



## Legislation Details (With Text)

**File #:** 3079-2016      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 11/22/2016      **In control:** Environment Committee

**On agenda:** 12/5/2016      **Final action:** 12/7/2016

**Title:** To authorize the Director of the Department of Public Utilities to execute an amendment to the Environmental Covenant dated July 11, 2006 among the City, the Solid Waste Authority of Central Ohio, and the Ohio Environmental Protection Agency, for the purpose of implementing activity and use limitations, groundwater limitations, and certain excavation limitations at the site of the former Waste-to-Energy Facility located at 2500 Jackson Pike; and to declare an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
12/7/2016	1	CITY CLERK	Attest	
12/7/2016	1	MAYOR	Signed	
12/5/2016	1	COUNCIL PRESIDENT	Signed	
12/5/2016	1	Columbus City Council	Approved	Pass

**Background:** The City of Columbus, Ohio is the owner of an approximately 52 acre parcel of real property located at 2500 Jackson Pike, Columbus, Ohio, known as former the Waste-to-Energy Facility (the Property). The Property is leased to the Solid Waste Authority of Central Ohio (SWACO). Pursuant to a July 2000 Closure Plan approved by the Ohio Environmental Protection Agency (OEPA), the City and SWACO excavated and removed all materials in order to properly close the facility's former retention basin under the Resource Conservation and Recovery Act and entered into an environmental covenant with OEPA dated July 11, 2006 for the 1.643 acre portion of the Property where the former retention basin was located. The environmental covenant, which was authorized by Ordinance number 2029-2005 passed December 5, 2005, implemented appropriate activity and land use restrictions. The Property was included on an April 2007 list created by the United States Environmental Protection Agency (USEPA) known as the 2020 Corrective Action Universe that identified facilities that had been closed and potentially required additional Corrective Action under RCRA. The city and SWACO subsequently met with representatives of USEPA, and at the request of USEPA the city and SWACO prepared a Current Conditions Report (CCR), which was submitted to USEPA on April 28, 2011. The CCR recommended that the July 11, 2006 environmental covenant be amended to include the entire 52 acre Property and to impose activity and use limitations on the Property for the protection of human health and the environment. Under the terms of the amended covenant, which has been approved by OEPA and USEPA, (1) use of the Property will be limited to industrial activities and shall not include residential activities, (2) groundwater within the Property shall not be used except for investigation, monitoring, or remediation purposes or in conjunction with construction, mining, or excavation activities, and (3) excavation limitations will apply within the area of the former retention basin. The following legislation authorizes the Director of the Department of Public Utilities to execute an amendment to the existing environmental covenant and any ancillary documents as necessary to restrict the activity and land use of the Property.

**Fiscal Impact:** N/A

**Emergency Justification:** Emergency action is requested to allow for immediate recording of amended environmental

covenant to allow for immediate implementation of the activity and use limitations, groundwater use limitations, and certain excavation limitations on the subject property as required by USEPA and OEPA.

To authorize the Director of the Department of Public Utilities to execute an amendment to the Environmental Covenant dated July 11, 2006 among the City, the Solid Waste Authority of Central Ohio, and the Ohio Environmental Protection Agency, for the purpose of implementing activity and use limitations, groundwater limitations, and certain excavation limitations at the site of the former Waste-to-Energy Facility located at 2500 Jackson Pike; and to declare an emergency.

**WHEREAS**, the city is the owner of certain real property located at 2500 Jackson Pike, Columbus, Ohio, known as the former Waste-to-Energy Facility (the Property); and

**WHEREAS**, the Property is leased to and operated by the Solid Waste Authority of Central Ohio (SWACO), which, pursuant to an approved July 2000 Closure Plan approved by the Ohio Environmental Protection Agency (OEPA), excavated and removed all materials in order to properly close the facility's former retention basin under the Resource Conservation and Recovery Act and entered into an environmental covenant with OEPA dated July 11, 2006 for the 1.643 acre portion of the Property where the former retention basin was located; and

**WHEREAS**, the environmental covenant, which was authorized by Ordinance number 2029-2005 passed December 5, 2005, implemented appropriate activity and land use restrictions; and

**WHEREAS**, the Property was included on an April 2007 list created by the United States Environmental Protection Agency (USEPA) known as the 2020 Corrective Action Universe that identified facilities that had been closed and potentially required additional Corrective Action under RCRA; and

**WHEREAS**, the city and SWACO subsequently met with representatives of USEPA, and at the request of USEPA the city and SWACO prepared a Current Conditions Report (CCR), which was submitted to USEPA on April 28, 2011, and which recommended that the July 11, 2006 environmental covenant be amended to include the entire 52 acre Property and to impose activity and use limitations on the Property for the protection of human health and the environment; and

**WHEREAS**, under the terms of the amended covenant, which has been approved by OEPA and USEPA, (1) use of the Property will be limited to industrial activities and shall not include residential activities, (2) groundwater within the Property shall not be used except for investigation, monitoring, or remediation purposes or in conjunction with construction, mining, or excavation activities, and (3) excavation limitations will apply within the area of the former retention basin; and

**WHEREAS**, an emergency exists in the usual daily operation of the City of Columbus in that it is immediately necessary to authorize the Director of the Department of Public Utilities to execute an amendment to the Environmental Covenant dated July 11, 2006 among the City, SWACO, and the OEPA for the purpose of implementing activity and use limitations, groundwater limitations, and certain excavation limitations at the site of the former Waste to Energy Facility located at 2500 Jackson Pike, for the immediate preservation of the public peace, property, health and safety; now, therefore:

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

**SECTION 1.** That the Director of the Department of Public Utilities be and hereby is authorized to execute an amendment to the Environmental Covenant dated July 11, 2006 and any ancillary documents, among the City, the Solid Waste Authority of Central Ohio, and the Ohio EPA, necessary for the purpose of implementing activity and use limitations, groundwater limitations, and certain excavation limitations at the site of the former Waste to Energy Facility located at 2500 Jackson Pike.

**SECTION 2.** That for the reasons state in the preamble hereto, which is hereby 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 its passage if the Mayor neither approves nor vetoes the same.