



## Legislation Text

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**File #:** 1655-2008, **Version:** 1

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### **BACKGROUND:**

This Ordinance is one of a series of ordinances specifically, Ordinances No. 0628-2007, passed by Council on May 9, 2007, No. 1167-2007, passed July 25, 2007, No. 1277-2007, passed August 2, 2007, No. 0109-2008, passed February 4, 2008 and No. 0167-2008, passed February 4, 2008, all of which generally advance the development by the City of two parking garages to be located in Downtown Columbus, one in the area of Front and Rich Streets and the other in the area of 4<sup>th</sup> and Elm Streets.

This Ordinance provides for amending and restating the existing Guaranteed Maximum Price Contract under Section 186 of the Columbus City Charter between the City and Capitol South for the development, design and construction of the Front Street Parking Garage to include the development, design and construction of a Fourth Street Parking Garage. Because this contract is entered into under Section 186 of the Charter, competitive bidding is not required, and therefore it is necessary to waive the competitive bidding procedures of Chapter 329. Capitol South is uniquely positioned to serve as the design/builder of the Fourth Street Parking Garage due to its familiarity with the project and other redevelopment activities in the Downtown area and is prepared to serve without compensation, other than the reimbursement to Capitol South of the actual costs of development, design and construction, free from any profit or mark-up.

### **FISCAL IMPACT:**

The funding for the contract with Capitol South will come from the Parking Garages Enterprise Fund. Ordinance No. 0109-2008 authorized a temporary transfer from the Special Income Tax Fund to the Parking Garages Enterprise Fund in order to provide funding for this Ordinance. The transfer from the Special Income Tax Fund is a temporary measure until the next bond/note sale occurs, at which time that fund will be reimbursed.

To authorize the amendment and restatement of the existing Guaranteed Maximum Price Contract under Section 186 of the Columbus City Charter between Capitol South Community Urban Redevelopment Corporation and the City for the development, design and construction of the Front Street Parking Garage to include the development, design and construction of a Fourth Street Parking Garage, to authorize the expenditure of an amount not to exceed \$26,170,871, and determining that such actions are necessary pursuant to Section 55(b) of The Charter of the City of Columbus.

**WHEREAS**, Ordinance No. 0628-2007, passed on May 9, 2007, provided generally for the execution of a Parking Study by Capitol South that identifies, articulates and recommends practical strategies for making Downtown more competitive through improvements in the availability, value and convenience of Downtown parking; and

**WHEREAS**, Capitol South has, among other things, recommended the development of a parking garage in the vicinity of Fourth and Elm Streets to replace some of the approximately 1,000 surface parking spaces being lost to ongoing residential development in the area; and

**WHEREAS**, Capitol South has advised the City that the development of such parking garage will generally support the competitiveness of Downtown, encourage occupancy of Downtown buildings in the area, eliminate Downtown blight and deterioration and preserve and increase municipal income tax revenues; and

**WHEREAS**, Ordinance No. 1167-2007, passed July 25, 2007, provided generally for the use by Capitol South of certain monies to advance the development of two parking garages in Downtown Columbus, one in the area of Rich and Front Streets (the "Front Street Parking Garage") and the other in the area of 4<sup>th</sup> and Elm Streets (the "Fourth Street Parking Garage"); and

**WHEREAS**, Capitol South has advised the City that the Fourth Street Parking Garage will contain approximately 682 spaces and can

be developed, designed and constructed on the property bounded by Fourth Street on the west, Elm Street on the north and One Neighborhood Condominium and properties of Gay Street Condominium LLC on the east and south (the "Fourth Street Garage Site") at a cost of \$12,260,617; and

**WHEREAS**, Capitol South has further advised that parking garages are routinely developed employing a design/build project delivery method, that such project delivery method for parking garages provides greater efficiency and flexibility, lower costs and, in general, greater value and has recommended that the City employ a variation of the design/build project delivery method to develop the Fourth Street Parking Garage; and

