



## Legislation Details (With Text)

**File #:** 1075-2024      **Version:** 1

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

**File created:** 4/5/2024      **In control:** Public Utilities & Sustainability Committee

**On agenda:** 5/13/2024      **Final action:** 5/15/2024

**Title:** To authorize the Director of the Department of Public Utilities to modify and increase the contract with Black & Veatch Corporation for the Lower Olentangy Tunnel - Phase 1 project; to authorize an amendment to the 2023 Capital Improvement Budget; to authorize the appropriation and transfer of funds from the Sanitary Reserve Fund to the Sanitary-Fresh Water Market Rate Program Fund; and to authorize the appropriation and expenditure of up to \$5,072,270.32 from the Sanitary-Fresh Water Market Rate Program Fund for the contract. (\$5,072,270.32)

**Sponsors:**

**Indexes:** MBE Participation, WBE Participation

**Code sections:**

**Attachments:** 1. ORD 1075-2024 Utilization, 2. ORD 1075-2024 Accounting Template

| Date      | Ver. | Action By                 | Action                  | Result |
|-----------|------|---------------------------|-------------------------|--------|
| 5/15/2024 | 1    | ACTING CITY CLERK         | Attest                  |        |
| 5/14/2024 | 1    | MAYOR                     | Signed                  |        |
| 5/13/2024 | 1    | COUNCIL PRESIDENT PRO-TEM | Signed                  |        |
| 5/13/2024 | 1    | Columbus City Council     | Approved                | Pass   |
| 5/6/2024  | 1    | Columbus City Council     | Read for the First Time |        |

### 1. BACKGROUND

This ordinance authorizes the Director of Public Utilities to enter into a planned contract modification for professional engineering services during construction with Black & Veatch Corporation for the Lower Olentangy Tunnel - Phase 1 project, CIP #650724-100000, in an amount up to \$5,072,270.32.

Professional construction management services are needed to ensure construction of the Lower Olentangy Tunnel follows the requirements and specifications of the project design and that the City receives an end product capable of providing the intended function. Existing City staff is not adequate to devote multiple qualified personnel full time to management of the project construction activities. These activities include full time construction inspection, project coordination, reporting, budgeting, scheduling, document tracking, and startup coordination. Much of the project alignment generally follows Olentangy River Road. This is a planned contract modification to add funds to continue the work.

The project is in the Citywide Community Planning Area #99.

#### 1.1 Amount of additional funds to be expended: \$5,072,270.32

|                        |  |
|------------------------|--|
| Original Contract      | \$4,174,157.47 (ORD 0247-2020; PO221727) |
| Mod. No. 1             | \$4,707,574.39 (ORD 0336-2022; PO324143) |
| Mod. No. 2             | \$4,933,165.65 (ORD 0761-2023; PO396061) |
| Mod. No. 3 (current)   | \$5,072,270.32                           |
| Mod. No. 4 (estimated) | \$3,500,000.00                           |
| Mod. No. 5 (estimated) | <u>\$ 500,000.00</u>                     |
| TOTAL                  | \$22,887,167.28                          |

**1.2. Reason other procurement processes are not used:**

This contract was awarded through the City’s RFP process as a multi-year contract with planned renewals to add funding until the construction project is complete. Another procurement process is not required.

**1.3. How cost of modification was determined:**

The Consultant prepared an estimate based on the scope of work using established contract job titles, rates of pay, and allowable expenses. City Project Manager and associated staff reviewed the proposal and negotiated the final cost.

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

The project is part of the Division of Sewerage and Drainage’s 2015 Blueprint program which included significant outreach for the program. The project will improve water quality in the Olentangy River by substantially reducing wet weather overflows from seven combined sewer overflow structures as well as three other sewer relief structures.

**3. CONTRACT COMPLIANCE INFO:**

Black & Veatch Corporation’s contract compliance number is CC008038 and expires 8/22/25.

**4. MINORITY AND WOMAN OWNED BUSINESS ENTERPRISE & SMALL LOCAL BUSINESS ENTERPRISE PROGRAM**

This contract was put in place prior to the implementation of the City of Columbus MBE/WBE Program and is not subject to the requirements of that program. Black & Veatch Corporation is classified as a majority company by the City’s Office of Diversity and Inclusion. Black & Veatch Corporation anticipates performing the work on this contract modification with the use of two City-certified MBE/WBE sub-consultants. The MBE/WBE percentage for this modification is expected to be 34.2%.

As part of their proposal, Black & Veatch Corporation has proposed the following three subcontractors to perform contract work:

| <u>Company Name</u>            | <u>City/State</u> | <u>ODI Certification Status</u> |
|--------------------------------|-------------------|---------------------------------|
| MarshWagner Inc.               | Columbus, Ohio    | WBE                             |
| Anser Advisory Management, LLC | Columbus, Ohio    | MAJ                             |
| 7NT Enterprises, LLC           | Dublin, Ohio      | MBE                             |

The certification of Black & Veatch Corporation and the above companies was in good standing at the time of the contract modification.

