



## Legislation Text

**File #:** 1772-2020, **Version:** 1

### 1. BACKGROUND

This ordinance authorizes the Director of Public Service to modify an existing construction contract with Complete General Construction Company ("Complete General") relative to the Grandview Yard - Third Avenue Railroad Bridge project (the "Project").

The aforementioned project encompasses various public infrastructure improvements including: widening and reconstructing Third Avenue from a point 375 feet west of the CSX railroad bridge to a point 400 feet east of the bridge; constructing a new 3-lane roadway known as Rail Street to the south of Third Avenue; installing a shared use path and a sidewalk within the project limits, and replacing the CSX railroad overpass and the traffic signal at the intersection of Fifth Avenue and Edgehill Road.

That effort is the result of a Public-Private Partnership (3P) between the Department of Public Service and NRI Equity Land Investments, LLC ("NRI"), pursuant to a Tax Increment Financing Agreement, effective July 12, 2012, 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.

Ordinance 2597-2016 authorized the Director of Public Service to enter into a contract with Complete General Construction Company to construct the Project.

The Director of Public Service also executed a separate Construction Agreement, authorized pursuant to Ordinance 2089-2016, with CSX Transportation, Inc. ("CSX") for: 1) the review and approval of engineering plans, design plans, construction specifications, and drawings, and other documents to identify and mitigate potential conflicts between rail operations and public infrastructure in proximity to railway corridors and 2) the provision of flagmen, watchmen, and other protective services and devices necessary to the safety and continuity of rail operations. CSX subsequently determined that the original Third Avenue railroad bridge did not meet current specifications, necessitating the redesign of that structure, which caused significant delays in the construction of the Project and also increased construction costs. Ordinance 1031-2018 authorized the Director of the Department of Public Service 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. The purpose of this ordinance is to support current and future change orders necessary to the successful completion of the Project, which will be funded by the receipt and acceptance of additional funding from NRI.

Original contract amount:	\$12,538,340.01 (Ordinance 2597-2016, PO036048)
Modification 1 amount:	\$1,370,269.22
Total contract amount, including this modification:	\$13,908,609.23

### 2. CONTRACT COMPLIANCE

The contract compliance number for Complete General is CC006056, which expires on July 8, 2021.

### 3. FISCAL IMPACT

Funding in the amount of \$1,370,269.22 will be available within the Street and Highway Improvements Non-Bond Fund to support the Project, contingent upon the receipt of said sum from NRI. An amendment to the 2019 Capital Improvement Budget is necessary for the purpose of providing sufficient budget authority for this expenditure. The aforementioned sum also will need to be appropriated.

Ordinance 1031-2018 authorized the Director of the Department of Public Service 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. NRI is expected to deposit the sum of \$1,370,269.22 to fund this work the week of July 20, 2020. The Department of Public Service is requesting approval of this ordinance based upon Ordinance 1031-2018 allowing the acceptance of additional funds from NRI for this project and NRI's commitment to provide the funding, with an ACPO to be contingent upon receipt of the NRI funding.

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

Emergency action is requested to facilitate the execution of the requisite contract modification as soon as reasonably practicable so as to prevent additional delays in the completion of the Project.

To amend the 2019 Capital Improvement Budget; to authorize the appropriation of \$1,370,269.22 in the Street and Highway Improvements Non-Bond Fund; to authorize the Director of Public Service to execute a contract modification with Complete General Construction Company relative to the Grandview Yard - Third Avenue Railroad Bridge project; to make an Auditor's Certificate authorizing the expenditure of funds for this contract modification contingent upon receipt of funding from NRI Equity Land Investments; to authorize the expenditure of up to \$1,370,269.22 in the Street and Highway Improvements Non-Bond Fund for this contract modification; and to declare an emergency. (\$1,370,269.22)

**WHEREAS**, the City is administering the Grandview Yard - Third Avenue Railroad Bridge project, which encompasses various improvements to Third Avenue in the vicinity of Fifth Avenue and Edgehill Road in the Grandview Yard area (the "Project"); and

**WHEREAS**, the Project is the result of a Public-Private Partnership (3P) between the Department of Public Service and NRI Equity Land Investments, LLC ("NRI"); and

**WHEREAS**, Ordinance 2597-2016 authorized the Director of Public Service to enter into a contract with Complete General Construction Company to construct the Project; and

**WHEREAS**, this ordinance authorizes the execution of an unplanned contract modification between the aforementioned parties precipitated by delays and overruns caused by the necessary redesign of the Third Avenue railroad bridge, which did not comply with current specifications; and

**WHEREAS**, NRI has agreed to fund the cost of the additional work necessary to complete the Project, presently estimated to be \$1,370,269.22; and

**WHEREAS**, the establishment of an Auditor's Certificate to support that expenditure is contingent upon receipt of said sum from NRI, which is expected to occur prior to the passage of this legislation; and

**WHEREAS**, an amendment to the 2019 Capital Improvement Budget is necessary for the purpose of providing sufficient budget authority for the aforementioned project expenditure; and

**WHEREAS**, it is necessary to authorize the appropriation of funds within the Street and Highway Improvements Non-Bond Fund; and

**WHEREAS**, it is necessary to expend funds to pay for the work performed under the contract modification; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Public Service in that it is immediately necessary to authorize this legislation to facilitate the execution of the requisite contract modification as soon as reasonably practicable so as to prevent additional delays in the completion of the Project, 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 the 2019 Capital Improvement Budget, authorized by Ordinance 1326-2019, be and is hereby

amended to provide sufficient budget authority for the appropriate projects authorized within this ordinance as follows:

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

7766 / P530164-100000 / Third Avenue Railroad Bridge (Street & Highway Imp Carryover) / \$860,081.00 /  
\$1,370,269.00 / \$2,230,350.00

**SECTION 2.** 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 ending December 31, 2020, the sum of \$1,370,269.22 is appropriated in Fund 7766 (Street and Highway Improvements Non-Bond), Dept-Div 5912 (Division of Design and Construction), Project Number P530164-100000 (Third Avenue Railroad Bridge), Object Class 06 (Capital Outlay), per the account codes in the attachment to this ordinance.

**SECTION 3.** That the Director of Public Service be and hereby is authorized to execute a contract modification with Complete General Construction Company to facilitate the completion of the Grandview Yard - Third Avenue Railroad Bridge project.

**SECTION 4.** That the expenditure of \$1,370,269.22, or so much thereof as may be needed, be and hereby is authorized in Fund 7766 (Street and Highways Improvements Non-Bond), Dept-Div 5912 (Division of Design and Construction), Project Number P530164-100000 (Third Avenue Railroad Bridge), Object Class 06 (Capital Outlay) per the account codes in the attachment to this ordinance.

**SECTION 5.** That the establishment of an Auditor's Certificate to support the expenditure referenced in Section 4 hereof shall be and hereby is contingent upon the receipt of \$1,370,269.22 from NRI Equity Land Investments, LLC for the aforesaid purpose.

**SECTION 6.** 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 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.