



## Legislation Details (With Text)

**File #:** 2421-2023      **Version:** 1

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

**File created:** 8/23/2023      **In control:** Public Utilities Committee

**On agenda:** 9/11/2023      **Final action:** 9/13/2023

**Title:** To authorize the Director of the Department of Public Utilities to modify and increase the contract with ms consultants, inc. for the Fourth Water Plant Transmission Main project and to apply, accept, and enter into a Water Supply Revolving Loan Account loan agreement with the Ohio Water Development Authority and Ohio Environmental Protection Agency for the financing thereof and designate a dedicated source of repayment for the loan; to repeal and replace Ordinance 1977-2023; to authorize the appropriation and transfer of up to \$1,487,278.77 from the Water System Reserve Fund to the Water Supply Revolving Loan Account Fund; to authorize the appropriation and expenditure of up to \$1,487,278.77 within the Water Supply Revolving Loan Account Fund; to authorize an amendment to the 2023 Capital Improvement Budget; and to declare an emergency. (\$1,487,278.77)

**Sponsors:**

**Indexes:** MBE Participation, WBE Participation

**Code sections:**

**Attachments:** 1. ORD 2421-2023 Accounting Template, 2. ORD 2421-2023 Utilization

Date	Ver.	Action By	Action	Result
9/13/2023	1	CITY CLERK	Attest	
9/12/2023	1	MAYOR	Signed	
9/11/2023	1	COUNCIL PRESIDENT PRO-TEM	Signed	
9/11/2023	1	Columbus City Council	Approved	Pass

### 1. BACKGROUND

This ordinance repeals and replaces Ordinance 1977-2023 to correct the funding source for this expenditure. Ordinance 1977-2023 erroneously used Water Bond Funds for this expenditure when all capital expenditures related to the Fourth Water Plant are planned to be financed with loan funding.

This ordinance authorizes the Director of Public Utilities to enter into a planned contract modification for additional preliminary engineering services with ms consultants, inc. for the Fourth Water Plant Transmission Main project, CIP #690502-100001, in an amount up to \$1,487,278.77. The Ordinance also authorizes the Director of Public Utilities to apply for, accept, and enter into a Water Supply Revolving Loan Account (WSRLA) Loan Agreement with the Ohio Water Development Authority and the Ohio Environmental Protection Agency for the financing of this contract modification.

This contract is for additional engineering consulting services for the design of water transmission mains that will be constructed in conjunction with the construction of the City’s future fourth water plant. The transmission mains will extend from the fourth water plant located at 5992 Home Road, Delaware, Ohio, to a strategic connection point in the City’s existing water distribution system, specifically the Cleveland/Henderson pressure district.

The initial contract, Phase 1, is for preliminary design services. This current modification is to add preliminary design services for new Scioto River/Griggs Reservoir crossing(s) into the Cleveland/Henderson pressure districts and associated transmission main alignment(s) to connect the Fourth Water Plant transmission mains. The existing waterlines crossing the Scioto River do not have the capacity to convey flows from the future Fourth Water Plant based on projected plant

capacity.

There are two additional planned contract modifications. One contract modification will be for Phase 2, detailed design services. The final planned contract modification will be for Phase 3, engineering services during construction.

The majority of the transmission main will be located outside the City of Columbus. The portion within the City of Columbus will be located within the Hayden Run Planning Area (30) and the Far Northwest Planning Area (31). The Citywide Planning Area (99) will be used for the accounting template due to the project covering multiple areas.

**UPDATED TIMELINE:** The duration of the initial contract for Phase 1 - Preliminary Design Services is 18 months and is expected to begin in January, 2023. The additional preliminary engineering services being added under the current modification will have the same schedule as the original contract for Phase 1 services. Phase 2 - Detailed Design Services (Modification No. 1) is expected to have a duration of approximately 24 months. Phase 3 - Engineering Services during Construction (Modification No. 2) is expected to have a duration of approximately 28 months.

**1.1 Amount of additional funds to be expended: \$1,487,278.77**

Cost summary:

Original Contract (ORD 3235-2022; PO363148)		\$5,399,068.91
Modification No.1 (Current)	\$1,487,278.77	
Modification No. 2 (Future estimate)		\$10,000,000.00
Modification No. 3 (Future estimate)	<u>\$2,500,000.00</u>	
CONTRACT TOTAL		\$19,386,347.68

**1.2. Reason other procurement processes are not used:**

At the time of the original contract, the initial and ultimate capacities for the future Fourth Water Plant were unknown and it was assumed that the existing Scioto River/Griggs Reservoir water main crossings would be able to convey these flows throughout the 30 year planning horizon. Demand/growth projections were updated and the sizing of the Fourth Water Plant was determined, resulting in the need to add river crossing(s) sooner than previously anticipated to be able to convey an adequate volume of flow from the Fourth Water Plant in to the Cleveland/Henderson pressure district. As ms consultants inc. is familiar with the project it was deemed necessary to continue with the same consultant in order to ensure the expediency of the project.

