



## Legislation Text

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**File #: 1700-2008, Version: 1**

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**BACKGROUND:** This Ordinance authorizes the Director of Public Utilities to modify and increase the professional engineering services contract with Malcolm Pirnie, Inc. for the Dublin Road Water Plant Raw Water Intake Improvements Project, Division of Power and Water Contract No. 1052.

This modification will provide for additional engineering and professional services including Construction Administration/Construction Inspection services that were beyond the scope of the original contract including: the rehabilitation of the south abutment of the low-head dam, dewatering issues encountered during construction, low-head dam repairs and the leaf chute extension, amongst other miscellaneous items contained within the attached modification request letter submitted by Malcolm Pirnie. These changes were not originally anticipated or included in the original project scope but were implemented after site conditions were fully assessed and dewatered.

**1. Amount of additional funds to be expended: \$178,200.00**

Original Contract Amount: \$564,182.00

Amount of Modification #1: \$436,982.00

Amount of Modification #2: \$178,200.00

Amount of original contract and two modifications: \$1,179,364.00

This requested modification is an 18% increase in the original contract and includes 10% contingency of \$16,200.00.

**2. Reasons additional goods/services could not be foreseen:**

The South abutment of the low-head dam deteriorated beyond the original scope of repairs due to the unseasonably wet June '08. These high flows and the force of the river significantly damaged the South abutment requiring additional design efforts. Due to evaluations by the DPU Regulatory Compliance section, modifications to the leaf chute design were mandated. Additional efforts were required on the low-head dam since the true extent of the repairs could not be fully evaluated until the cofferdam was in place and the site adequately dewatered. The construction contract for this project was modified by legislation #1474-2008. This requested engineering contract modification is to provide engineering services for those changed construction conditions.

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

This modification keeps the project on schedule to finalize the Dublin Road Water Plant intake and low-head dam improvements. It was not determined that the additional work at the low-head dam was needed until the contractor built temporary cofferdams and dewatered the dam. At that point it was necessary to make the needed improvements as soon as possible in order to restore the stream flow to the normal conditions. It was not practical at that time to bid the work out since the river levels were favorable and the cofferdam was currently in place. The contract was well under way when these design decisions were made. The consultant was familiar with the details of the project and was able to implement the revisions much more efficiently than if another consultant was brought onto the project mid-design. The additional cost and time associated with bidding out this work would well exceed any benefit.

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

Costs were submitted by the consultant and reviewed by the Division of Power and Water Engineering Staff and deemed reasonable.

**Contract Compliance Information:** 13-2653703, expires 4/7/10, Majority

**Emergency Designation:** There was an immediate need for geotechnical expertise during construction activities as the Contractor had installed the cofferdam and the site was completely dewatered. The true extent of the repairs required to complete the project could not be fully identified until the site was adequately dewatered and inspected. The weather was favorable during this timeframe to complete construction activities on-time and on schedule and any delay would have extended the project beyond the contract completion date until favorable weather conditions would be encountered. Emergency legislation was recently approved by City

Council (#1474-2008) to modify the construction contract for this project. The engineering services to be funded thru this proposed contract modification directly relate to those construction modifications.

**FISCAL IMPACT:** This legislation includes a transfer of funds from the Water System Reserve Fund to the Water Works Enlargement Voted Bonds Fund as a temporary measure until such time as the proceeds from a bond sale can be made available.

To authorize the Director of Public Utilities to modify and increase the professional engineering services contract with Malcolm Pirnie, Inc. for the Dublin Road Water Plant Raw Water Intake Improvements Project; to authorize the appropriation and transfer of \$178,200.00 from the Water System Reserve Fund to the Water Works Enlargement Voted Bonds Fund; to authorize the expenditure of \$178,200.00 from the Water Works Enlargement Voted Bonds Fund; for the Division of Power and Water; and to declare an emergency. (\$178,200.00)

**WHEREAS**, Contract No. EL005372 was authorized by Ordinance No. 0527-2005, passed April 11, 2005, was executed on June 7, 2005, and was approved by the City Attorney on June 16, 2005; and

**WHEREAS**, Modification No. 1 EL007269 was authorized by Ordinance No. 0864-2007, passed July 9, 2007, was executed on August 27, 2007, and was approved by the City Attorney on August 28, 2007; and

**WHEREAS**, the contract needs modified a second time to finalize the Dublin Road Water Plant intake and low-head dam improvements; and

**WHEREAS**, it is necessary for this Council to authorize the City Auditor to transfer funds from the Water System Reserve Fund to the Water Works Enlargement Voted Bonds 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").

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Public Utilities, Division of Power and Water, in that it is immediately necessary to authorize the Director of Public Utilities to modify and increase the professional engineering services contract with Malcolm Pirnie, Inc. for the Dublin Road Water Plant Raw Water Intake Improvements Project, in an emergency manner in order to address unforeseen conditions found during construction, to authorize the appropriation and transfer of funds from the Water System Reserve Fund to the Water Works Enlargement Voted Bonds Fund, for the immediate preservation of 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 is hereby authorized and directed to modify and increase the professional engineering services contract with Malcolm Pirnie, Inc. for the Dublin Road Water Plant Raw Water Intake Improvements Project, in the amount of \$178,200.00.

**SECTION 2.** That this contract modification is in compliance with Section 329.16 of Columbus City Codes, 1959.

**SECTION 3.** That from the unappropriated monies in the Water System Reserve Fund, 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, 2008, the sum of \$178,200.00, is hereby appropriated to the Division of Power and Water, Division 60-09, Object level One 10, Object level Three 5502, OCA 695056.

**SECTION 4.** That the City Auditor is hereby authorized and directed to transfer \$178,200.00, from the Water System Reserve Fund to the Water Works Enlargement Voted Bonds Fund, Fund No. 606, into the appropriate project account as specified within Section 5 herein, at such time as deemed necessary by him, and to expend said funds, or so much thereof as may be necessary.

**SECTION 5.** That the appropriation and expenditure of \$178,200.00 is hereby authorized for the Dublin Road Water Plant Raw

Water Intake Improvements Project within the Water Works Enlargement Voted Bonds Fund, Fund No. 606, Division 60-09, Project No. 690278, Object Level Three 6686, OCA Code 642900.

**SECTION 6.** That upon obtaining other funds for the purpose of funding water system capital improvement work, the City Auditor is hereby authorized to repay the Water System Reserve Fund the amount transferred under Section 4 above, and said funds are hereby deemed appropriated for such purpose.

**SECTION 7.** That for the purpose of paying the cost of the contract modification, the sum of \$178,200.00 or so much thereof as may be necessary be and hereby is authorized to be expended as follows: Division of Power and Water, Dept./Div. No. 60-09, Water Works Enlargement Voted Bonds Fund, Fund No. 606, Project 690278, OCA Code 642900, Object Level One 06, Object Level Three 6686, Amount \$178,200.00.

**SECTION 8.** 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 9.** 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 \$178,200.00 (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 Water System Reserve Fund 603, which is the fund from which the advance for costs of the Project will be made.

**SECTION 10.** That for reasons stated in the preamble hereto, which is hereby 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 days after passage if the Mayor neither approves nor vetoes the same.