



Legislation Details (With Text)

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Type: Ordinance **Status:** Passed

File created: 4/14/2023 **In control:** Public Utilities Committee

On agenda: 5/22/2023 **Final action:** 5/24/2023

Title: To authorize an amendment to the 2022 Capital Improvement Budget; to authorize the appropriation and transfer of funds from the Sanitary Reserve Fund to the Ohio Development Authority Loan Fund; to authorize the Director of the Department of Public Utilities to enter into a construction contract with The Righter Co., Inc., for the Compost Facility Odor Control Improvements Phase 1 project; to authorize the appropriation and expenditure of up to \$10,996,080.00 from the Ohio Water Development Authority Loan Fund for the contract; to authorize the expenditure of up to \$2,000.00 from the Sanitary General Obligation Fund to pay for prevailing wage services for the project; and to declare an emergency. (\$10,998,080.00)

Sponsors:

Indexes: EBE Participation, MBE Participation, WBE Participation

Code sections:

Attachments: 1. ORD 1206-2023 Utilization, 2. ORD 1206-2023 Accounting Template

Date	Ver.	Action By	Action	Result
5/24/2023	1	CITY CLERK	Attest	
5/23/2023	1	MAYOR	Signed	
5/22/2023	1	COUNCIL PRESIDENT	Signed	
5/22/2023	1	Columbus City Council	Approved	Pass

1. BACKGROUND

This ordinance authorizes the Director of Public Utilities to enter into a construction contract with The Righter Co., Inc., for the Compost Facility Odor Control Improvements Phase 1, CIP #650375-100002, in an amount up to \$10,996,080.00, and to encumber funds with the Department of Public Service for prevailing wage services in an amount up to \$2,000.00, for a total expenditure of \$ 10,998,080.00.

This project provides for: replacing the compost blowers, one bio-filter fan, two leachate pumps, locker rooms renovations, improvements to the electrical system, and minor improvements to the composting process.

ORD 3120-2022 authorized the Director of Public Utilities to apply for and execute a loan agreement with the Ohio Water Pollution Control Loan Fund (WPCLF) in an amount up to \$7,000,000.00 for the construction of this project. The construction bids came in higher than estimated, so it is necessary to also request City Council's approval to accept a loan for the construction of this project in an amount up to \$12,000,000.00.

The Community Planning Area is "59 - Southwest".

2. ECONOMIC IMPACT/ADVANTAGES; COMMUNITY OUTREACH; PROJECT DEVELOPMENT; ENVIRONMENTAL FACTORS/ADVANTAGES OF PROJECT

This project will provide improvements and repairs to the Compost Facility's process, odor control, and electrical systems. This will include repair or replacement of piping, blower, and electrical systems to restore reliability from existing equipment. Due to age, several systems have decreased reliability and require repair and replacement to ensure consistent operational capacity.

3. CONSTRUCTION CONTRACT AWARD

An Invitation for Bids for the Compost Facility Odor Control Improvements Phase 1 project was advertised on the Vendor Services and Bid Express websites from 11/08/22 through 01/18/23. One bid was received for the project and was opened on 01/18/23. The following company submitted a bid:

<u>Company</u>	<u>Bid Amount</u>	<u>Compliance Number</u>	<u>ODI Status</u>
The Righter Co., Inc.	\$10,996,080.00	CC-004433	MAJ

The Righter Co., Inc. bid was deemed the lowest, best, most responsive and responsible bid in the amount of \$ 10,996,080.00.

4. CONTRACT COMPLIANCE INFORMATION

The Righter Co., Inc. contract compliance number is CC-004433 and expires 11/22/23.

Searches in the Excluded Party List System (Federal) and the Findings for Recovery list (State) produced no findings against The Righter Co., Inc.

5. MINORITY AND WOMAN OWNED BUSINESS ENTERPRISE & SMALL LOCAL BUSINESS ENTERPRISE PROGRAM

This contract was bid with an anticipated City of Columbus MBE/WBE Program goal of 25% as assigned by the City's Office of Diversity and Inclusion (ODI). After ODI's review of the Utilization Plan and other related information the contractor submitted with their bid response, ODI has approved an MBE/WBE Program goal of 25% for this contract. Failure by the contractor to meet this goal subjects the contractor to the Penalties for Non-Compliance as described in the "City's Minority and Women-Owned Business Enterprise & Small Local Business Enterprise Program Manual" and in the bid documents for this contract.