**1.3. How cost of modification was determined:**

ms consultants, inc. provided a cost proposal as requested by the City based on the scope of adding the river crossing(s) and associated transmission main(s) to the preliminary design of the Fourth Water Plant Transmission Main project. The fee proposal was reviewed by the Division of Water deemed to be acceptable.

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

This project has been scoped with a significant public outreach program. This outreach program will include public meetings, advisory group briefings for stakeholders, development of a project website, fact sheets, pop-up engagement at neighborhood gatherings, e-newsletters, social media posts, and news releases.

**3. CONTRACT COMPLIANCE INFORMATION:**

ms consultants, inc.'s contract compliance number is CC006998 and expires 12/28/23.

Searches in the Excluded Party List System (Federal) and the Findings for Recovery list (State) produced no findings against ms consultants, inc. or their subconsultants.

**4. MINORITY AND WOMAN OWNED BUSINESS ENTERPRISE & SMALL LOCAL BUSINESS ENTERPRISE PROGRAM**

This contract was put in place with an ODI determined MBE/WBE program goal of 25.0%. ms consultants, inc. is

classified as a majority company. ms consultants, inc. anticipates performing the work on this contract modification with the use of subconsultants. The MBE/WBE percentage for this modification is expected to be 38.0%.

As part of their proposal, ms consultants, inc. has proposed the following subconsultants/subcontractors to perform contract work:

<u>Company Name</u>	<u>City/State</u>	<u>ODI Certification Status</u>
Gresham Smith MAJ		Columbus, Ohio
Murphy Epon WBE		Columbus, Ohio
Resource International WBE		Columbus, Ohio
Aldea Services Inc. MAJ		Columbus, Ohio
STONE Environmental Engineering & Science	Columbus, Ohio	WBE
Moody Engineering LLC MBE		Columbus, Ohio
Eagon & Associates, Inc. MAJ		Columbus, Ohio
7NT Engineering MBE		Columbus, Ohio
Regency Construction Services, Inc. WBE		Columbus, Ohio
DHDC Inc. MBE		Columbus, Ohio
CTL Engineering Inc. MBE		Columbus, Ohio
KTA Tator MAJ		Columbus, Ohio
ASC Group, Inc. WBE		Columbus, Ohio
D&D Policy Works	Columbus, Ohio	MAJ

The certification of ms consultants, inc. and the above companies was in good standing at the time the bid was awarded.

**5. FISCAL IMPACT**

This design modification is expected to be financed with a loan from the Water Supply Revolving Loan Account (WSRLA) through the Ohio Environmental Protection Agency and administered by the Ohio Water Development Authority. Non-construction loans do not have a nomination deadline for pre-approval for this source of funding and are nominated as the need for financing arises.

This Ordinance authorizes the City Auditor to appropriate and transfer funds from the Water System Reserve Fund, Fund 6003, to the Water Supply Revolving Loan Account Fund, Fund 6011, in order to fund this proposed expenditure. This transaction is a temporary measure that is required until such time as the Division is able to execute a loan with the Water Supply Revolving Loan Account Fund and reimburse the Water System Reserve Fund. The loan is expected to be approved in September 2023. The funds will also need to be appropriated in Fund 6011. An amendment to the 2023 Capital Improvements Budget will also be necessary.

**6. EMERGENCY DESIGNATION**

Emergency action is requested to complete the project in a timely manner to meet future anticipated water demands to prevent a water shortage and to avoid public health and welfare issues.

To authorize the Director of the Department of Public Utilities to modify and increase the contract with ms consultants, inc. for the Fourth Water Plant Transmission Main project and to apply, accept, and enter into a Water Supply Revolving Loan Account loan agreement with the Ohio Water Development Authority and Ohio Environmental Protection Agency for the financing thereof and designate a dedicated source of repayment for the loan; to repeal and replace Ordinance 1977-2023; to authorize the appropriation and transfer of up to \$1,487,278.77 from the Water System Reserve Fund to the Water Supply Revolving Loan Account Fund; to authorize the appropriation and expenditure of up to \$1,487,278.77 within the Water Supply Revolving Loan Account Fund; to authorize an amendment to the 2023 Capital Improvement Budget; and to declare an emergency. (\$1,487,278.77)

**WHEREAS**, the Department of Public Utilities is engaged in the Fourth Water Plant Transmission Main project; and

**WHEREAS**, Contract No. PO363148 was authorized by Ordinance No. 3235-2022, for the Fourth Water Plant Transmission Main project; and

**WHEREAS**, a planned contract modification is needed for additional engineering services; and

**WHEREAS**, Ordinance 1977-2023 was passed by City Council on July 24, 2023 authorizing the use of Water Bond Funds to fund this planned contract modification; and

**WHEREAS**, it is necessary to change the funding source for this contract modification from Water Bond Funds to a Water Supply Revolving Loan Account (WSRLA) Loan Agreement with the Ohio Water Development Authority and the Ohio Environmental Protection Agency; and