**WHEREAS**, Capitol South is prepared to serve as the design/builder of the Fourth Street Parking Garage without compensation, other than the reimbursement to Capitol South of the actual costs of development, design and construction, free from any profit or mark-up to Capitol South; and

**WHEREAS**, Capitol South and the City have, pursuant to the authority of Ordinance No. 0167-2008, passed February 4, 2008, entered into a Guaranteed Maximum Price Contract under Section 186 of the Columbus City Charter for the development, design and construction of the Front Street Parking Garage and Capitol South is willing to amend and restate such Contract to include the development, design and construction of the Fourth Street Parking Garage; and

**WHEREAS**, this Ordinance is another in a series of ordinances subsequent to Ordinances No. 0628-2007, passed by Council on May 9, 2007, No. 1167-2007, passed July 25, 2007, No. 1277-2007, passed August 2, 2007, No. 0109-2008, passed February 4, 2008 and No. 0167-2008, passed February 4, 2008, all relating to, and all necessary to pay for, the development, design and construction of the Front Street Parking Garage and Fourth Street Parking Garage, such that action hereunder is deemed to be necessary pursuant to Section 55(b) of the Columbus City Charter; **NOW THEREFORE**,

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

**Section 1.** That the Director of Finance and Management be, and hereby is authorized to enter into an Amended and Restated Guaranteed Maximum Price Contract, pursuant to Section 186 of the Columbus City Charter, with Capitol South (the "Amended and Restated Guaranteed Maximum Price Contract") for the development, design and construction of the Front Street Parking Garage on the Front Street Garage Site and the Fourth Street Parking Garage on the Fourth Street Garage Site, and generally providing:

- (a) for payment by the City to Capitol South of the actual cost of the development, design and construction of the Front Street Parking Garage and the Fourth Street Parking Garage, all free from any profit or mark-up to Capitol South, but in no case of more than a Guaranteed Maximum Price of \$26,170,871, such amount being the estimated cost of \$14,510,254 for the Front Street Parking Garage plus the estimated cost of \$12,260,617 for the Fourth Street Parking Garage, less a credit of \$600,000 for costs paid or payable under authority of Ordinance 1167-2007;
- (b) for a separate accounting of costs incurred by the City with respect to each of the Front Street Parking Garage and the Fourth Street Parking Garage; and
- (c) for the provision of a performance bond, the award of work on a competitive basis, the payment of a prevailing wage, the withholding of City income tax and compliance with the ordinances made and provided for equal opportunity.

**Section 2.** That for the purpose of paying the cost of the Amended and Restated Guaranteed Maximum Price Contract, the sum of \$26,170,871 or so much thereof as may be needed, is hereby authorized to be expended from:

Parking Garages Enterprise Fund, Fund No. 630, Subfund 003 Front Street Garage, Dept-Div 45-01 Department of Finance and Management, Director's Office, OCA Code 630103, OL1-06, OL3-6601; and

Parking Garages Enterprise Fund, Fund No. 630, Subfund 004 Fourth Street Garage, Dept-Div 45-01 Department of Finance and Management, Director's Office, OCA Code 630104, OL1-06, OL3-6601; and

provided, that notwithstanding anything to the contrary in Ordinance No. 0109-2008, passed February 4, 2008, the City Auditor is authorized, from time to time, to transfer appropriated funds between Subfund 003 Front Street Garage and Subfund 004 Fourth Street Garage, to use the same for the payment of the actual costs incurred with respect to the Front Street Garage and Fourth Street Garage, respectively, and to take such other actions as are, in the opinion of the City Auditor, necessary to fully reconcile appropriated funds in

such Subfunds with costs actually incurred and paid with respect to the Front Street Garage and Fourth Street Garage.

**Section 3.** That the competitive bidding procedures of Chapter 329 be, and hereby are waived for the procurement of the design and construction services under the Amended and Restated Guaranteed Maximum Price Contract for the Front Street Parking Garage and the Fourth Street Parking Garage.

**Section 4.** 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 5.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, and in accordance with Section 55(b) of the Charter of the City of Columbus, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.