



## Legislation Text

---

**File #:** 1666-2023, **Version:** 1

---

**Background:** Ordinance No. 0443-2018 passed by City Council on February 26, 2018 authorized the City to enter into an Economic Development Agreement dated August 28, 2018 (the “EDA”) with Perry Street, LLC concerning the redevelopment of property now formerly owned by the Battelle Memorial Institute. The site consists of approximately 21 acres generally between Fifth Avenue and Third Avenue to the north and south, and Perry Street and the Olentangy River to the east and west (the “Site”). Pursuant to the EDA, the parties contemplated that within the Site there would be an approximately +/- 6.1 acre public parkland consisting of what is now Franklin County Tax Parcel ID’s 010-299006 and 010-299081 (the “Public Parkland”).

To facilitate the acquisition and development of the Public Parkland, City Council adopted Resolution No. 0153X-2018 on May 21, 2018 and Resolution No. 0325X-2018 on November 5, 2018 to establish the Harrison Market Community Authority (the “Authority”) and its new community district over the Site. Ordinance No. 3140-2018 passed by City Council on November 18, 2018 authorized the assignment of the EDA from Perry Street, LLC to WTD Development, LLC (the “Developer”) and authorized the City, the Authority, and the Developer to enter into the Tax Increment Financing and Cooperative Agreement dated December 1, 2018 (the “Agreement”). In accordance with the EDA and the Agreement, the City originally committed to providing up to \$2.2 million of funds from the Harrison West Redevelopment Incentive District (the “AC Humko II TIF”) that had been established by City Council pursuant to Ordinance No. 0670-2004 passed on April 26, 2004.

Due to inflation and supply chain issues caused by the COVID-19 pandemic and its aftermath, this legislation is necessary to authorize the Director of the Department of Development to enter into the First Amendment to the Agreement (the “First Amendment”) as additional funding is required to be appropriated and expended from monies generated by the AC Humko II TIF to immediately commence and complete the construction of the Public Parkland with the mutually agreed upon vendor selected through a competitive bidding process.

This Ordinance also authorizes the City’s Recreation and Parks Department Director to enter into a Construction Agreement with the Developer for the construction of the improvements to the Public Parkland; to enter into a Right of Entry and Release of Liability Agreement with the Developer, to enter upon a ±1.8 acre parcel of land owned by the City and identified as Franklin County Auditor Parcel ID No. 010-299006-00, to construct improvements to the Public Parkland; and to enter into a Park Maintenance Agreement with the Authority.

**Fiscal Impact:** The City is appropriating and authorizing the expenditure of service payments in lieu of taxes and property tax rollback payments generated by the parcels in the AC Humko II TIF that are on deposit in Fund 7425 and Fund 7788 all in accordance with this First Amendment.

**Emergency Justification:** Emergency legislation is requested to make funds available to the Harrison Market Community Authority so that it may enter into a contract for construction of the public parkland improvements with the selected contractor prior to the expiration of the bid validity period.

To authorize the Director of the Department of Development to enter into a First Amendment to the Tax Increment Financing and Cooperative Agreement with the Harrison Market Community Authority and WTD Development, LLC; to appropriate and authorize the expenditure of service payments in lieu of taxes and property tax rollback payments

generated by parcels in the Harrison West Redevelopment Incentive District (AC Humko II TIF) pursuant to the First Amendment to the Tax Increment Financing and Cooperative Agreement to provide additional financing for the development of public parkland improvements; to authorize the City's Recreation and Parks Department Director to enter into a Right of Entry and Release of Liability Agreement and a Construction Agreement with WTD Development, LLC; to authorize the City's Recreation and Parks Department Director to enter into a Park Maintenance Agreement with the Harrison Market Community Authority; and to declare an emergency.

**WHEREAS**, pursuant to Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code, City Council, after giving proper notice to the Columbus City School District, by its Ordinance No. 0670-2004 passed on April 26, 2004 as amended by Ordinance No. 3139-2018 passed on November 19, 2018, created the Harrison West Redevelopment Incentive District (the "AC Humko II TIF") over certain properties within the Harrison West neighborhood; and

**WHEREAS**, within the AC Humko II TIF prior to Ordinance No. 3139-2018 was property formally owned by the Battelle Memorial Institute and generally bounded by W. Fifth Avenue, Perry Street, W. Third Avenue, and the Olentangy River (the "Site"); and

**WHEREAS**, pursuant to Ordinance No. 0443-2018 passed on February 26, 2018 by City Council, the City entered into an Economic Development Agreement dated August 27, 2018 (the "EDA") with Perry Street, LLC concerning redevelopment of the Site; and

**WHEREAS**, City Council adopted Resolution No. 0153X-2018 on May 21, 2018 and Resolution No. 0325X-2018 on November 5, 2018 to establish the Harrison Market Community Authority (the "Authority") and its new community district over the Site; and

**WHEREAS**, in furtherance of the EDA, the parties identified within the Site a  $\pm 1.8$  parcel along W. Third Avenue currently identified as being Franklin County Tax Parcel ID 010-299006, and a  $\pm 4.2$  acre parcel along the Olentangy River currently identified as Franklin County Tax Parcel ID 010-299081, to be public parkland (together, the parcels comprise the "Public Parkland"); and

