



Legislation Text

File #: 1051-2013, **Version:** 1

1. BACKGROUND

This ordinance authorizes the Director of the Department of Public Service to enter into a Guaranteed Maximum Reimbursement and Construction Contribution Agreement, along with future amendments for contribution agreements if needed, with Nationwide Realty Investors, Ltd. (NRI) for purposes of NRI contributing construction funds for the Roadway Improvements - Neil Avenue project, to reimburse NRI for design costs for said project, and to refund any unused deposit to NRI.

Reimbursement to NRI for design costs shall be from 2011 CIB funds and paid via warrant from a purchase order. Reimbursement to NRI for construction costs shall be paid via a previously executed Tax Increment Financing agreement. Refunds of deposited funds shall be from funds deposited.

The City entered into a Tax Increment Financing Agreement (the "TIF Agreement") with NRI pursuant to Ordinance No. 2356-98 and Ordinance No. 2357-98 passed by its City Council on September 14, 1998, Ordinance No. 2092-01 and Ordinance No. 2093-01 passed on December 17, 2001 (the "Original TIF Ordinances") as amended by Ordinance No. 1534-2011 and Ordinance No. 1535-2011 passed by its City Council on September 26, 2011.

On September 17, 2009, the City and NRI entered into a TIF Agreement amendment under the authority of Ordinance No. 1554-2008 passed by its City Council on October 20, 2008, to pay costs of additional public infrastructure improvements in the Nationwide Arena District TIF, Pen Site TIF, Pen West East TIF and Pen West West TIF agreement areas.

As part of the City and NRI's commitment to the ongoing development of the Arena District, the parties continue to collaborate through the Public-Private Partnership Process (3P), on the design and construction of TIF-eligible public infrastructure improvement projects that support private development activities.

The Roadway Improvements - Neil Avenue, Project No. 440104-100009 consists of the next phase of roadway improvements in the area known as Arena West. The project will make improvements to Neil Avenue between Nationwide Boulevard to the south and Vine Street to the north and will include: restriping south of Nationwide Boulevard to add a third northbound thru lane and to realign the northbound left turn lane with below-mentioned lane improvements north of Nationwide Boulevard; replacing the treed median with full depth pavement and restriping between Nationwide Boulevard and Brodbelt Lane to add a second southbound left turn lane at Nationwide Boulevard and a third northbound thru lane; widening and restriping between Brodbelt Lane and Vine Street to add a third southbound thru lane; widening and restriping between Vine Street and Spruce Street to add a southbound right turn lane at Vine Street and a third southbound thru lane; and resurfacing from the start point of lane improvements south of Nationwide Boulevard to Spruce Street.

Improvements to Vine Street will include: widening to add a second eastbound right-turn lane; restriping to add a second eastbound thru lane via conversion of the previous westernmost eastbound right turn lane; resurfacing (all eastbound lanes only) from the start point of lane improvements west of Neil Avenue to Neil Avenue; widening to add a westbound right turn lane at Neil Avenue; and resurfacing (northernmost westbound thru lane only) from Neil Avenue to end point of lane improvements. The project also includes all sidewalk, traffic signal, striping, signage, landscaping, and stormwater improvements necessary to perform the above-described improvements.

In support of the Roadway Improvements - Neil Avenue project, the City allocated \$2,400,000.00 from its Capital

Improvement Program (“CIP”) for design, acquisition of right-of-way, and construction costs. From this \$2,400,000.00 CIP allocation, the City encumbered a total of \$100,000.00 for the City to pursue the acquisition of right-of-way: first for the expenditure of \$60,000.00 under Ordinance 1683-2011 passed by its Council on October 17, 2011, and second for the expenditure of \$40,000.00 under Ordinance No. 0035-2012 passed by its Council on January 23, 2012. Of the total \$100,000.00 encumbered by the City, only \$70,650.00 was used, resulting in an unspent amount of \$29,350.00 to be re-allocated toward design and construction costs.

On June 19, 2012, the City received bids for the construction of the Roadway Improvements - Neil Avenue project and the lowest responsive, responsible and best bidder was \$715,887.82 more than the City’s CIP allocation. Subsequently, the City and NRI agreed to reject all construction bids for the Project and redevelop the project in a manner that maximized cost-effectiveness.

The City and NRI subsequently entered into a Memorandum of Understanding (MOU) in October 2012, through which the City stated it would not allocate more than \$2,400,000.00 for the design, right-of-way acquisition, construction, or any other related project costs and NRI agreed that if the total cost of the Roadway Improvements - Neil Avenue project, including but not limited to design, right-of-way acquisition, and / or construction exceeded the City’s \$2,400,000.00 CIP funding allocation, NRI could elect to provide funding for the remaining amount needed to complete the construction of the project.

In March 2013, the City re-advertised the Roadway Improvements - Neil Avenue project and intends to award it to Danbert, Inc., as the lowest responsive, responsible and best bidder for their bid of \$2,139,174.03 and an inspection amount of \$213,917.40, for a total legislated amount of \$2,353,091.43, pending Columbus City Council approval.

The total cost for design, right-of-way acquisition, construction, and other related project costs exceeds the City’s CIP Funding allocation by \$198,026.43 and NRI agrees to contribute funds to the City for those project costs that exceed the City’s CIP Funding.

The Department of Public Service has determined that it is in the City’s best interest to enter into a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI for purposes of NRI contributing funds for the Roadway Improvements - Neil Avenue project per the MOU, the City reimbursing NRI for design costs from CIP funds and construction costs per the TIF agreements for the project under the authority of Ordinance No. 1554-2008, to accept a contribution for construction of the project, and to refund any unused deposit.

