



Legislation Details (With Text)

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On agenda: 4/20/2009 **Final action:** 4/22/2009
Title: To authorize the Director of Finance and Management to terminate certain agreements relating to the Columbus City Center Mall site, and to declare an emergency.

Sponsors:

Indexes:

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Attachments:

Date	Ver.	Action By	Action	Result
4/22/2009	1	CITY CLERK	Attest	
4/21/2009	1	MAYOR	Signed	
4/20/2009	1	Columbus City Council	Approved	Pass
4/20/2009	1	COUNCIL PRESIDENT PRO-TEM	Signed	
4/10/2009	1	Atty Drafter	Sent for Approval	
4/10/2009	1	CITY ATTORNEY	Reviewed and Approved	
4/10/2009	1	Atty Drafter	Sent to Clerk's Office for Council	
4/9/2009	1	FINANCE DIRECTOR	Reviewed and Approved	
4/9/2009	1	Atty Drafter	Sent for Approval	
4/9/2009	1	CITY ATTORNEY	Sent to Clerk's Office for Council	
4/9/2009	1	City Clerk's Office	Sent back for Clarification/Correction	
4/8/2009	1	Atty Drafter	Sent for Approval	

BACKGROUND:

In connection with the development of the Columbus City Center Mall, the City entered into a number of easement agreements and other documents (the "Mall Agreements") that governed the operation of the City Center Mall, and detailed the rights of the City Center Mall owner, the owners of the various anchor departments stores, and Capitol South Community Urban Redevelopment Corporation ("Capitol South") in and to the City Center Mall site.

Ownership of the City Center Mall has since reverted to Capitol South, the Lazarus Building is now owned by Columbus Downtown Development Corporation, and the Mall was permanently closed on March 5, 2009. Capitol South has proposed a plan to demolish the City Center Mall and to construct a park, to be known as "Columbus Commons," on the site of the Mall. With the Mall's closure and planned demolition, the various Mall Agreements are now obsolete.

This legislation authorizes the Director of Finance and Management to execute any and all documents, certificates or other instruments evidencing the termination of the Mall Agreements.

Emergency action is requested to allow the foregoing actions to be initiated and completed in a timely manner.

FISCAL IMPACT: No funding is required for this legislation.

To authorize the Director of Finance and Management to terminate certain agreements relating to the Columbus City Center Mall site, and to declare an emergency.

WHEREAS, Capitol South Community Urban Redevelopment Corporation ("Capitol South") is the owner of the improvements (the "Mall Improvements") formerly known as the Columbus City Center Mall; and

WHEREAS, the Columbus City Center Mall was permanently closed to the public on March 5, 2009; and

WHEREAS, the City and Capitol South have concluded that the Mall Improvements have reached the end of their useful life, and, in their current form, impair the economic vibrancy and aesthetic value of the neighborhood in the vicinity of the City Center Mall; and

WHEREAS, Capitol South has proposed a plan to demolish the Mall Improvements, and to construct a park in their place, which park shall be known as the "Columbus Commons" (the demolition of the Mall Improvements, and the construction of the Columbus Commons park, are, collectively, the "Columbus Commons Project"); and

WHEREAS, in connection with the original development of the City Center Mall, the City entered into a number of agreements (as defined below, the "Mall Agreements") with respect to the operation of the site as an enclosed regional shopping mall; and

WHEREAS, with the closure of the City Center Mall, and the construction of the Columbus Commons Project, the City, Capitol South and CDDC have concluded that each of the Mall Agreements are now obsolete, and that it is desirable to terminate the Mall Agreements of record in connection with the Columbus Commons Project; and

WHEREAS, the "Mall Agreements" are, collectively, the following documents of record with the Recorder's Office, Franklin County, Ohio:

- (a) That certain Construction, Operation and Reciprocal Easement Agreement by and among TL-Troy Associates ("TL-Troy"), Jacobson Stores Realty Company ("Jacobson") and Federated Department Stores, Inc. ("Federated"), of record in Official Record Volume 7994, Page F02, as amended by that certain First Amendment to Construction, Operation and Reciprocal Easement Agreement of record in Official Record Volume 11328, Page F17, relating to the operation of the City Center Mall (collectively, the "COREA");
- (b) That certain Easement Agreement by and among Capitol South, TL-Troy and Jacobson of record in Official Record Volume 7993, Page D07, as modified by that certain First Amendment to Easement Agreement of record in Official Record Volume 13031, Page C13, as further modified by that certain Second Amendment to Easement Agreement of record in Official Record Volume 16955, Page D05; as further modified by that certain Third Amendment to Easement Agreement of record in Official Record Volume 28492, Page B03; as further modified by that certain Fourth Amendment to Easement Agreement of record in Official Record Volume 33738, Page B11 Ohio, relating to the operation of the Jacobson Department Store in the City Center Mall (collectively, the "Jacobson Agreement");
- (c) That certain High Street Walkway Easement Agreement by and among Capitol South and TL-Troy, of record in Official Record Volume 7992, Page D15, as modified by that certain First Amendment to High Street Walkway Easement Agreement of record in Official Record Volume 11328, Page E18, as further modified by that certain Second Amendment to High Street Walkway Easement Agreement of record in Official Record Volume 13031, Page G07, Recorder's Office, Franklin County, Ohio, relating to the construction and use of the High Street walkway connecting the City Center Mall to the Lazarus Department Store, which walkway was demolished in 2008; and
- (d) That certain Parking Development, Operation and Maintenance Agreement by and among Capitol South and TL-Troy, of record in Official Record Volume 7994, Page A01, as modified by that certain First Amendment to Parking Development, Operation and Maintenance Agreement of record in Official Record Volume 14048, Page C20, as further modified by that certain Second Amendment to Parking Development, Operation and Maintenance Agreement of record in Official Record Volume 16955, Page D18; as further modified by that certain Third Amendment to Parking Development, Operation and Maintenance Agreement of record in Official Record Volume

33738, Page B03; as further modified by that certain Fourth Amendment to Parking Development, Operation and Maintenance Agreement of record in Instrument Number 200104160079001, Recorder's Office, Franklin County, Ohio, relating to the operation of the City Center parking garages in connection with the City Center Mall; and

WHEREAS, Capitol South has succeeded to the rights of TL-Troy under each of the Mall Agreements, as well as the rights of Jacobson under the COREA and the Jacobson Agreement, and Columbus Downtown Development Corporation ("CDDC") has succeeded to the rights of Federated under the COREA; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Finance and Management in that termination of the Mall Agreements, and expediting the advancement of the Columbus Commons Project, will preserve 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 Director of Finance and Management be and hereby is authorized to execute and cause the recording with the Recorder's Office of Franklin County, Ohio of any and all agreements, documents, certificates or other instruments required or helpful to evidence the termination of record of each of the Mall Agreements and to otherwise effect the intent of this Ordinance.

Section 2. 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.