



Legislation Text

File #: 0763-2022, **Version:** 1

1. BACKGROUND

The purpose of this ordinance is to authorize the issuance of a refund, representing the unspent balance of monies deposited to support the construction of certain railroad bridge improvements, to NRI Equity Land Investments, LLC (NRI) relative to the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements project.

The aforementioned project culminated in various public infrastructure improvements in Grandview Yard, including: replacement of the CSX railroad overpass; widening and reconstruction of the portion of Third Avenue adjacent to the railroad bridge; construction of a new 3-lane roadway (Rail Street) south of Third Avenue; replacement of the traffic signal at the intersection of Fifth Avenue and Edgehill Road; and installation of sidewalk, curb ramps, and a shared use path.

Pursuant to Ordinances 1195-2016 and 1196-2016, the City, acting through the Department of Public Service, executed a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI, whereby the developer NRI agreed to provide an upfront contribution in excess of \$9 million to facilitate the construction of those improvements.

A portion of that funding was appropriated to support a construction contract with CSX Transportation (CSX), which operates within the project limits, to facilitate the temporary and final track realignment in coordination with the construction of the project. The initial estimate of the cost to complete that work was \$1,008,897.00. However, it was subsequently determined that sum would be insufficient to pay the actual costs incurred, prompting NRI to deposit additional monies with the City to support the anticipated overruns, previously estimated to be \$1,116,386.00.

CSX recently submitted its final invoice for payment to the Department of Public Service, and upon performing final accounting, Public Service staff determined NRI is owed a refund in the amount of \$154,375.13, which represents the unspent balance of the funding NRI previously deposited with the City to advance the construction of the railroad bridge improvements.

2. FISCAL IMPACT

Funding in the amount of \$154,375.13 is available within Fund 7766, the Street and Highway Improvements (Non-Bond) Fund, Project P530164-100000 to satisfy the obligation owed to NRI. An amendment to the 2021 Capital Improvements Budget is necessary for the purpose of providing sufficient spending authority for the aforementioned expenditure. The funds are appropriated.

3. EMERGENCY JUSTIFICATION

Emergency action is requested in order to facilitate the return of unused developer-deposited construction funding to NRI as soon as reasonably practicable.

To amend the 2021 Capital Improvement Budget; to authorize the Director of Public Service to refund the sum of \$154,375.13 to NRI Investments for the unspent portion of developer-deposited construction funding for Grandview Yard improvement projects; to authorize the expenditure of \$154,375.13 from the Street & Highway Improvements Non-Bond Fund; and to declare an emergency. (\$154,375.13)

WHEREAS, the City of Columbus and NRI Equity Land Investments (NRI) have established a collaborative relationship, through a Public-Private Partnership, to facilitate the design and construction of various public infrastructure improvements in the Grandview Yard area; and

WHEREAS, Ordinances 1195-2016 and 1196-2016 authorized the execution of a Guaranteed Maximum Reimbursement and Construction Contribution Agreement, whereby NRI agreed to provide up-front funding in excess of \$9 million to facilitate the construction of the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements project; and

WHEREAS, the aforementioned project encompassed various public infrastructure improvements in the vicinity of Third Avenue and Olentangy River Road including: replacing the CSX railroad overpass; widening and reconstructing the portion of Third Avenue adjacent to the railroad bridge; constructing a new 3-lane roadway (Rail Street) south of Third Avenue; replacing the traffic signal at the intersection of Fifth Avenue and Edgehill Road; and installing sidewalk, curb ramps, and a shared use path; and

WHEREAS, a portion of the funding deposited by NRI was appropriated to support a construction contract, initially valued at \$1,008,897.00, with CSX Transportation (CSX), which operates within the project limits, to facilitate the temporary and final track realignment in coordination with the construction of the project; and

WHEREAS, it was subsequently determined that sum would be insufficient to pay the actual costs incurred, prompting NRI to deposit additional monies with the City to support the anticipated overruns, previously estimated to be \$1,116,386.00; and

WHEREAS, CSX recently submitted its final invoice for payment to the Department of Public Service, and upon performing final accounting, Public Service staff determined NRI is owed a refund in the amount of \$154,375.13; and

WHEREAS, this ordinance authorizes the return of the aforementioned sum to NRI; and

WHEREAS, it is necessary to authorize an amendment to the 2021 Capital Improvement Budget for the purpose of providing sufficient budget authority for the aforementioned refund; and

WHEREAS; an emergency exists in the usual daily operation of the Department of Public Service in it is immediately necessary to authorize the Director to refund the return of unused developer-deposited construction funding to NRI as soon as reasonably practicable; **now, therefore,**

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

SECTION 1. That the 2021 Capital Improvement Budget, authorized by Ordinance 2707-2021, be and is hereby amended to provide sufficient budget authority for the appropriate project authorized within this ordinance as follows:

Fund / Project / Project Name / Current / Change / Amended

7766 / P530164-100000 / Third Avenue Railroad Bridge (Street & Highway Imp Carryover Carryover) / \$556,596.00 / \$154,375.00.00 / \$710,971.00 (to match cash)

SECTION 2. That the Director of Public Service is authorized to refund to NRI Equity Land Investments, LLC the sum of \$154,375.13, which represents the unspent balance of purchase orders previously established to support a construction contract with CSX Transportation relative to the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements project.

SECTION 3. That the expenditure of \$154,375.13, or so much thereof as may be needed, is hereby authorized in Fund 7766 (Street & Highway Improvements Non-Bond Fund), Dept-Div 59-12 (Division of Design and Construction), Project P530164-100000 (Third Avenue Railroad Bridge), in Object Class 06 (Capital Outlay) per the accounting codes in the attachment to this ordinance.

SECTION 4. That the funds necessary to carry out the purpose of this ordinance are hereby deemed appropriated, and the City Auditor shall establish such accounting codes as necessary.

SECTION 5. 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 6. 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 7. For the reasons stated in the preamble hereto, which is hereby 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 its passage if the Mayor neither approves nor vetoes the same.