



## Legislation Text

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**File #: 0488-2009, Version: 1**

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### 1. **BACKGROUND:**

A. **Need.** This legislation authorizes the Director of Public Utilities to modify the agreement with Malcolm Pirnie, Inc., for professional program management services for the 2006-2010 Capital Improvements Program of the Division of Sewerage and Drainage. The work in that program is a very substantial group of sewer capital improvements projects (CIPs), both collections systems and treatment works improvements, which have been agreed to by the City and Ohio EPA in order to conform to the requirements of the City's consent orders. The actual emplacement of the CIPs will be by construction contract; the professional program management contract is providing: program planning, scheduling, budgeting, and status reporting; construction management; design management; some design of critical projects; special services such as Value Engineering, and other services for this very large, important program, as directed by the City. The initial authorization of, and appropriation of monies to, this contract was accomplished by Ordinance No. 0731-2006, passed May 8, 2006. The Malcolm Pirnie, Inc. modification amount requested under this ordinance is \$15,335,900.00. The contract total including this modification is \$65,718,025.00. This contract was always planned to be funded incrementally, via approximately annual appropriations. The current appropriation will be exhausted at the end of April, 2009, and this modification provides monies to continue this important work into FY2010.

B. **Contract Compliance No.:** 132653703/001 (MAJ) (Expires 04/07/2010)

C. **Emergency Designation:** No emergency designation is required or requested.

### 2. **FISCAL IMPACT:**

This ordinance authorizes the transfer and expenditure of funds within the Sanitary Sewer Revenue Bonds Fund; the transfer and appropriation of funds from the Sanitary Sewer Reserve Fund to the Voted Sanitary Sewer Bond Fund; and the transfer and expenditure of funds from the Voted Sanitary Sewer Bond Fund. The 2008 Capital Improvements Budget is amended for this expenditure upon passage of this ordinance. The probable total amount of this contract over the program duration through 2011 may be approximately \$84,968,625.00. This contract is planned to be modified, approximately annually, to provide needed monies as the program proceeds. Actual timing and modification amounts will depend upon the progress and development of the overall program.

To authorize the Director of Public Utilities to execute planned contract modification #4 with Malcolm Pirnie, Inc., for Professional Program Management Services for the Division of Sewerage and Drainage's 2006-2010 Capital Improvements Program under the Wet Weather Management Plan; to authorize the transfer of \$0.99 and the expenditure of \$10,387,836.50 from within the Sanitary Sewer Revenue Bonds Fund; to authorize the transfer and appropriation of \$4,298,077.87 from the Sanitary Sewer Reserve Fund to the Voted Sanitary Sewer Bond Fund; to authorize the transfer of \$649,985.63 within the Voted Sanitary Sewer Bond Fund; to authorize the expenditure of \$4,948,063.50 within the Voted Sanitary Sewer Bond Fund; to amend the 2008 Capital Improvements Budget, for the Division of Sewerage and Drainage. (\$15,335,900.00).

**WHEREAS,** the Division of Sewerage and Drainage is undertaking a substantial program of large capital improvements to improve the Division's facilities, in conformance with a Wet Weather Management Plan submitted by the City to Ohio EPA, in conformance with the City's agreed-upon Consent Orders; and

**WHEREAS,** a program of the size and scope of that being undertaken by the Division to improve its facilities requires the best, most robust management to assure the success of the program; and

**WHEREAS**, the City has contracted for such professional program management services, under authority of Ordinance No. 0731-2006, passed May 8, 2006; and

**WHEREAS**, the initial funding of contract EL006055 was planned to be sufficient to provide the necessary services for the balance of 2006, with additional necessary funding to be added as the program proceeded in 2007 and subsequent years; and

**WHEREAS**, Modification No. 1 authorized by Ordinance No. 2134-2006, as passed by Columbus City Council on January 22, 2007 provided additional funding that was estimated to be necessary for the continuation of the professional program management services into 2007; and

