



## Legislation Text

---

**File #:** 3425-2022, **Version:** 1

---

### **BACKGROUND**

This legislation authorizes the Director of the Department of Development to reimburse NWD Investments, LLC (“NWD”) \$5,000,000.00 in connection with public infrastructure improvements located along Vine Street and Goodale Boulevard on the east and west side of Neil Avenue.

The City and NWD are engaged in a public-private partnership (P3) to coordinate the design and construction of public infrastructure improvements necessary to support new mixed-use development projects in the Arena District (the “Arena District Improvements”). On October 31, 2019, the City and NWD entered into both an Economic Development Agreement (the “EDA”) and a subsequent Amended and Restated TIF Reimbursement Agreement (the “TIF Agreement”), both pursuant to Ordinance 2043-2019 passed by Council on July 22, 2019. The City is authorized by Ordinance 2043-2019, as amended by Ordinance 2932-2021, passed by Council on December 6, 2021, to execute subsequent agreements and instruments with NWD related to the Arena District Improvements pursuant to the TIF Agreement. In the EDA and TIF Agreement, the City committed funds from the City’s capital improvement budget (the “Public Infrastructure Commitment”) toward the costs of the Arena District Improvements.

The first \$5,000,000.00 authorized by Ordinance 2061-2022 was used to reimburse NWD for the Arena District Improvements associated with the Hamilton Parker Phase 1 site redevelopment. A portion was completed in 2021 and included a new 130,000 square foot office building and 600-space structured parking garage. The Arena District Improvements to-date have included the reconstruction of Kilbourne Street, widening of Neil Avenue north of Vine Street, and the resurfacing of Vine Street, Spruce Street, and Armstrong Street; relocation of City of Columbus Division of Power poles and equipment along the west side of Kilbourne Street; combined sewer relocation on Vine Street between Kilbourne Street and Neil Avenue.

The second \$5,000,000.00 of the Public Infrastructure Commitment was budgeted in the 2022 capital improvement budget approved by City Council with the passage of Ordinance 1896-2022 on July 25, 2022. There are roughly \$1,000,000.00 of outstanding costs ready for reimbursement, and an estimated ±\$3,500,000.00 of new costs anticipated for an AEP transmission line relocation on Vine Street.

### **FISCAL IMPACT**

This project was budgeted in the 2022 Capital Improvement Budget, but the funds will not be available to the department until a bond sale takes place related to the 2022 capital improvement budget. An amendment to the 2022 Capital Improvement Budget is necessary. Funding for this reimbursement in the amount of \$5,000,000.00 is available through the Special Income Tax Fund, Fund 4430, and funds will be appropriated and transferred to the Development Taxable Bond Fund 7739. The funding will need to be appropriated and authorized for expenditure from Fund 7739.

### **EMERGENCY DESIGNATION**

Emergency action is requested in order to allow NWD to maintain its project schedule and to reimburse NWD in a timely manner thereby allowing the parties to maintain cost efficiency. (\$5,000,000.00)

To authorize the appropriation and transfer of funds from the Special Income Tax Fund to the Development Taxable Bond Fund; to authorize the appropriation and expenditure of funds in the Development Taxable Bond Fund in an amount of up to \$5,000,000.00 in connection with the costs of the public infrastructure improvements located along Vine Street and

Goodale Boulevard on the east and west side of Neil Avenue pursuant to the Amended and Restated TIF Agreement dated October 31, 2019 and its subsequent agreements authorized by Ordinance 2043-2019, as amended by Ordinance 2932-2021; to amend the 2022 Capital Improvement Budget; and to declare an emergency. (\$5,000,000.00)

**WHEREAS**, the City and NWD Investments, LLC (“NWD”) are engaged in a public-private partnership (P3) to coordinate the design and construction of public infrastructure improvements necessary to support new mixed-use development projects in the Arena District located along Vine Street and Goodale Boulevard on the east and west side of Neil Avenue (the “Arena District Improvements”); and

**WHEREAS**, on October 31, 2019, the City and NWD entered into both an Economic Development Agreement (the “EDA”) and a subsequent Amended and Restated TIF Reimbursement Agreement (the “TIF Agreement”), both pursuant to Ordinance 2043-2019 passed by Council on July 22, 2019, wherein the City committed funds towards the Arena District Improvements (the “Public Infrastructure Commitment”); and

**WHEREAS**, the appropriate officers of the City are authorized by Ordinance 2043-2019, as amended by Ordinance 2932-2021, passed by Council on December 6, 2021, to execute subsequent agreements, modifications, and instruments with NWD related to the Arena District Improvements pursuant to the TIF Agreement (the “Subsequent Agreements”); and

**WHEREAS**, pursuant to the EDA and the TIF Agreement, the second installment of the Public Infrastructure Commitment was budgeted by City Council in the 2022 capital improvement budget pursuant to Ordinance 1896-2022 passed on July 25, 2022 in order to reimburse NWD for the Arena District Improvements associated with the Hamilton Parker Phase 1 site redevelopment; and

**WHEREAS**, a portion of the Hamilton Parker Phase 1 site redevelopment was completed in 2021 and included a new 130,000 square foot office building and 600-space structured parking garage; and

