



Legislation Text

File #: 1196-2016, **Version:** 1

BACKGROUND: This ordinance authorizes: 1) the Director of the Department of Public Service to enter into a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI Equity Land Investments, LLC (NRI) for purposes of NRI contributing funds for a construction agreement between the City and CSX Transportation, Inc. in association with the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements project; and 2) the City Auditor to deposit the funding contribution from NRI.

The City and NRI are engaged in a Public-Private Partnership (3P) to construct a public infrastructure project known as the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements (the "Project"). As part of the City's construction of the Project, it is necessary for the City to enter into a separate construction agreement with CSX Transportation, Inc. (CSXT) to pay for costs incurred by CSXT in association with the Project, including flagging and materials for temporary track realignment and final track alignment. The costs associated with the CSXT construction agreement are estimated to be \$1,008,897.00.

NRI has agreed to provide funding for the City to enter into a construction agreement with CSXT and will make a contribution of \$1,008,897.00 for those costs, which will be eligible for reimbursement from the Third and Olentangy TIF, pursuant to the TIF Agreement executed on July 12, 2012, and authorized by Ordinance 2130-2011.

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 construction agreement between the City and CSXT in association with the Project and to accept a contribution from NRI for construction of the Project.

FISCAL IMPACT: NRI Equity Land Investments, LLC has agreed to provide funding to the Department of Public Service, through a lump sum payment of \$1,008,897.00 for the City's construction agreement with CSX Transportation, Inc..

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 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 Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI Equity Land Investments, LLC, pursuant to Section 186 of the Columbus City Charter, for a construction agreement between the City and CSX Transportation, Inc. in connection with the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements project in an amount up to \$1,008,897.00; to authorize the City Auditor to deposit the funding contribution from NRI and to appropriate said funds; and to declare an emergency. (\$1,008,897.00)

WHEREAS, the City and NRI are engaged in a Public-Private Partnership (3P) to construct a public infrastructure project known as the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements (the “Project”); and

WHEREAS, as part of the City’s construction of the Project, it is necessary for the City to enter into a construction agreement with CSX Transportation, Inc. (CSXT) to pay for costs incurred by CSXT in association with the City’s construction of the Project (the “CSXT Agreement”); and

WHEREAS, the CSXT Agreement is estimated to be \$1,008,897.00, and includes costs for flagging and materials for temporary track realignment and final track alignment in coordination with the City’s construction of the Project; and

WHEREAS, NRI has agreed to provide funding for the CSXT Agreement and will make a contribution of \$1,008,897.00 for those costs which will be eligible for reimbursement from the Third and Olentangy TIF, pursuant to the TIF Agreement executed on July 12, 2012, and authorized by Ordinance No. 2130-2011; and

WHEREAS, this ordinance authorizes: 1) the Director of the Department of Public Service to enter into a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI Equity Land Investments, LLC and to accept funding from NRI for a construction agreement between the City and CSX Transportation, Inc. in association with the Project; and 2) the City Auditor to deposit the funding contribution from NRI; and

WHEREAS, an emergency exists within the Department of Public Service to accept funds to enter into agreement with CSX Transportation, Inc. for services related to the construction of the Project, 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 the Director of the Department of Public Service be and hereby is authorized to enter into a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI Equity Land Investments, LLC, 375 North Front Street, Suite 200, Columbus, Ohio 43215, and to accept funding for a public infrastructure improvement project pursuant to Section 186 of the Columbus City Charter for the construction of public infrastructure improvements in connection with the Grandview Yard - Third Ave Railroad Bridge: Roadway Improvements - Third Ave Phase 2, Rail St Phase 3 and 5th/Edgehill Signal Improvements project.

SECTION 2. That the City Auditor is authorized to deposit the funding contribution from NRI Equity Land Investments, LLC in the Street & Highway Improvements Fund 766, Project P530161-100182, Roadway Improvements - Third Avenue Railroad Bridge, Dept. 59, Div. 5912.

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, 2016, the sum of \$1,008,897.00 is appropriated in Fund 7766 Street & Highway Improvements Fund per the account codes in the attachment to this ordinance.

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.