**WHEREAS**, in order to finance the redevelopment of the Site and the Public Parkland, City Council passed Ordinance No. 3140-2018 on November 18, 2018 that authorized the assignment of the EDA from Perry Street, LLC to the WTD Development, LLC (the "Developer") and authorized the City, the Authority, and the Developer to enter into a Tax Increment Financing and Cooperative Agreement dated December 1, 2018 (the "Agreement"); and

**WHEREAS**, pursuant to the EDA and the Agreement, the City determined to originally use up to \$2.2 million of the service payments in lieu of taxes generated from the AC Humko II TIF to finance the costs to acquire, design, and construct, and install trail improvements, street trees, and park trees on the Public Parkland (collectively, the "Park Improvements"); and

**WHEREAS**, due to inflation and supply chain issues caused by the COVID-19 pandemic and its aftermath, the bid to construct the Park Improvements has increased above the originally agreed upon budget in the EDA, and the City has determined that it is in its best interest to appropriate and authorize the expenditure of additional funds generated from the AC Humko II TIF to fund the Park Improvements; and

**WHEREAS**, the City's Department of Development desires to enter into a First Amendment to the Agreement (the "First Amendment") with the Developer and the Authority to provide for the additional funding; and

**WHEREAS**, the City's Recreation and Parks Department desires to enter into a Right of Entry and Release of Liability

Agreement and a Construction Agreement with the Developer, and to enter into a Park Maintenance Agreement with the Authority (collectively, the “Park Agreements”) permitting access to the City-owned Franklin County Tax Parcel ID 010-299006, for construction of the Park Improvements on the Public Parkland; and to authorize and require maintenance of the Park Improvements and the Public Parkland by the Authority; and

**WHEREAS**, an emergency exists in the usual daily operations of the Department of Development and the Recreation and Parks Department in that it is immediately necessary to enter into the First Amendment and the Park Agreements to expedite the availability and remittance of AC Humko II TIF funds to enable the selected vendor to begin constructing the Park Improvements prior to the end of the vendor’s open bid period, thereby saving additional funding by not rebidding, all for the preservation of the public health, peace, safety and welfare without delay; **NOW, THEREFORE**,

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

**Section 1.** That in consideration of the above, the Director of the Department of Development, or his or her authorized designee, (the “Development Director”), on behalf of the City, is authorized to enter into the First Amendment presently on file with the Department of Development, along with any changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City and which shall be approved by the Development Director and the City Attorney, provided that the approval of such changes and amendments thereto, and the character of those changes and amendments not being substantially adverse to the City, shall be evidenced conclusively by the execution and delivery thereof, that such changes are not inconsistent or adverse to the City.

**Section 2.** That in consideration of the above, the Recreation and Park Department Director, or his or her authorized designee, ( the “Parks Director”), on behalf of the City, is authorized to enter into the Park Agreements, as those agreements are presently on file with the Recreation and Parks Department, along with any changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City and which shall be approved by the Parks Director and the City Attorney, provided that the approval of such changes and amendments thereto, and the character of those changes and amendments not being substantially adverse to the City, shall be evidenced conclusively by their execution and delivery thereof, that such changes are not inconsistent or adverse to the City.

**Section 3.** That the Development Director, Parks Director, and/or other appropriate officers of the City, are authorized to execute subsequent amendments to the First Amendment to add additional work or allow City approved change orders related to the Park Improvements, consistent with the City-approved plans and specifications of the Public Parkland, and/or to increase the maximum obligation provided thereunder (provided such increase does not exceed the amount of service payments in lieu of taxes and property tax rollback payments derived from the AC Humko II TIF) and to execute such other agreements, modifications, and instruments, subject to approval by the City Attorney’s Office, and to take all actions as may be necessary to implement this Ordinance and the transactions contemplated by the First Amendment and Park Agreements authorized in Section 1 and Section 2 of this Ordinance.

**Section 4.** That the service payments in lieu of taxes and property tax rollback payments deposited into Fund 7425 and Fund 7788 shall be deemed appropriated for the purposes set forth in the First Amendment and authorized to be expended therefrom in accordance with the First Amendment; provided, the Development Director is authorized to amend the authorized maximum obligation provided thereunder if it is determined by the Development Director, upon consultation with the Parks Director, that additional financing is required for the Park Improvements so long as such increased amount does not exceed the funds generated from the AC Humko II TIF; and the City Auditor is authorized to make payment(s) to the Authority or its designee from Fund 7425 and Fund 7788, as applicable, in accordance with the First Amendment upon order of the Development Director and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

**Section 5.** That the City Auditor is authorized to establish such accounting codes as necessary, to make any accounting changes to revise the funding source for all agreements, contracts, amendments, or modifications associated with this Ordinance and the transactions contemplated by the First Amendment.

**Section 6.** That the City Auditor is authorized to transfer the unencumbered balance in a project account or subfund 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.** That for 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 days after passage if the Mayor neither approves nor vetoes the same.