



## Legislation Text

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**File #: 1867-2007, Version: 1**

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In 2003 a Memorandum of Understanding (MOU) was entered into by the city of Columbus, the Columbus and Franklin County Metropolitan Park District and Audubon Ohio to redevelop approximately one-half of the Whittier Peninsula into parkland and a nature center. Being that the majority of the future parkland is owned by the city and has been designated a brownfield due to previous industrial uses, the MOU, which was amended and restated in 2006, held the city of Columbus responsible for the land's environmental condition. Per the MOU, the city retains land ownership and leases the future park area to Metro Parks, who will subsequently sub-lease approximately five acres of parkland to Audubon for construction and operation of a nature center.

At this time, the city of Columbus, through its consultant Burgess and Niple, is participating in the Ohio EPA Voluntary Action Program (VAP) to secure a Covenant Not To Sue (CNS) for a portion of the parkland known as the "Southern Tier Parkland Audubon Area." As part of the VAP process, Burgess and Niple is completing a No Further Action (NFA) letter for submission to the Ohio EPA in early November 2007. The NFA letter will contain an "Operations and Management" agreement (O & M) that commits the city to a specific site remediation plan. Per the NFA, remediation measures will include some minor asbestos removal prior to building demolition and capping impacted soils with between two to five feet of compacted clean soil.

This legislation seeks authorization to enter into a Guaranteed Maximum Price Reimbursement Agreement (GMP) with Metro Parks for completion of this remediation work, which will also include the installation of city utilities. It is necessary for the Covenant Not to Sue to be awarded by the Ohio EPA prior to Audubon starting construction of their facility. Timing is a critical factor and Metro Parks has expertise in successfully completing remediation and construction work on the Whittier Peninsula. The partnership between the city, Metro Parks and Audubon is unique, as are conditions on the Whittier and the overall redevelopment plan. A contract with Metro Parks will be the best way for the city to ensure that work is completed in an effective, timely and efficient manner.

Emergency action is necessary to make payment to Metro Parks immediately. The work is in progress.

The Contract Compliance Number for Franklin County Metro Parks is #31-1578154.

**FISCAL IMPACT:** \$1,050,000 (Total). \$800,000 is available in the 2007 Capital Improvements Budget, Unvoted Carryover Fund #735, Project # 440019 and \$250,000 is provided from a proposed November Bond Sale with proceeds going to the Voted Street Lighting and Electricity Distribution Improvement Fund, Fund 553, Project 670798.

"contingent on bond sale fund proceeds"

To authorize the Director Recreation and Parks to enter into a Guaranteed Maximum Price Reimbursement Agreement under Section 186 of the Columbus City Charter with the Columbus and Franklin County Metropolitan Park District; to waive the competitive bidding provisions of Chapter 329 of the Columbus City Codes; to authorize the expenditure of \$1,050,000; and to declare an emergency. (\$1,050,000)

**WHEREAS,** per the 2003 MOU and subsequent amended MOU between the city of Columbus, Metro Parks and Audubon Ohio, the city of Columbus is responsible for the environmental condition of the land it owns on the Whittier Peninsula;

**WHEREAS,** the Whittier Peninsula is a brownfield site for which remediation must occur prior to the development of parkland or a nature center;

**WHEREAS,** the City has contracted with Burgess and Niple, Inc. to complete a No Further Action (NFA) letter for an area of the Whittier identified as the Southern Tier Audubon (center) site. Located in the general vicinity of City Recreation and Parks

facilities, site remediation is taking place under the Ohio EPA's Voluntary Action Program such that a Covenant Not to Sue (CNS) can be obtained from the Ohio EPA and demolition and remediation of the site can begin in early 2008.

**WHEREAS**, Audubon Ohio requires that a CNS be awarded and in place for their site prior to starting development of the nature center;

**WHEREAS**, Metro Parks has experience with park and facility development and with completing environmental remediation on the Whittier Peninsula's Northern Tier (Lazarus Warehouse area north and east to the railroad tracks) ;

**WHEREAS**, Metro Parks will follow a public bid process to award all work to be completed under proposed Guaranteed Maximum Price agreement;

**WHEREAS**, Metro Parks has agreed to enter into a reimbursement agreement with city of Columbus to complete this remediation work, including the installation of city utilities to prepare the sit for construction of the Audubon facility; and

**WHEREAS**, the aggregate principal amount of obligations which the city will issue to finance this project is not expected to exceed \$1,050,000.

**WHEREAS**, an emergency exists in the usual daily operation of the Recreation and Parks Department in that it is immediately necessary to enter into said contract for the preservation of public health, peace, property and safety; now, therefore

**NOW, THEREFORE:**

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

**Section 1.** That the Director of Recreation and Parks is hereby authorized to enter into a Guaranteed Maximum Price Reimbursement Agreement under Section 186 of the Columbus City Charter with the Columbus and Franklin County Metropolitan Park District for One Million Fifty Dollars and 00/100 cents (\$1,050,000) to remediate brownfield contamination and to install city utilities at the area of the Whittier Peninsula Southern Tier Audubon site in order to satisfy the terms of the associated Operations and Management Agreement as approved by the Ohio EPA for the issuance of a Covenant not to Sue through the Ohio EPA Voluntary Action Program.

**Section 2.** That the contract for the remediation work shall contain provisions, which in the opinion of the Director of Recreation and Parks, provide adequate environmental insurance protection to the City and reasonable assurances, guarantees or other surety arrangements providing for the completion of the remediation work outlined in the Operations and Management agreement and maintain a Covenant Not to Sue designation, once awarded.

**Section 3.** That the City Auditor is hereby authorized to transfer \$250,000 within the Voted Street Lighting and Electricity Distribution Improvements Fund, Fund 553, Division of Power and Water (Power), Dept/Div. 60-07, Object Level One 06, Object Level Three 6680, as follows:

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

670608 | Distribution System Imp's | 670608 | -\$250,000

670798 | Whittier Peninsula | 553798 | +\$250,000

**Section 4.** That the 2007 Capital Improvements Budget is hereby amended as follows:

**Project No. | Project Name | Current Authority | Revised Authority | change**

670608 | Distribution System Imp's | \$1,418,877 | \$1,168,877 | -\$250,000

670798 | Whittier Peninsula | \$0 | \$250,000 | +\$250,000

**Section 5.** That for the purpose stated in Section 1, the expenditure of \$800,000 or so much thereof that may be necessary is hereby authorized from the Development Department, Fund 735 - Northland Other Acquisitions, Project No. 440019 - Whittier Peninsula, OCA Code 440019, Object Level One 06, Object Level Three 6680 and the expenditure of \$250,000 authorized from the Department of Public Utilities, Fund No. 553 - Voted Street Lighting and Electricity Distribution Improvement Fund, Project No. 670798 - Whittier Peninsula, OCA Code 553798, Object Level One 06, Object Level Three 6680.

**Section 6.** That the City Auditor is hereby authorized and directed 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 no longer required for said project; except that no transfer shall be made from a project account by monies from more than one source.

**Section 7.** That the City Auditor is authorized to establish proper project accounting numbers as appropriate.

**Section 8.** 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 9.** That the competitive bidding provisions of Chapter 329 of the City Code be and hereby are waived.

**Section 10.** That the provisions of Chapter 329 of the Columbus City Code are hereby modified to permit the Columbus And Franklin County Metro Park District to provide a letter of credit in substitution of a performance bond.

**Section 11.** 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.