



## Legislation Text

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**File #: 0564-2009, Version: 1**

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### **A.) BACKGROUND:**

The Columbus Downtown Development Corporation (CDDC) which is a private, 501(c)(3) not-for-profit corporation, is governed by a 15-member board of directors, of whom 14 are appointed by the Mayor of Columbus with the confirmation of the Columbus City Council, and one is appointed by Franklin County. The CDDC is sustained by annual financial commitments of each board member, as well as the City of Columbus and Franklin County. Moreover, the CDDC will continue to forge public-private partnerships so that limited public dollars will leverage more substantial private sector investments. The CDDC is responsible for implementing those ideas put forth in the Mayors Strategic Business Plan for Downtown Columbus, modifying the plan as necessary in response to changes in circumstance, need, and policy leadership over time and broadening and maintaining support for the plan.

A reimbursement agreement between the Columbus Downtown Development Corporation (CDDC) and the City is being sought to perform the following work. Work includes preparation of design & construction documents (plans and specifications) for the foundation stabilization of the OSIS sewer within the Scioto Mile Park project between Rich & Town Streets as well as the rehabilitation of the North Floodwall between Town & Broad Streets. The work also includes design and construction administration costs as outlined in an agreement between the City and CDDC. Under this agreement the CDDC will implement and oversee downtown development projects and programs as well as forge public-private partnerships with the goal of generating private investment for downtown.

As a condition of the agreement, since the CDDC is a not-for-profit organization, the City has applied Section 329.07 (f) - Exception for Competitive Sealed Bids. The OSIS Stabilization portion of this reimbursement was awarded to the singular and only reasonable and responsive bidder, while the North Floodwall Repair was awarded by the CDDC on the basis of the lowest comprehensive bid for the entire North Floodwall project. This entire project consists of the North Floodwall repair (part of this contract) and the North Floodwall Balustrade Restoration (not apart of this contract).

It is anticipated that a future contract modification may be sought to cover additional administrative and material costs after the project is complete and these costs are known. These additional costs cannot be quantified at this time until inherent defects become visible during the construction process.

### **B.) FISCAL IMPACT:**

This ordinance authorizes the Director of Public Utilities to reimburse funds in the amount of \$2,327,182.00 to the CDDC; allow for the transfer and appropriation of funds from the Sanitary Sewer Reserve Fund to the Voted Sanitary Sewer Bond Fund for this expenditure; and to amend to the 2008 Capital Improvements Budget to establish sufficient budget authority to cover the expenditure upon passage of the ordinance. Monies for this contract from the Sanitary Sewer Reserve Fund will be provided from an upcoming Bond Sale via the transfer detailed in this Ordinance.

### **C.) CONTRACT COMPLIANCE INFO: 76-0704655 (Non-Profit) (Expires 02/28/2010)**

### **D.) EMERGENCY DESIGNATION:**

The Division of Sewerage and Drainage is requesting that City Council designate this ordinance as an emergency measure in order to expedite the establishment of the construction services and other services that are necessary to ensure the continuation of this schedule sensitive work in coordination with other related projects.

To authorize the Director of Public Utilities to enter into a reimbursement agreement with the Columbus Downtown Development Corporation (CDDC) in relation to the OSIS Stabilization and North Floodwall Repair; to authorize the transfer and appropriation of

\$2,327,182.00 from the Sanitary Sewer Reserve Bond Fund to the Voted Sanitary Sewer Bond Fund; to authorize the expenditure of \$2,327,182.00 from the Voted Sanitary Sewer Bond Fund; to authorize an amendment to the 2008 Capital Improvements Budget; for the Division of Sewerage and Drainage; and to declare an emergency. (\$2,327,182.00)

**WHEREAS**, the Division of Sewerage and Drainage has determined to enter into a reimbursement agreement with the Columbus Downtown Development Corporation (CCDC) for the costs of work done in relation to OSIS Stabilization and North Floodwall Repair Sewer Project (650746); 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 this project expenditure; and

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

**WHEREAS**, it is necessary for City Council to authorize the expenditure of funds from the Voted Sanitary Sewer Bond 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 project described in this ordinance (the "Project"); and

**WHEREAS**, an emergency exists in the usual daily operation of the Division of Sewerage and Drainage, Department of Public Utilities, in that it is immediately necessary for this Council to authorize the Director of Public Utilities to enter into a reimbursement agreement with the CDDC in order to ensure the continued progress of this time sensitive work in coordination with other related projects; for the immediate 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 the Director of Public Utilities be, and hereby is, authorized to enter into a reimbursement agreement with the CDDC, 150 S. Front St., Suite 200, Columbus, OH 43215, that will provide various engineering and construction services in connection with the OSIS Stabilization and North Floodwall Repair in accordance with the terms and conditions as shown in the agreement on file in the office 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 \$2,327,182.00 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 \$2,327,182.00 from the Sanitary Sewer Reserve Fund to the Voted Sanitary Sewer Bond Fund, Fund 664, into the (OSIS Stabilization and North) Floodwall Repair, Project 650746, 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 \$2,327,182.00 is hereby appropriated for the (OSIS Stabilization and North) Floodwall Repair, within the Voted Sanitary Sewer Bond Fund | Fund 664 | Division 60-05 | Project 650746 | OCA Code 664746 | Object Level Three 6630.

**Section 5.** That the 2008 Capital Improvements Budget Ordinance No. 0690-2008 is hereby amended as follows, to provide sufficient budget authority for the execution of the cost agreement increase stated herein:

<u>Proj. No.</u>	<u>Proj. Name</u>	<u>Current Authority</u>	<u>Revised Authority</u>	<u>(Change)</u>
650625	Beulah Rd. Trunk Sewer Rehab.	\$4,750,000	\$2,422,818	(-\$2,327,182)
650746	(OSIS Stabilization and North) Floodwall Repair	\$0.00	\$2,327,182	(+\$2,327,182)

**Section 6.** That the expenditure of \$2,327,182.00, or as much thereof as may be needed, is hereby authorized from the Voted Sanitary Sewer Bond Fund | Fund No. 664 | Division 60-05 | (OSIS Stabilization and North) Floodwall Repair - Project 650746 | OCA Code

664746 | Object Level Three 6630.

**Section 7.** 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 Sanitary Sewer Reserve Fund the amount transferred above, 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 the obligations to be issued by the City in a principal amount currently estimated to be \$2,327,182.00 (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 Sanitary/Sewer Reserve Fund 654, which is the fund from which the advance for costs of the Project will be made.

**Section 9.** 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 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 are 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 for the reasons stated in the preamble hereto, this ordinance is hereby 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 its passage if the Mayor neither approves nor vetoes the same.