As part of their proposal, The Righter Co., Inc. has proposed the following six subcontractors to perform contract work:

<u>Company Name</u>	<u>City/State</u>	<u>ODI Certification Status</u>
Roberts Service Group, Inc.	Columbus, Ohio	WBE
Capital City Mechanical	Grove City, Ohio	MAJ
Holloway, Henderson & Martin, LLC	Columbus, Ohio	WBE
The Ardit Company	Columbus, Ohio	WBE
OK Interiors Corp	Columbus, Ohio	MAJ
K. Davis, Inc.	Gibsonburg, Ohio	EBE

The certification of the above companies was in good standing at the time the bid was awarded.

6. PRE-QUALIFICATION STATUS

Complete General Construction and all subcontractors have met code requirements with respect to pre-qualification, pursuant to relevant sections of Columbus City Code Chapter 329.

7. EMERGENCY DESIGNATION

The bid for this project exceeded the engineer's estimate and the award took longer than usual as each line of the bid needed more analysis. The vendor's bid was deemed responsive but the 180 day hold on the vendor's pricing is near ending and an emergency designation is requested so the contract can be awarded before the price is increased.

8. FISCAL IMPACT

The construction portion of this project is expected to be financed with a loan from the Ohio Water Pollution Control Loan Fund. Funds will need to be appropriated within the Sanitary Sewer Reserve Fund, Fund 6102, transferred to the Sanitary Revolving Loan Fund, Fund 6111, and then appropriated again in order to fund this expenditure. This transaction is a temporary measure that is required until such time as the division is able to execute a loan with the Ohio

Water Pollution Control Loan Fund and reimburse the Sanitary Sewer Reserve Fund. The loan is expected to be approved in May, 2023.

Funds in the amount of \$2,000.00 are available and appropriated within the Sanitary Sewer Bond Fund, Fund 6109, to pay the Department of Public Service to provide prevailing wage services for this project. An amendment to the 2022 Capital Improvement Budget is necessary to align budget authority with the proper project. A transfer of cash and appropriation within the Sanitary Bond Fund is needed to align cash and appropriation with the proper project.

To authorize an amendment to the 2022 Capital Improvement Budget; to authorize the appropriation and transfer of funds from the Sanitary Reserve Fund to the Ohio Development Authority Loan Fund; to authorize the Director of the Department of Public Utilities to enter into a construction contract with The Righter Co., Inc., for the Compost Facility Odor Control Improvements Phase 1 project; to authorize the appropriation and expenditure of up to \$10,996,080.00 from the Ohio Water Development Authority Loan Fund for the contract; to authorize the expenditure of up to \$2,000.00 from the Sanitary General Obligation Fund to pay for prevailing wage services for the project; and to declare an emergency. (\$10,998,080.00)

WHEREAS, the Department of Public Utilities is engaged in the Compost Facility Odor Control Improvements Phase 1 project; and

WHEREAS, four bids for the Compost Facility Odor Control Improvements Phase 1 project were received and opened on 01/18/23; and

WHEREAS, the lowest, best, most responsive and responsible bid was from The Righter Co., Inc.; and

WHEREAS, it is necessary to seek City Council's approval to increase the amount of a loan to fund construction for this project from the Ohio Water Pollution Control Loan Fund (WPCLF); and

WHEREAS, it is necessary to authorize the Director of the Department of Public Utilities to enter into a construction contract with The Righter Co., Inc. for the Compost Facility Odor Control Improvements Phase 1 project; and

WHEREAS, the 2022 Capital Improvement Budget must be modified to align budget authority with the proper project; and

WHEREAS, it is necessary to both appropriate and transfer funds from the Sanitary Reserve Fund to the Ohio Water Development Authority Loan Fund in order to temporarily fund this expenditure until such time as the City receives loan proceeds from the Ohio Water Development Authority to reimburse the Sanitary Reserve 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 construction of the Project described in this Ordinance (collectively, the "Project"); and

