



Legislation Text

File #: 1172-2012, Version: 1

1. BACKGROUND:

Need: This legislation authorizes the Director of Public Utilities to enter into a construction contract with Evans Landscaping, Inc. for \$6,916,818.38 for the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project; to enter into a subcontract agreement for \$2,000,000.00 with The Ohio State University for construction of said project and to utilize \$3,137,900.00 from a Water Resource Restoration Sponsor Program (WRRSP) Agreement from the Ohio Environmental Protection Agency (OEPA) and Ohio Water Development Authority (OWDA) which was approved in Ordinance 0575-2011. As part of this project the City has entered into Environmental Covenants for the purpose of restoring, maintaining and protecting, in perpetuity, the Conservation Values identified in the WRRSP Agreement as stipulated in Ordinance 0951-2012.

This project consists of removing the 5th Avenue Dam and restoring approximately 8,500 LF of the Olentangy River using natural channel design techniques, and other such work as may be necessary to complete the contract in accordance with the plans (CC-15943) and specifications. The project construction limits are within the City of Columbus. The project timeline is 515 days from the issuance of the Notice to Proceed (NTP)

2. Procurement Information: The Division advertised for competitive bid proposals on the City of Columbus's Vendor Services website and in the City Bulletin in accordance with the provisions of Section 329.14 of Columbus City Codes. The Division of Sewerage and Drainage opened the responding bids on May 9, 2012 from the following five (5) companies. The ranking was as follows:

<u>Name</u>	<u>C.C. No.</u>	<u>Expires</u>	<u>City/State</u>	<u>Status</u>
Allard Excavation, LLC	45-4040618	02/27/2014	South Webster, OH	MAJ
Evans Landscaping, Inc.	31-1175355	05/03/2014	Cincinnati, OH	MAJ
George J. Igel & Co., Inc.	31-4214570	02/22/2013	Columbus, OH	MAJ
The Beaver Excavating Co.	34-0905531	05/15/2014	Canton, OH	MAJ
Mark Haynes Construction	34-1894842	02/25/2013	Norwalk, OH	MAJ

These five bids were submitted, reviewed, and ranked utilizing the Bid Tab and Quality Factor Form evaluation process. After careful consideration, the recommendation was made that Evans Landscaping, Inc. be awarded the contract as the lowest and best bidder.

Allard Excavation did not properly complete the bid proposal.

Mark Haynes Construction was incomplete and their bid was withdrawn.

The Engineer's construction cost estimate was 5,594,302.65

3. Contract Compliance No.: 31-1175355 | Exp 05/03/2014 | MAJ

Evans Landscaping did not appear on either the Federal Exclusion List or the Secretary of State of Ohio's debarred list.

4. Emergency Designation: Emergency Designation is requested at this time. In order to receive the WRRSP and 319 Grant funding, construction must be completed within the required time frame established by those agreements. It is therefore necessary to execute the construction contract without delay at the earliest possible effective date of this ordinance.

5. FISCAL AND ECONOMIC IMPACT:

Fiscal Impact: This ordinance authorizes the appropriation and transfer of \$1,278,918.38 from the Sewer System Reserve Fund, Fund 654, to the Sanitary Sewer General Obligation Bond Fund, Fund 664 and authorizes the expenditure of said funds from Fund 664; to authorizes the appropriation and expenditure of \$3,137,900.00 (WRRSP, No. WR390274-150) from the Sewer Grant Fund, Fund 655; authorizes the appropriation and expenditure of \$2,000,000.00 from the Sewer Grant Fund; and amends the 2012 Capital Improvements Budget. The total expenditure is not expected to exceed \$6,916,818.38.

Monies used for this contract from the Sanitary Sewer Reserve Fund will be reimbursed from an upcoming Bond Sale via the transfer detailed in this Ordinance.

Environmental Impact:

This project which includes removal of the 5th Avenue dam and stream restoration along the Olentangy River will help restore natural river function and improve aquatic and riparian habitat. The City is obligated by its consent orders with the Ohio EPA to complete this project in lieu of paying the Ohio EPA civil penalties.

To authorize the Director of Public Utilities to enter into a construction contract with Evans Landscaping, Inc., in the amount of \$6,916,818.38 for the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project; to enter into a sub-agreement contract with The Ohio State University to accept and expend \$2,000,000.00 for project construction costs; to authorize the appropriation and transfer of \$1,278,918.38 from the Sanitary Sewer Reserve Fund to the Sanitary Sewer General Obligation Bond Fund, to authorize the expenditure of \$6,916,818.38 which utilizes approved funds of \$3,137,900.00 from a Water Resource Restoration Sponsor Program (WRRSP) Agreement; to amend the 2012 Capital Improvements Budget; and to declare an emergency. (\$6,916,818.38)

WHEREAS, the City entered into two (2) consent orders with the Ohio EPA regarding wet weather overflows, which consent orders included a requirement that the City pay civil penalty to the Ohio EPA, and also that the City pay annual civil penalties, and,

WHEREAS, the City of the Ohio EPA agreed that the City could divert those civil penalties to the 5th Avenue Dam Removal Projects, and,

WHEREAS, completion of the 5th Avenue Dam Removal Project will satisfy the City's obligations under the Consent Orders, and,

WHEREAS, the Division of Sewerage and Drainage, Department of Public Utilities, hereby requests that this City Council authorize the Director of Public Utilities to enter into a construction contract for \$6,916,818.38 with Evans Landscaping, Inc. for the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project; and

