



## Legislation Text

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**File #: 0532-2009, Version: 1**

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**1. BACKGROUND:** This legislation authorizes the Director of Public Utilities to enter into a construction contract with Kokosing Construction Company, Inc., in the amount of \$2,019,455.68, for the Hap Cremean Water Plant (HCWP) Lagoon No. 2 Embankment Modifications Project, Division of Power and Water Contract Number 1030 - Part 3.

This project will provide for the replacement of a failing embankment and the addition of internal baffle embankments in Lagoon No. 2 at the Hap Cremean Water Plant (HCWP). These improvements, along with the sludge removal under a previous contract, will allow this lagoon to be put back into service. This will provide additional storage for emergency situations due to loss of pumping capabilities and allow for replacement of portions of the sludge line that extends from HCWP to McKinley Quarry. Several recent failures of this sludge line have resulted in Notices of Violation from Ohio EPA and have prompted scheduled replacement of portions of the sludge line. Repairs to the sludge lagoon embankments are necessary to allow for lagoon utilization for sludge storage. The internal baffles will provide improved decantation of the sludge and will significantly increase the useful storage of the lagoon. External embankment repair along Big Walnut Creek will ensure public health and safety by preventing lime/alum sludge from entering Big Walnut Creek if there were an embankment failure.

**2. CONSTRUCTION CONTRACT AWARD:** The Director of Public Utilities publicly opened five bids on March 25, 2009. Bids were received from: Kokosing Construction Company, Inc. - \$2,019,455.68; Trucco Construction Co. - \$2,313,511.87; George J. Igel & Co. - \$2,527,718.60; Mark Haynes Construction, Inc. - \$2,692,543.04; and Central Ohio Building Co. - \$3,400,051.03.

The lowest bid was from Kokosing Construction Company, Inc. in the amount of \$2,019,455.68. Ameriguard Inc. is listed as a proposed subcontractor to Kokosing Construction, and would provide security services to the project for a subcontract amount of \$27,400.00 which is 1.36% of the total contract cost. Ameriguard Inc. is a female owned business. During the bid evaluation, it was discovered that Ameriguard needed to apply for a renewal of their contract compliance number. Their application was not received within the 7 allowed business days after a bid opening, as stated in provision M-5 of the contract documents. An application was received by the City nine (9) days after the bid opening. The Director of Public Utilities considers this to be a minor technical bid issue and requests approval to award to Kokosing based on the substantial cost and time savings to the project.

It is within the City's best interest that the provisions of formal bidding be waived in order to award the contract to Kokosing Construction Company, Inc. for two reasons: 1. to realize a savings of \$294,056.19 over the next lowest, responsive bidder and 2. awarding to the next lowest bidder would delay the possibility of receiving monies from the Water Supply Revolving Loan Account Fund until after their May 28, 2009 meeting, and a significant portion of the construction season would be lost by the time a certified contract could be produced.

The Contract Compliance Number for Kokosing Construction Company, Inc. is 31-1023518 (expires 3/14/10, Majority). Additional information regarding each bidder, description of work, contract time frame and detailed amounts can be found on the attached Legislation Information Form.

**3. FISCAL IMPACT:** This Ordinance authorizes the City Auditor to appropriate and transfer funds from the Water System Reserve Fund to the Water Supply Revolving Loan Account Fund in order to fund this proposed expenditure. This transaction is a temporary measure that is required until such time as the Division is able to execute a loan with the Water Supply Revolving Loan Account Fund and reimburse the Water System Reserve Fund. The loan is expected to be approved on Thursday, April 30, 2009. An amendment to the 2008 Capital Improvements Budget is also necessary.

To authorize the Director of Public Utilities to execute a construction contract with Kokosing Construction Company, Inc., for the HCWP Lagoon No. 2 Embankment Modifications Project; to waive the provisions of competitive bidding; to authorize the appropriation and transfer of \$2,019,455.68 from the Water System Reserve Fund to the Water Supply Revolving Loan Account Fund; to authorize the appropriation and expenditure of \$2,019,455.68 within the Water Supply Revolving Loan Account Fund, and to

authorize an amendment to the 2008 Capital Improvements Budget for the Division of Power and Water. (\$2,019,455.68)

**WHEREAS**, five bids for the HCWP Lagoon No. 2 Embankment Modifications Project were received and publicly opened in the offices of the Director of Public Utilities on March 25, 2009; and