**WHEREAS**, Ordinance 1977-2023 must be repealed and replaced with this ordinance to change the funding source; and

**WHEREAS**, it is necessary to amend the 2023 Capital Improvement Budget to provide sufficient budget authority for the project; and

**WHEREAS**, it is necessary to both appropriate funds from the Water System Reserve Fund, Fund 6003, and to authorize the transfer of said funds into the Water Supply Revolving Loan Account Fund, Fund 6011, in order to temporarily fund this expenditure, until such time as the City is able to execute a loan for the above stated purpose and reimburse the Water System Reserve Fund; and

**WHEREAS**, the funds transferred into Fund 6011 will need to be appropriated; and

**WHEREAS**, it is necessary to authorize an expenditure up to \$1,487,278.77 within the WSRLA Fund, Fund 6011, for the Division of Water in order to temporarily fund this expenditure until such time as the City receives loan proceeds for the above stated purpose and reimburses the Water System 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**, the Department of Public Utilities is scheduled to prepare a Loan Application for submittal to the Ohio EPA under the Water Supply Revolving Loan Account (WSRLA) program to finance the construction of this project under the direction of the Division of Water, the financial assistance for which may be of help in reducing total project costs to the City's water rate payers; and

**WHEREAS**, the low-interest loan will be applied for based upon the availability of funds through the Ohio EPA's WSRLA program and executed upon approval by Ohio EPA of the Loan Application; and,

**WHEREAS**, the WSRLA Loan Application and Loan Agreement documents require the City to submit to the Ohio EPA a certified copy of approved City Council legislation authorizing the Director of the Public Utilities Department to apply

for and subsequently execute the WSRLA agreement and to authorize a dedicated source of repayment for the loan; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Public Utilities in that it is immediately necessary to execute the contract to meet future anticipated water demands to prevent a water shortage and to avoid public health and welfare issues, 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 this Ordinance shall repeal and replace Ordinance 1977-2023.

**SECTION 2.** That the Director of Public Utilities is hereby authorized to apply for, accept, and enter into a Water Supply Revolving Loan Account loan agreement with the Ohio Environmental Protection Agency and administered by the Ohio Water Development Authority for the financing of a contract modification for professional engineering services for the Fourth Water Plant project, CIP #690502-1000001, based upon the availability of funds through the Ohio EPA's Water Supply Revolving Loan Account (WSRLA) program and the Agency's approval, in the amount of \$1,487,278.77.

**SECTION 3.** Council recognizes the dollar amount of \$1,487,278.77 is the amount anticipated to be needed to be financed through loan funding for this contract modification and authorizes the Director of the Department of Public Utilities to increase or decrease this amount as needed.

**SECTION 4.** That the 2023 Capital Improvement Budget authorized by Ordinance 1711-2023 be amended as follows to establish sufficient budget authority for this project:

**Fund / Project Number / Project Name (Funding Source) / Current Authority / Revised Authority / Change**  
6011 / 690502-100001 / Fourth Water Plant Transmission Main (WSRLA Loan) / \$0.00 / \$1,487,279.00 / \$1,487,279.00  
(To match the loan amount.)

**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 \$1,487,278.77 is appropriated in the Water System Reserve Fund, Fund 6003, per the account codes in the attachment to this ordinance.

**SECTION 6.** That the transfer of \$1,487,278.77 or so much thereof as may be needed, is hereby authorized between the Water System Reserve Fund, Fund 6003, to the Water Supply Revolving Loan Account Fund, Fund 6011, per the account codes in the attachment to this ordinance.

**SECTION 7.** 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 \$1,487,278.77 is appropriated in the Water Supply Revolving Loan Account Fund, Fund 6011, per the account codes in the attachment to this ordinance.

**SECTION 8.** That the Director of Public Utilities be and hereby is authorized to enter into a planned contract modification for professional engineering services for the Fourth Water Plant Transmission Main project, CIP #690502-100001, with ms consultants, inc., 2221 Schrock Road, Columbus, OH 43229; in accordance with the terms and conditions of the contract modification on file in the Department of Public Utilities.

**SECTION 9.** That an expenditure of \$1,487,278.77, or so much thereof as may be needed, is hereby authorized to pay for this contract modification per the accounting codes in the attachment to this ordinance.

**SECTION 10.** That city water rate revenues are hereby authorized to be the dedicated source of repayment for the Water Supply Revolving Loan Account loan.

**SECTION 11.** That upon obtaining other funds for the purpose of funding water system capital improvement work, the City Auditor is hereby authorized to repay the Water System Reserve Fund the amount transferred above (Section 6), and said funds are hereby deemed appropriated for such purposes.

**SECTION 12.** 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 \$1,487,278.77 (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 Water System Reserve Fund 6003, which is the fund from which the advance for costs of the Project will be made.

**SECTION 13.** 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 14.** 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 15.** 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 16.** That for the reasons stated 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 passage if the Mayor neither approves nor vetoes the same.