**WHEREAS**, Modification No. 2 authorized by Ordinance No. 1335-2007, as passed by Columbus City Council on October 1, 2007 provided additional funding that was estimated to be necessary for the continuation of the professional program management services into 2008; and

**WHEREAS**, Modification No. 3 authorized by Ordinance No. 1001-2008, as passed by Columbus City Council on July 7, 2008 provided additional funding that was estimated to be necessary for the continuation of the professional program management services into 2009; and

**WHEREAS**, the Division of Sewerage and Drainage engineering personnel have determined that it is necessary to modify the subject contract in order to provide the necessary additional professional program management services required for this project into 2010; and

**WHEREAS**, it is necessary to authorize the transfer of funds within the Sanitary Sewer Revenue Bonds Fund and the Voted Sanitary Sewer Bond Fund to provide sufficient funding for the aforementioned project expenditure; and

**WHEREAS**, it is necessary to authorize the transfer and appropriation of funds from the Sanitary Sewer Reserve Fund to the Voted Sanitary Sewer Bond Fund for purposes of providing sufficient funding for the aforementioned project expenditure;

**WHEREAS**, it is necessary to authorize an amendment to the 2008 Capital Improvements Budget for the purpose of creating and providing sufficient spending authority for the aforementioned project expenditure; and

**WHEREAS**, it is necessary for City Council to authorize the expenditure of funds from the Sanitary Sewer Revenue Bonds Fund and the Voted Sanitary Sewer Bond Fund; and

**WHEREAS**, the City anticipates incurring certain Original Expenditure (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 project described in this ordinance (the "Project"); and

**WHEREAS**, the Division of Sewerage and Drainage, Department of Public Utilities is requesting that this Council authorize the Director of Public Utilities to modify the agreement for professional engineering services with Malcolm Pirnie, Inc., for the Professional Program Management Services for the Division of Sewerage and Drainage's 2006-2010 Capital Improvements Program, at the earliest practicable date; **Now, Therefore,**

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

**Section 1.** That the Director of Public Utilities be, and hereby is, authorized to modify contract EL006055 with Malcolm Pirnie, Inc., 1900 Polaris Parkway, Suite 200, Columbus, Ohio 43240-2020, for Professional Program Management Services for the Division of Sewerage and Drainage's 2006-2010 Capital Improvements Program, in accordance with the terms and conditions of the modification on file in the offices of the Division of Sewerage and Drainage.

**Section 2.** That from the unappropriated monies in the Sanitary Sewer Reserve Fund No. 654, 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, 2009, the sum of \$4,298,077.87 is hereby appropriated to the Division of Sewerage and Drainage: Division 60-05 | OCA Code 901654 | Object Level One 10 | Object Level Three 5502.

**Section 3.** That the City Auditor is hereby authorized to transfer \$4,298,077.87 to the Voted Sanitary Sewer Bond Fund 664, into the Professional Program Management Services Project, 650390.1, at such time as deemed necessary by the Auditor, and to expend said funds, or so much thereof as may be necessary.

**Section 4.** That the \$4,298,077.87 is hereby appropriated for the Professional Program Management Services Project, within the Voted Sanitary Sewer Bond Fund | Fund 664 | Division 60-05 | Project 650390.1 | OCA Code 664390 | Object Level Three 6678.

**Section 5.** That upon obtaining other funds for the purpose of funding sanitary sewer system capital improvement work, the City Auditor is hereby authorized to repay the Sewer System Reserve Fund the amount transferred above, and said funds are hereby deemed appropriated for such purposes.