WHEREAS, it is necessary to appropriate and expend funds from the Ohio Water Development Authority Loan Fund to pay for the construction of this project; and

WHEREAS, it is necessary to transfer cash and appropriation between projects and expend funds from the Sanitary Bond Fund to pay the Department of Public Service for prevailing wage services for this project; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Public Utilities in that it is immediately necessary to authorize the Director to execute the contract as the vendor's pricing will expire as the 180 day hold is near ending, thereby preserving the public health, peace, property, safety, and welfare; **NOW, THEREFORE,**

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

SECTION 1. That the 2022 Capital Improvement Budget authorized by Ordinance 1896-2022 be amended as follows to

establish sufficient budget authority for this project:

Fund / Project Number / Project Name (Funding Source) / Current Authority/ Revised Authority / Change

6111 / 650375-100002 / 60-05 Compost Facility Odor Control Improvements (OWDA Loan) / \$4,500,000.00 / \$10,996,080.00 / \$6,496,080.00 (To match the loan amount)

6109 / 650354-100000 / SWWTP Post Aeration Diffuser Replacement (Voted Sanitary Carryover) / \$670,000.00 / \$668,000.00 / (\$2,000.00)

6109 / 650375-100002 / 60-05 Compost Facility Odor Control Improvements (Voted Sanitary Carryover) / \$555,125.00 / \$557,125.00 / \$2,000.00

SECTION 2. That from the unappropriated monies 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, 2023, the sum of \$ 10,996,080.00 is appropriated in the Sanitary Reserve Fund, Fund 6102, per the account codes in the funding attachment to this ordinance.

SECTION 3. That the transfer of \$10,996,080.00 or so much thereof as may be needed, is hereby authorized between the Sanitary Reserve Fund, Fund 6102, and the Ohio Water Development Authority Loan Fund, Fund 6111, per the accounting codes in the attachment to this ordinance.

SECTION 4. That the transfer of \$2,000.00 or so much thereof as may be needed, is hereby authorized between projects within the Sanitary Bond Fund, Fund 6109, per the accounting codes in the attachment to this ordinance.

SECTION 5. That from the unappropriated monies 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, 2023, the sum of \$ 10,996,080.00 is appropriated in the Ohio Water Development Authority Loan Fund, Fund 6111, per the account codes in the funding attachment to this ordinance.

SECTION 6. That the Director of Public Utilities is hereby authorized to enter into a construction contract for the Compost Facility Odor Control Improvements Phase 1 project with The Righter Co., Inc., 2424 Harrison Road, Columbus, OH 43204, in an amount up to \$ 10,996,080.00; in accordance with the terms and conditions of the contract on file in the Department of Public Utilities; and to obtain the necessary prevailing wage services for this project from the Department of Public Services in an amount up to \$2,000.00.

SECTION 7. That the expenditure of \$ 10,998,080.00, or so much thereof as may be needed, is hereby authorized to pay for this contract and for the Department of Public Service to provide prevailing wage services for the contract, per the accounting codes in the attachment to this ordinance.

SECTION 8. That upon obtaining other funds for the purpose of funding sanitary capital improvement work, the City Auditor is hereby authorized to repay the Sanitary Reserve Fund the amount transferred above (Section 3), and said funds are hereby deemed appropriated for such purposes.

SECTION 9. 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 obligations to be issued by the City in a principal amount currently estimated to be \$ 10,996,080.00 (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 Reserve Fund, Fund 6102, which is the fund from which the advance for costs of the Project will be made.

SECTION 10. Funds are hereby deemed appropriated and expenditures and transfers authorized to carry out the purposes of this ordinance and the City Auditor shall establish such accounting codes as necessary.

SECTION 11. 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 12. That the City Auditor is hereby authorized to transfer the unencumbered balance in a project account to the unallocated balance account 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.

SECTION 13. That City Council approves increasing the amount of a loan from the Ohio Water Pollution Control Loan Fund to fund construction for this project from a maximum of \$7,000,000.00 to a maximum of \$12,000,000.00.

SECTION 14. That for the reasons stated in the preamble hereto, which is made a part hereof, this Ordinance is 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 (10) days after passage if the Mayor neither approves nor vetoes this Ordinance.