2. CONTRACT COMPLIANCE INFORMATION

The contract compliance number for Nationwide Realty Investors, Ltd. is 311486309. The expiration date is 12/2/13.

3. FISCAL IMPACT

Nationwide Realty Investors, Ltd. has agreed to provide funding to the Department of Public Service through a lump sum payment/deposit of \$198,026.43 to construct the Roadway Improvements - Neil Avenue project. The Department of Public Service will contribute up to \$174,285.00 for this Design Guaranteed Maximum Reimbursement and Construction Contribution Agreement. This expense is budgeted within the Misc Econ Dev. - Roadway Improvements - Neil Ave. Project.

4. EMERGENCY DESIGNATION

The Department of Public Service is requesting this ordinance to be considered an emergency measure in order to allow for immediate execution of this Design Guaranteed Maximum Reimbursement and Construction Contribution Agreement, which is necessary to facilitate the construction of these improvements to maintain the project schedule and meet community commitments; thereby immediately preserving the public health, peace, property, safety and welfare.

To authorize the Director of the Department of Public Service to enter into a Design Guaranteed Maximum Reimbursement and Construction Contribution Agreement, and future amendments for contribution agreements if needed,

with Nationwide Realty Investors, Ltd., pursuant to Section 186 of the Columbus City Charter, for the design and construction of public infrastructure improvements in connection with the Roadway Improvements - Neil Avenue project in an amount up to \$174,285.00; to authorize the expenditure of up to \$174,285.00 from the Streets and Highways Bonds Funds; to refund any unused deposit to NRI from their deposit of \$198,026.43; and to declare an emergency. (\$174,285.00)

WHEREAS, the City and NRI entered into a TIF Agreement under the authority of Ordinance No. 1554-2008 passed by its Council on October 20, 2008, to pay costs of additional public infrastructure improvements in the Nationwide Arena District TIF areas; and

WHEREAS, the Roadway Improvements - Neil Avenue project is the next phase of roadway improvements in the area known as Arena West; and

WHEREAS, the City and NRI are committed to the ongoing development of the Arena District and continue to collaborate through the Public-Private Partnership (3P) process on the design and construction of TIF-eligible public infrastructure improvement projects that support private development activities; and

WHEREAS, the City has allocated \$2,400,000.00 from its Capital Improvement Program (CIP) for design, acquisition of right-of-way, construction and other project-related costs for the Roadway Improvements - Neil Avenue project; and

WHEREAS, the City encumbered a total of \$100,000.00 from the \$2,400,000.00 CIP allocation to pursue right-of-way acquisition and used only \$70,650.00, resulting in an unspent balance of \$29,350.00 to be re-allocated toward design and construction costs for the Roadway Improvements - Neil Avenue project; and

WHEREAS, City and NRI subsequently entered into a Memorandum of Understanding in October 2012, through which the City stated it would not allocated more than \$2,400,000.00 for the design, right-of-way acquisition, construction and any other related Roadway Improvements - Neil Avenue project costs and NRI agreed that if the total cost of the project, including but not limited to design, right-of-way acquisition, and / or construction exceeded the Capital Improvement Program (CIP) Funding in the amount of \$2,400,000.00, NRI could elect to provide funding for the remaining amount needed to complete the construction of the project; and

WHEREAS, the City re-advertised the PROJECT in March 2013 and intends to award it to Danbert, Inc., as the lowest responsive, responsible and best bidder for their bid of \$2,139,174.03 and an inspection amount of \$213,917.40, for a total legislated amount of \$2,353,091.43, pending Columbus City Council approval; and

WHEREAS, the total cost for design, right-of-way acquisition, construction and other related project costs exceeds the City's CIP Funding amount by \$198,026.43; and

WHEREAS, Nationwide Realty Investors, Ltd. has committed to provide funding for the construction of the Roadway improvements - Neil Avenue project; and

WHEREAS, this ordinance authorizes the Director of Public Service to enter into a Guaranteed Maximum Reimbursement and Construction Contribution Agreement, and future amendments for contribution agreements if needed, with Nationwide Realty Investors, Ltd. for reimbursement of design costs from City CIP Funds and construction costs under the terms of the TIF agreement for the Roadway Improvements - Neil Avenue project; accept funding for the construction of the Roadway Improvements - Neil Avenue project; and to refund any unused deposit to NRI from their deposit of \$198,026.43; and

WHEREAS, an emergency exists within the usual daily operation of the Department of Public Service that requires the use of funds to construct the Roadway Improvements - Neil Avenue project in order to maintain the project schedule and meet community commitments; thereby immediately preserving the public health, peace, property, safety and welfare.

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

SECTION 1. That the Director of the Department of Public Service be and hereby is authorized to enter into a Guaranteed Maximum Reimbursement and Construction Contribution Agreement, and future contribution agreements if needed, with Nationwide Realty Investors, Ltd., 375 North Front Street, Suite 200, Columbus, Ohio 43215, pursuant to Section 186 of the Columbus City Charter for the design and construction of public infrastructure improvements in connection with Roadway Improvements - Neil Avenue project and to refund any unused deposit to NRI from their deposit of \$198,026.43.

SECTION 2. That the sum of up to \$174,285.00 is authorized to be expended for this Guaranteed Maximum Reimbursement and Construction Contribution Agreement as follows:

Fund / Dept-Div / Project / Project Name / O.L. 01-03 Codes / OCA Code / Amount

704 / 59-12 / 440104-100009 / Misc Econ Dev - Roadway Improvement - Neil Ave / 06-6682 / 741049 / \$174,285.00

SECTION 3. 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 4. 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 5. 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 6. 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.