**WHEREAS**, the Arena District Improvements to-date have included or will include reconstruction of Kilbourne Street, widening of Neil Avenue north of Vine Street, and the resurfacing of Vine Street, Spruce Street, and Armstrong Street; relocation of Division of Power poles and equipment along the west side of Kilbourne Street; combined sewer relocation on Vine Street between Kilbourne Street and Neil Avenue; and relocation of AEP transmission lines on Vine Street; and

**WHEREAS**, it is necessary to reimburse NWD \$5,000,000.00 for the costs incurred to undertake the design and construction of the aforementioned Arena District Improvements to-date that have been made and are planned in support of the Hamilton Parker Phase 1 site redevelopment pursuant to the TIF Agreement and Subsequent Agreements; and

**WHEREAS**, an amendment to the 2022 Capital Improvement Budget is necessary; and

**WHEREAS**, funds will need to be appropriated and transferred from the Special Income Tax Fund, Fund 4430, to the Development Taxable Bond Fund, Fund 7739; and

**WHEREAS**, it is necessary to authorize the appropriation and expenditure of funds in the Development Taxable Bond Fund 7739, for the purposes of the TIF Agreement and Subsequent Agreements related to the Arena District Improvements; and

**WHEREAS**, the transfer described herein should be considered as a temporary funding method as the City will reimburse the Special Income Tax Fund, Fund 4430; and

**WHEREAS**, the City anticipates incurring certain Original Expenditures (as defined in Section 1.150-2(c) of the Treasury Regulations (the "Treasury Regulations") promulgated pursuant to the Internal Revenue Code of 1986, as amended) with respect to the Arena District Improvements projects described in this ordinance (the "Project"); and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Development in that it is immediately necessary to authorize the Director of the Department of Development or other appropriate officers of the City to timely reimburse NWD in order to allow NWD to maintain its project schedule and allow the parties to maintain cost efficiency, thereby preserving the public health, peace, property, safety and welfare; **now, therefore**

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

**SECTION 1.** That from the unappropriated monies and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ended December 31, 2022, the sum of \$5,000,000.00 is appropriated in Fund 4430 (Special Income Tax), Dept-Div 2201 (City Auditor), in Object Class 10 (Transfer Out Operating) per the account codes in the attachment to this ordinance.

**SECTION 2.** That the transfer of \$5,000,000.00, or so much thereof as may be needed, is hereby authorized from Fund 4430 (Special Income Tax), Dept-Div 2201 (City Auditor) to Fund 7739 (Development Taxable Bond Fund), Dept-Div 4402 (Economic Development) per the account codes in the attachment to this ordinance.

**SECTION 3.** That from the unappropriated monies and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ended December 31, 2022, the sum of \$5,000,000.00 is appropriated in Fund 7739 (Development Taxable Bond Fund), Dept-Div 4402 (Economic Development), Project P440109-100000 (NWD Investments - Arena District Improvements), in Object Class 06 (Capital Outlay) per the account codes in the attachment to this ordinance.

**SECTION 4.** That for the purposes of the TIF Agreement and the Subsequent Agreements, the expenditure of \$5,000,000.00, or so much thereof as may be needed, is hereby authorized in Fund 7739 (Development Taxable Bond Fund), Dept-Div 4402 (Economic Development), Project 440109-100000 (NWD Investments - Arena District Improvements), in Object Class 06 Capital Outlay per the account codes in the attachment to this Ordinance.

**SECTION 5.** That the 2022 Capital Improvements Budget Ordinance 1896-2022 is hereby amended as follows:

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

Fund 7704 / P440109-100000; Arena District Improvements. (Councilmanic SIT Supported) / \$5,000,000 / (\$5,000,000) / \$0

Fund 7739 / P440109-100000; Arena District Improvements. (Councilmanic SIT Supported) / \$0 / \$5,000,000 / \$5,000,000

**SECTION 6.** That the monies appropriated in the foregoing Section 1 and Section 3 shall be paid upon order of the Director of the Department of Development 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 7.** That upon obtaining other funds for this Project for the Department of Development, the City Auditor is hereby authorized and directed to repay the Special Income Tax Fund in the amount transferred under Section 2.

**SECTION 8.** That the City intends that this Ordinance constitute an "official intent" for purposes of Section 1.150-2(e) of the Treasury Regulations, and that the City reasonably expects to reimburse itself for certain Original Expenditures incurred with respect to the Project from the proceeds of obligations to be issued by the City in a principal amount currently estimated to be \$5,000,000.00 (the "Obligations").

The City intends to make a reimbursement allocation on its books for the Original Expenditures not later than eighteen months following the later to occur of the date of the Original Expenditure to be reimbursed or the date the Project for

which such Original Expenditures were made is "placed in service" within the meaning of Treasury Regulations Section 1.150-2(c). Upon the issuance of the Obligations, the proceeds of such Obligations shall be used to reimburse the fund from which the advance for costs of the Project will be made.

**SECTION 9.** That the funds necessary to carry out the purpose of this ordinance are hereby deemed appropriated, authorized for expenditure to carry out the purposes of this ordinance, and the City Auditor shall establish such accounting codes as necessary.

**SECTION 10.** 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 11.** 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 12.** 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.