**Section 6.** That the City Auditor is hereby authorized to transfer \$0.99 within the Sanitary Sewer Revenue Bonds Fund, Fund 665; OBJLVL3 6678; Division of Sewerage and Drainage; Div. 60-05:

**FROM:**

**Proj. No. | Proj. Name | OCA | Amount**

650250 | JPWWTP Digester Cover Rehab | 665250 | \$0.83  
650704 | OSIS Augment Sewer, Whitier - JPWWTP | 665704 | \$0.16

**TO:**

**Proj. No. | Proj. Name | OCA | Amount**

650390.1 | Professional Program Management Services | 665390 | \$0.99

**Section 7.** That the City Auditor is hereby authorized to transfer \$649,985.63 within the Voted Sanitary Sewer Bond Fund, Fund 664; OBJLVL3: 6678; Division of Sewerage and Drainage; Div. 60-05:

**FROM:**

**Proj. No. | Proj. Name | OCA | Amount**

650352 | SWWTP New Headworks | 650352 | \$200,000.00  
664999 | Unallocated Balance Fd. 664 | 999664 | \$449,985.63

**TO:**

**Proj. No. | Proj. Name | OCA | Amount**

650390.1 | Professional Program Management Services | 664390 | \$649,985.63

**Section 8.** That the 2008 Capital Improvements Budget Ordinance No.0690-2008 is hereby amended as follows, to create and provide sufficient budget authority for the award of the agreement stated herein.

**Creation of Authority for Fund 665:**

**Project No. | Project Name | Current Authority | Revised Authority | (Change)**

650250-100002 | JPWWTP Digester Cover Rehab | \$0.00 | \$1.00 | (+\$1.00)  
650704-100000 | OSIS Augment Sewer, Whitier - JPWWTP | \$110,000 | \$110,001 | (+\$1.00)

**Amendment of Authority for Fund 665:**

**Project No. | Project Name | Current Authority | Revised Authority | (Change)**

650250-100002 | JPWWTP Digester Cover Rehab | \$1.00 | \$0.00 | (-\$1.00)  
650704-100000 | OSIS Augment Sewer, Whitier - JPWWTP | \$110,001 | \$110,000 | (-\$1.00)  
650390-100000 | Professional Program Management Services | \$27,269,961 | \$27,269,963 | (+\$2.00)

**Amendment of Authority for Fund 664:**

**Project No. | Project Name | Current Authority | Revised Authority | (Change)**

650352-100000 | SWWTP New Headworks | \$4,702,000 | \$4,502,000 | (-\$200,000)  
664999-100000 | Unallocated Balance Fd. 664 | \$449,986 | \$0.00 | (-\$449,986)  
650390-100000 | Professional Program Management Services | \$28,000,000 | \$28,649,986 | (+\$649,986)

**Section 9.** That for the purpose of paying the cost of the professional program services contract modification, the following expenditure, or as much thereof as may be needed, be and the same is hereby authorized as follows: Division 60-05; Fund 665; Professional Program Management Services for the Division of Sewerage and Drainage's 2006-2010 Capital Improvements Program, Project No. 650390.1; OBJLVL3: 6678 | OCA Code: 665390 | Amount \$10,387,836.50.

**Section 10.** That for the purpose of paying the cost of the professional program services contract modification, the following expenditure, or as much thereof as may be needed, be and the same is hereby authorized as follows: Division 60-05; Fund 664; Professional Program Management Services for the Division of Sewerage and Drainage's 2006-2010 Capital Improvements Program, Project No. 650390.1; OBJLVL3: 6678 | OCA Code: 664390 | Amount \$4,948,063.50.

**Section 11.** 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 the obligations to be issued by the City in a principal amount currently estimated to be \$4,298,077.87 (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 the fund from which the advance for costs of the Project will be made.

**Section 12.** That the City Auditor is hereby authorized to transfer any unencumbered balance in the project account to the unallocated balance 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; except that no transfer shall be made from a project by monies from more than one source.

**Section 13.** That the City Auditor is authorized to establish proper project accounting numbers as appropriate.

**Section 14.** 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 15.** That the contracted firm shall perform the work to the satisfaction of the Director of Public Utilities and the Administrator of the Division of Sewerage and Drainage.

**Section 16.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.