**WHEREAS**, the lowest and best bid was from Kokosing Construction Company, Inc. in the amount of \$2,019,455.68; and

**WHEREAS**, Kokosing Construction's proposed subcontractor, Ameriguard, did not submit a contract compliance application for renewal of their contract compliance number within the 7 allowed business days after a bid opening, but did supply one within 9 business days; and

**WHEREAS**, awarding to Kokosing Construction would allow the Division of Power and Water to realize a savings of \$294,056.19 over the next lowest bidder; and

**WHEREAS**, failure to award to Kokosing Construction would delay the possibility of receiving monies from the Water Supply Revolving Loan Account Fund until after their May 28, 2009 meeting, and a significant portion of the construction season would be lost by the time a certified contract could be produced; and

**WHEREAS**, the Director of Public Utilities requests provisions of competitive bidding be waived based on the substantial cost and time savings to the project as mentioned above; and

**WHEREAS**, it is necessary to authorize the Director of the Department of Public Utilities to award and execute a construction contract for the HCWP Lagoon No. 2 Embankment Modifications Project; and

**WHEREAS**, it is necessary to both appropriate funds from the Water System Reserve Fund and to authorize the transfer of said funds into the Water Supply Revolving Loan Account Fund; in order to temporarily fund this expenditure, until such time as the City is able to execute a loan for the above stated purpose and reimburse the Water System Reserve Fund; and

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

**WHEREAS**, it has become necessary in the usual daily operation of the Division of Power and Water, Department of Public Utilities, to authorize the Director of Public Utilities to enter into a construction contract with Kokosing Construction Company, Inc., for the HCWP Lagoon No. 2 Embankment Modifications Project, to authorize the appropriation and transfer of funds from the Water System Reserve Fund to the Water Supply Revolving Loan Account Fund, for the preservation of the public health, peace, property and safety; now therefore,

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

**SECTION 1.** That from the unappropriated monies in the Water System Reserve Fund 603, 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 \$2,019,455.68 is hereby appropriated to the Division of Power and Water, Division 60-09, Object level One 10, Object level Three 5502, OCA 695056.

**SECTION 2.** That it is in the best interest of the City of Columbus to waive the provisions of Section 329.06 of the Columbus City Code, 1959 due to a bid technicality and such provisions are hereby waived.

**SECTION 3.** That the City Auditor is hereby authorized to transfer \$2,019,455.68 to the Water Supply Revolving Loan Account Fund No. 616, into the appropriate project accounts as specified within Section 4 herein, at such time as deemed necessary by him, and to expend said funds, or so much thereof as may be necessary.

**SECTION 4.** That \$2,019,455.68 is hereby appropriated for the HCWP Lagoon No. 2 Embankment Modifications Project within the Water Supply Revolving Loan Account Fund No. 616 | Division 60-09 | Object Level Three 6623 | as follows:

**Project No. 690331 | Project Name: HCWP Lagoon Sludge Removal | OCA Code 616331 | Amount: \$2,019,455.68**

**SECTION 5.** 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 2 above, and said funds are hereby deemed appropriated for such purpose.

**SECTION 6.** That the 2008 Capital Improvements Budget is hereby amended as follows:

<u>Fund No.</u>	<u>Project No.</u>	<u>Project Name</u>	<u>Current Authority</u>	<u>Revised Authority</u>	<u>change</u>
616	690331-100000	HCWP Lagoon Sludge Removal	\$0	\$2,019,456	+\$2,019,456

**SECTION 7.** That the Director of Public Utilities be and hereby is authorized to award and execute a construction contract for the HCWP Lagoon No. 2 Embankment Modifications Project with the lowest and best bidder, Kokosing Construction Company, Inc., 886 McKinley Ave., Columbus, Ohio 43222; in the amount of \$2,019,455.68; in accordance with the terms and conditions of the contract on file in the Office of the Division of Power and Water.

**SECTION 8.** That said construction company shall conduct the work to the satisfaction of the Director of Public Utilities and the Administrator of the Division of Power and Water.

**SECTION 9.** That for the purpose of paying the cost of the Water Supply Revolving Loan Acct. Fund Eligible Items within the aforementioned construction contract, the following expenditure, or as much thereof as may be needed is hereby authorized as follows: Fund No. 616, Dept/Div. No. 60-09, Project: 690331, OCA Code 616331, Object Level One 06, Object Level Three 6623.

**SECTION 10.** That the City Auditor is hereby authorized and directed 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 no longer required for said project; except that no transfer shall be made from a project account by monies from more than one source.

**SECTION 11.** That the City Auditor is authorized to establish proper project accounting numbers as appropriate.

**SECTION 12.** 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 13.** That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.