**5. FISCAL IMPACT**

Funding for this contract will be obtained through the Ohio Water Development Authority (OWDA) Direct Loan Program. City Council authorized applying for these types of loans and the acceptance of the loan funding via Ordinance 0652-2024, passed by Council on 3/25/24.

The Ohio Water Development Authority (OWDA) Direct Loan Program is a reimbursement program. Purchase orders will need to be established to Black & Veatch Corporation for these contracts. Public Utilities will need to pay invoices directly to Black & Veatch Corporation and then submit reimbursement requests based upon these paid invoices to OWDA for OWDA to reimburse Public Utilities.

A transfer of funds from the Sanitary Reserve Fund, Fund 6102, to the Sanitary-Fresh Water Market Rate Program, Fund 6124 in the amount of \$5,072,270.32 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 2024. These funds will need to be appropriated to be transferred and then appropriated after transfer to the new fund. An amendment to the 2023 Capital Improvement Budget is needed to align budget authority with the proper project.

To authorize the Director of the Department of Public Utilities to modify and increase the contract with Black & Veatch Corporation for the Lower Olentangy Tunnel - Phase 1 project; to authorize an amendment to the 2023 Capital Improvement Budget; to authorize the appropriation and transfer of funds from the Sanitary Reserve Fund to the Sanitary-Fresh Water Market Rate Program Fund; and to authorize the appropriation and expenditure of up to \$5,072,270.32 from the Sanitary-Fresh Water Market Rate Program Fund for the contract. (\$5,072,270.32)

**WHEREAS**, the Department of Public Utilities is engaged in the Lower Olentangy Tunnel - Phase 1 project; and

**WHEREAS**, Contract No. PO221727 was authorized by Ordinance No. 0247-2020, for the Lower Olentangy Tunnel - Phase 1 project; and

**WHEREAS**, a planned contract modification is needed to add funding for continued engineering services during construction; and

**WHEREAS**, it is necessary for Council to authorize the Director of Public Utilities to modify the professional engineering services agreement with Black & Veatch Corporation for the Lower Olentangy Tunnel - Phase 1 project; and

**WHEREAS**, Ordinance 0652-2024, passed by Council on 3/25/24, authorized the use of loans from the Ohio Water Development Authority (OWDA) Direct Loan Program to finance Public Utilities projects; and

**WHEREAS**, loan applications will be submitted to OWDA to finance this project; and

**WHEREAS**, an amendment to the 2023 Capital Improvement Budget is needed to align budget authority with the proper project; and

**WHEREAS**, it is necessary to appropriate and transfer funds from the Sanitary Reserve Fund, Fund 6102, to the Sanitary-Fresh Water Market Rate Program Fund, Fund 6124; and

**WHEREAS**, it is necessary to appropriate and to expend funds from the from the Sanitary-Fresh Water Market Rate Program Fund to pay for the contract modification;

**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 services of the Project described in this Ordinance (collectively, the "Project"); **now, therefore,**

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

**SECTION 1.** That the 2023 Capital Improvement Budget authorized by Ordinance 1711-2023 be amended as follows to establish sufficient budget authority for this project:

**Fund / Project Number / Project Name (Funding Source) / Current Authority / Revised Authority / Change**  
6124 / 650724-100000 / Lower Olentangy Tunnel - Phase 1 (OWDA Direct Loan) / \$0.00 / \$5,072,270.00 / \$5,072,270.00 (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, 2024, the sum of \$5,072,270.32 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 \$5,072,270.32, or so much thereof as may be needed, is hereby authorized between the Sanitary Reserve Fund, Fund 6102, and the Sanitary-Fresh Water Market Rate Program, Fund 6124, per the account codes in the attachment to this ordinance.

**SECTION 4.** 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, 2024, the sum of \$5,072,270.32 is appropriated in the Sanitary-Fresh Water Market Rate Program, Fund 6124, per the account codes in the attachment to this ordinance.

**SECTION 5.** That the Director of Public Utilities is hereby authorized to enter into a contract modification for the Lower Olentangy - Phase 1 project with Black & Veatch Corporation, 4449 Easton Way, Suite 150, Columbus, Ohio 43219, in an amount up to \$5,072,270.32, in accordance with the terms and conditions of the contract on file in the Department of Public Utilities.

**SECTION 6.** That the expenditure of \$5,072,270.32, or so much thereof as may be needed, is hereby authorized to pay for this contract modification 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 \$5,072,270.32 (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 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 this ordinance shall take effect and be in force from and after the earliest period allowed by law.