



## Legislation Text

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**File #:** 1031-2018, **Version:** 1

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### **1. BACKGROUND**

This legislation authorizes the Director of Public Service to modify existing agreements with NRI Equity Land Investments, LLC, (NRI) and CSX Transportation, Inc. (CSXT) relative to the Roadway Improvements - Third Avenue Railroad Bridge project.

The aforementioned effort is a Public-Private Partnership (3P) between the Department of Public Service and NRI, pursuant to the Tax Increment Financing Agreement effective July 12, 2012, and the Second Amendment to the Tax Increment Financing Agreement effective October 25, 2016, for the construction and reimbursement of public infrastructure improvements that support private development activities in and around the Third Avenue and Olentangy River Road area of Columbus, also known as Grandview Yard. Improvements include: widening and reconstructing Third Avenue from a point 375' west of the CSX railroad bridge to a point 400' east of the bridge; constructing a new three-lane roadway known as Rail Street to the south of Third Avenue; replacing the CSX railroad overpass and making tail track improvements at the new overpass structure; replacing the traffic signal at the intersection of Fifth Avenue and Edgemoor Road; and installing a shared use path and new sidewalk within the project limits.

Construction of the project necessitated the execution of a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI, pursuant to Ordinance 1196-2016, which authorized the acceptance and appropriation of \$1,008,897.00 from NRI to support the completion of necessary improvements to the railroad bridge; and the execution of a Construction Agreement with CSX, pursuant to Ordinance 2089-2016, which authorized the expenditure of those funds for that purpose.

However, the actual and anticipated future costs incurred by CSX during the prosecution of that work are significantly higher than originally estimated. This legislation authorizes: 1) the Director of Public Service to modify the existing Guaranteed Maximum Reimbursement and Construction Contribution Agreement and to accept additional monies from NRI to subsidize increased construction costs; 2) the expenditure of \$577,267.00 to compensate CSX for the additional costs; and 3) the recompense of that sum and any future deposits to NRI through TIF reimbursement as proceeds become available in the Third and Olentangy TIF.

This revised amount of an additional \$577,267.00 needed by CSX to complete construction of the railroad portion of this project is also an estimate. Additional funding may be needed if this revised estimate should be insufficient to complete the work.

### **2. CONTRACT COMPLIANCE INFORMATION**

CSX currently does not have a valid contract compliance number and will be required to become contract compliant before entering into agreement with the City for the provision of requisite construction services.

### **3. FISCAL IMPACT**

NRI has agreed to provide a lump sum payment in the amount of \$577,267.00 to the Department of Public Service for additional costs expected to be incurred pursuant to the Construction Agreement with CSX for the Roadway Improvements - Third Avenue Railroad Bridge project based on the force account estimate prepared by CSX. That contribution is eligible for reimbursement from the Third and Olentangy TIF as future proceeds become available. Notwithstanding the foregoing, the City may need to solicit and accept additional funds from NRI should the aforesaid sum prove insufficient to cover those expenses. If additional funds should be required from NRI to complete the CSX construction for this project, this legislation authorizes the City Auditor's Office to appropriate additional funds received from NRI for this project and to establish auditor certificates so the funds can be expended on this project without

additional legislation.

#### **4. EMERGENCY DESIGNATION**

Emergency action is requested to allow for the immediate execution of the necessary modification(s) and the acceptance and expenditure of requisite funding so as to prevent needless delays in the construction of these improvements.

To authorize the City Auditor to appropriate funds within Fund 7766 Street & Highway Improvements NonBond Fund; to authorize the Director of Public Service to modify and/or amend existing agreements with NRI Equity Land Investments and CSX Transportation relative to the Roadway Improvements - Third Avenue Railroad Bridge project; to authorize the expenditure of up to \$577,267.00 from the Street & Highway Improvements NonBond Fund; and to declare an emergency. (\$577,267.00)

**WHEREAS**, the Roadway Improvements - Third Avenue Railroad Bridge project is a Public-Private Partnership (3P) between the Department of Public Service and NRI resulting in the construction and reimbursement of public infrastructure improvements that support private development activities in and around the Third Avenue and Olentangy River Road area of Columbus, also known as Grandview Yard; and

**WHEREAS**, Ordinance 1196-2016 authorized the Director of Public Service to execute a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI, whereby NRI provided funding in the amount of \$1,008,897.00 to support the construction of necessary improvements to the railroad bridge; and

**WHEREAS**, Ordinance 2089-2016 authorized the Director of Public Service to execute a construction agreement with CSX to facilitate the completion of said work; and

**WHEREAS**, the actual cost of those improvements is projected to exceed earlier cost estimates; and

**WHEREAS**, NRI has agreed to fund the additional construction costs, which are eligible for reimbursement from the Third and Olentangy TIF, pursuant to Tax Increment Financing Agreement effective July 12, 2012, and the Second Amendment to the Tax Increment Financing Agreement effective October 25, 2016; and

**WHEREAS**, the additional amount NRI has agreed to pay to fund the additional construction costs are based on a revised construction cost estimate from CSX and additional deposits from NRI may be required to complete the CSX railroad work on this project; and

**WHEREAS**, this legislation authorizes 1) the Director of Public Service to modify the existing Guaranteed Maximum Reimbursement and Construction Contribution Agreement and to accept additional monies from NRI to subsidize increased construction costs; 2) the expenditure of \$577,267.00 to compensate CSX for the additional costs; and 3) the recompense of that sum to NRI through TIF reimbursement as proceeds become available in the Third and Olentangy TIF; and

**WHEREAS**, an emergency exists in the usual operation of the Department of Public Service in that is immediately necessary to modify the aforementioned agreements in order to maintain the current project schedule and to meet community commitments, 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, 2018, the sum of \$577,267.00 is appropriated in Fund 7766 (Street & Highway Improvements NonBond Fund), Dept-Div 5912 (Division of Design and Construction), Project P530164-100000 (Third Avenue Railroad Bridge), in Object Class 06 (Capital Outlay) per the accounting codes in the attachment to this ordinance.

**SECTION 2.** That the Director of the Department of Public Service be and hereby is authorized to modify a Guaranteed Maximum Reimbursement and Construction Contribution Agreement with NRI Equity Land Investments, LLC (NRI), and to accept additional funding for the construction of public infrastructure improvements in concert with the Roadway Improvements - Third Ave Railroad Bridge project.

**SECTION 3.** That the Construction Agreement between the Department of Public Service and CSX Transportation, Inc. (CSXT) shall be deemed amended to include the sum referenced in Section 1 hereof and any future cost increases upon subsequent passage of this ordinance.

**SECTION 4.** That the expenditure of \$577,267.00, or so much thereof as may be needed, is hereby authorized from Fund 7766 (Street & Highway Improvements NonBond Fund), Dept-Div 5912 (Division of Design and Construction), Project P530164-100000 (Third Avenue Railroad Bridge), in Object Class 06 (Capital Outlay) per the accounting codes in the attachment to this ordinance.

**SECTION 5.** 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 6.** That the City Auditor be and hereby is authorized to appropriate any future funding provided by NRI relative to the Roadway Improvements - Third Ave Railroad Bridge project and establish auditor certificates for the expenditure of those funds without additional legislation.

**SECTION 7.** 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 8.** 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 9.** 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.