



Legislation Text

File #: 2766-2014, **Version:** 1

BACKGROUND: This ordinance seeks authorization to: 1) amend Ordinances 1222-2004 and 1116-2008 to state that the City of Columbus will construct the Morse Road Widening from Trellis Lane/Underwood Farms Boulevard to a point approximately 1,400' feet west of Johnstown Road; and 2) terminate the Reimbursement Agreement between the City and The New Albany Company, LLC dated December 22, 2008.

Ordinance 1187-2007 authorized the City, through the Director of the Department of Public Service, to enter into a Reimbursement Agreement with The New Albany Company, LLC (NACO) and Lifestyle Communities, Ltd. (Lifestyle). The Reimbursement Agreement was signed on December 22, 2008. Under the terms of the reimbursement agreement, the City of Columbus agreed to pay NACO an amount not-to-exceed \$2,428,785.00 for the Morse Road Widening project.

In 2010, NACO notified the City of its inability to fulfill the Morse Road Widening obligations outlined in the Reimbursement Agreement. Subsequently, the City and NACO executed an Instrument of Payment and Termination Agreement on December 23, 2011 that contains conditions that once met, will terminate the Reimbursement Agreement and release the Preserve TIF from any further funding claims by NACO.

The Instrument of Payment and Termination Agreement shall terminate upon the satisfaction of the following conditions:

- 1) Payment to NACO of \$722,815.66 for costs associated with the Thompson Road Widening, 2006 US 62 Roundabout Contribution, preliminary engineering fees, legal fees related to the Preserve TIF Ordinance and Agreement, and legal fees for the Instrument of Payment and Termination Agreement.
- 2) Payment to the Franklin County Engineer of \$700,000.00 for 2011 and 2012 US 62 Roundabout Contribution.
- 3) Release of NACO's obligation to provide the Morse Road Letter of Credit and return the undrawn Letter of Credit to NACO.
- 4) Appropriation of funds in the amount of \$3.5 million for the purpose of constructing the Morse Road widening.
- 5) Amendment of Ordinance No.'s 1222-2004 and 1116-2008 to reflect that the City will construct the Morse Road widening.

In 2011, the City fulfilled its payment obligations to NACO and the Franklin County Engineer in the amounts identified in 1) and 2) above.

On October 28, 2014, the City released NACO's Letter of Credit for the Morse Road Widening project in the amount of \$640,987.00 to JP Morgan Chase Bank.

The City and NACO's original estimate of \$3.5 million was higher than needed and the necessary funding totaling \$3,198,113.00 has been appropriated by the City for the Street Rehabilitation - Morse Road - Preserve TIF Improvements Phase 1 as follows: 1) Ordinance 2724-2012 appropriated \$450,000.00 for a professional services contract for detailed design; 2) Ordinance 1643-2013 appropriated \$65,000.00 for professional services associated with acquiring fee simple title; 3) Ordinance 2073-2014 appropriated \$7,812.00 for fee simple title; and 4) Ordinance 2215-2014 appropriated \$2,675,301.05 for the construction of the Street Rehabilitation - Morse Road - Preserve TIF Improvements Phase 1.

This ordinance shall amend Ordinance 1222-2004, Section 3 B (8) to read that the City will construct Morse Road in a three lane section from Trellis Lane/Underwood Farms Boulevard to a point approximately 1,400' west of Johnstown Road and amend Ordinance No. 1116-2008, Section 3 B (2) to read that City will construct Morse Road in a three lane

section from Trellis Lane/Underwood Farms Boulevard to a point approximately 1,400' west of Johnstown Road using proceeds from the Preserve TIF, thereby satisfying the condition identified in 5) above; and terminate the Reimbursement Agreement between the City and NACO dated December 22, 2008.

EMERGENCY DESIGNATION: The Department of Development is requesting this ordinance to be considered an emergency measure in order to meet the December 31, 2014 termination deadline outlined in the Instrument of Payment and Termination Agreement executed on December 23, 2011.

FISCAL IMPACT: There are no fiscal impacts associated with this legislation.

To amend Ordinance 1222-2004 and Ordinance 1116-2008 to state that the City of Columbus will construct the Morse Road Widening from Trellis Lane/Underwood Farms Boulevard to a point approximately 1,400' feet west of Johnstown Road; to authorize the Director of Development to execute any documents, as approved by the City Attorney's Office, if needed, to memorialize the termination of the Reimbursement Agreement between the City and NACO dated December 22, 2008; and to declare an emergency.

WHEREAS, the City, The New Albany Company, LLC (NACO) and Lifestyle Communities, Ltd. entered into a Reimbursement Agreement on December 22, 2008 under the authorization of Ordinance 1187-2007 wherein the City agreed to pay NACO for the Morse Road Widening project; and

WHEREAS, in 2010, the City and NACO agreed that the City and not NACO should construct the Morse Road Widening project and a subsequent Instrument of Payment and Termination Agreement was executed on December 23, 2011 that contains conditions that once met, will terminate the Reimbursement Agreement; and

WHEREAS, one of the conditions of the Instrument of Payment and Termination Agreement is that the City amend Ordinance 1222-2004 and Ordinance 1116-2008 to state that the City will construct the Morse Road Widening project; and

WHEREAS, Ordinance 2215-2014 authorized the Director of Public Service to enter into a contract for the construction of the Street Rehabilitation - Morse Road - Preserve TIF Improvements Phase 1, which includes the Morse Road Widening project; and

WHEREAS, this ordinance amends Ordinance 1222-2004 and Ordinance 1116-2008 to state that the City will construct the Morse Road Widening project; and

WHEREAS, this ordinance shall terminate the Reimbursement Agreement between the City and NACO dated December 22, 2008 and authorize the Director of Development to execute any documents, as approved by the City Attorney's Office, if needed, to memorialize the termination of the Reimbursement Agreement between the City and NACO dated December 22, 2008; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development, in that it is immediately necessary to meet the December 31, 2014 deadline to terminate the Reimbursement Agreement outlined in the Instrument of Payment and Termination Agreement to maintain the project schedule and meet community commitments; thereby immediately 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 Ordinance 1222-2004 and Ordinance 1116-2008 be amended to state that the City of Columbus will construct the Morse Road Widening from Trellis Lane/Underwood Farms Boulevard to a point approximately 1,400' feet west of Johnstown Road.

SECTION 2. That the Reimbursement Agreement between the City and NACO dated December 22, 2008 shall be terminated and the Director of Development is authorized to execute any documents, as approved by the City Attorney's Office, if needed, to memorialize the termination thereof.

SECTION 3. 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.