WHEREAS, it is necessary for this Council to authorize the Director of Public Utilities to enter into a subcontract agreement with The Ohio State University to accept, appropriate and expend \$2,000,000.00 for construction of the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project; and

WHEREAS, the City has entered into an agreement for \$3,137,900.00 with the Water Resource Restoration Sponsor Program (WRRSP) Agreement from the Ohio Environmental Protection Agency (OEPA) and Ohio Water Development Authority (OWDA) which was approved in Ordinance 0575-2011; and

WHEREAS, the City has entered into Environmental Covenants for the purpose of restoring, maintaining and protecting, in perpetuity, the Conservation Values identified in the WRRSP Agreement as stipulated in Ordinance 0951-2012; and

WHEREAS, it is necessary to authorize the transfer and appropriation of funds from the Sanitary Sewer Reserve Fund to the Sanitary Sewer General Obligation Bond Fund, Fund 664, for purposes of providing sufficient funding for the sanitary expenditure; and

WHEREAS, the transfer should be considered as a temporary funding method; and

WHEREAS, it is necessary for City Council to authorize the expenditure of funds from the Sanitary Sewer General Obligation Bond Fund, Fund 664; and

WHEREAS, it is necessary for this Council to authorize the City Auditor to appropriate funds within the Section 319 and the WRRSP Grants for the project; and

WHEREAS, That the Department of Public Utilities has committed to administer the grant through grant coordination, grant reporting, grant fund pay requests, and contract administration services.

WHEREAS, it is necessary to authorize an amendment the 2012 Amend Capital Improvement Budget for purposes of creating and providing sufficient budget authority for the aforementioned expenditure; and

WHEREAS, the aggregate principal amount which the City will issue to finance this phase of the project is presently expected not to exceed \$6,916,818.38; and

WHEREAS, the City will sell notes or bonds to fund this project and will reimburse the Sanitary Sewer Reserve Fund the amount transferred; 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 operations of the the Division of Sewerage and Drainage, Department of Public Utilities in that it is necessary to authorize these agreements immediately because in order to receive the WRRSP and 319 Grant funding construction must be completed within the required time frame established by those agreements and to complete this removal project for the immediate preservation of the public peace, health, 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 construction contract with Evans Landscaping Inc., 4229 Roundbottom Rd, Cincinnati, Ohio 45244 for the construction of the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project in accordance with the terms and conditions as shown in the contract 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, 2012, the sum of \$1,278,918.38 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 \$1,278,918.38 from the Sanitary Sewer Reserve Fund to the Sanitary Sewer General Obligation Bond Fund, Fund 664, into the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project | CIP 650706-100000, 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 \$1,278,918.38 is hereby appropriated for the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project, within the Sanitary General Obligation Bond Fund | Fund 664 | Div. 60-05 | CIP # 650706

-100000 | 650706 | Obj Lvl 3 6630

SECTION 5. That the Director of Public Utilities be and hereby is authorized to expend up to \$1,278,918.38 from the Sanitary Sewer General Obligation Fund, Fund 664 from Division 60-05; Object Level Three 6630:

Fund | Project No. | Project Name | OCA Code | change

664 | 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project | CIP 650706-100000 | 650706 | \$1,278,918.38

SECTION 6. That the Director of Public Utilities be, and hereby is, authorized to enter into a subcontract agreement and accept and appropriate \$2,000,000.00 from The Ohio State University for construction costs associated with the 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration.

SECTION 7. That from the unappropriated monies in the Sewer Grant Fund 655, 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, 2012, the sum of \$2,000,000 is appropriated to the Department of Public Utilities, Department 60-05, as follows:

Grant Title: 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project | OCA Code 651203 | Obj. Level 3: 6630 | Amount: \$2,000,000.00.

SECTION 8. That for the purpose of the construction of the 5th Avenue Dam Removal and Lower Olentangy River Ecosystem Restoration Project, the expenditure of \$2,000,000.00 is hereby authorized within the Division 60-05 | Sewer Grant Fund 655 | OCA Code: 651203 | Grant No. 651203 | Object Level 3: 6630 | Amount: \$2,000,000.00

SECTION 9. That from the unappropriated monies in the Sewer Grant Fund 655, 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, 2012, the sum of \$3,137,900.00 is appropriated to the Department of Public Utilities, Department 60-05, as follows:

Grant Title: 5th Ave Dam Removal and Lower Olentangy River Ecosystem Restoration Project | Grant Number 651201 | OCA Code 651201 | Obj. Level 3: 6630 | Amount: \$3,137,900.00.

SECTION 10. That for the purpose of paying the cost of the aforementioned grant project services contracts, the expenditure of \$3,137,900.00 is hereby authorized within Division 60-05 | Sewer Grant Fund 655 | Grant Number 651201 | OCA Code 651201 | Obj. Level 3: 6630 | Amount: \$3,137,900.00.

SECTION 11. That the Department of Public Utilities has committed to administer the grant through grant coordination, grant reporting, grant fund pay requests, and contract administration services.

SECTION 12. That said firm, Evans Landscaping Inc., shall perform the work to the satisfaction of the Director of Public Utilities and the Administrator of the Division of Sewerage and Drainage.

SECTION 13. 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 \$1,278,918.38 (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 14. 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 15. 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 16. That the City Auditor is authorized to establish proper project accounting numbers as appropriate.

SECTION 17. 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 18. That for the reasons stated in the preamble hereto, which is made a part hereof, 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 passage if the Mayor neither approves nor vetoes the same.