Utilization Facility project with Brown and Caldwell, 445 Hutchinson Ave Ste. 540, Columbus, OH 43235, in an amount up to \$21,224,775.42, in accordance with the terms and conditions of the contract on file in the Department of Public Utilities.

SECTION 6. That the expenditure of \$21,224,775.42, or so much thereof as may be needed, is hereby authorized to pay for this contract per the accounting codes in the attachment to this ordinance.

SECTION 7. That upon obtaining other funds for the purpose of funding sanitary capital improvement work, the City Auditor is hereby authorized to repay the Sanitary Reserve Fund the amount transferred above (Section 3), and said funds are hereby deemed appropriated for such purposes.

SECTION 8. That the City intends that this Ordinance constitute an "official intent" for purposes of Section 1.150-2(e) of the Treasury Regulations, and that the City reasonably expects to reimburse itself for certain Original Expenditures incurred with respect to the Project from the proceeds of obligations to be issued by the City in a principal amount currently estimated to be \$21,224,775.42 (the "Obligations").

The City intends to make a reimbursement allocation on its books for the Original Expenditures not later than eighteen months following the later to occur of the date of the Original Expenditure to be reimbursed or the date the Project for which such Original Expenditures were made is "placed in service" within the meaning of Treasury Regulations Section 1.150-2(c). Upon the issuance of the Obligations, the proceeds of such Obligations shall be used to reimburse Sanitary Reserve Fund, Fund 6102, which is the fund from which the advance for costs of the Project will be made.

SECTION 9. Funds are hereby deemed appropriated and expenditures and transfers authorized to carry out the purposes of this ordinance and the City Auditor shall establish such accounting codes as necessary.

SECTION 10. That the City Auditor is authorized to make any accounting changes to revise the funding source for all contracts or contract modifications associated with this ordinance.

SECTION 11. That the City Auditor is hereby authorized to transfer the unencumbered balance in a project account to the unallocated balance account within the same fund upon receipt of certification by the Director of the Department administering said project that the project has been completed and the monies are no longer required for said project.

SECTION 12. That City Council approves increasing the amount of a loan from the Ohio Water Development Authority Direct Loan Program to fund professional design services for this project from \$14,472,000.00 to a maximum of \$24,000,000.00.

SECTION 13. That this ordinance is contingent upon Ordinance 0997-2023, passed by City Council on 4/24/23, becoming effective on 5/24/23.

SECTION 14. That for the reasons stated in the preamble hereto, which is made a part hereof, this Ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten (10) days after passage if the Mayor neither approves nor vetoes this Ordinance.