



## Legislation Details (With Text)

**File #:** 0336-2020      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 1/28/2020      **In control:** Public Service & Transportation Committee

**On agenda:** 3/2/2020      **Final action:** 3/5/2020

**Title:** To authorize the City Attorney to file complaints in order to immediately appropriate and accept the remaining fee simple and lesser real estate necessary to timely complete the Agler Road Sidewalk Improvements Project; and to declare an emergency. (\$63,668.00)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
3/5/2020	1	CITY CLERK	Attest	
3/4/2020	1	MAYOR	Signed	
3/2/2020	1	COUNCIL PRESIDENT	Signed	
3/2/2020	1	Columbus City Council	Approved	Pass

**BACKGROUND:** The City’s Department of Public Service (“DPS”) is performing the Urban Infrastructure Recovery Fund (UIRF) - Agler Road Sidewalk Improvements Project (Project No. 440005-102094) (“Public Project”). The City must acquire certain fee simple title and lesser real estate located in the vicinity of Agler Road from Cassady Avenue to Citygate Drive/Corban Commons Drive, and on Gatewood Road from Agler Road to the existing sidewalk approximately 80 feet north of Agler Road (collectively, “Real Estate”) in order for DPS to timely complete the Public Project. The City passed Ordinance Numbers 2525-2016, 0081-2018, and 0360-2019 authorizing the City Attorney to acquire the Real Estate. Furthermore, the City also adopted Resolution 0239X-2019 establishing the City’s intent to appropriate the Real Estate. The City’s acquisition of the Real Estate will help make, improve, or repair certain portions of the public right-of-way of Agler Road which will be open to the public without charge.

The City Attorney, pursuant to Columbus City Code, Section 909.03, served notice to all of the owners of the Real Estate of the (i) Public Project’s public purpose and necessity, and (ii) adoption of Resolution 0239X-2019. However, the City Attorney was unable to either locate some of the Real Estate’s owner(s) or agree with some of the Real Estate’s owner(s) in good faith regarding the amount of just compensation.

**CONTRACT COMPLIANCE:** Not applicable.

**FISCAL IMPACT:** Funding to acquire the Real Estate is available through the Streets and Highways G.O. Bond Fund, Fund 7704 pursuant to existing Auditor’s Certificate ACDI000758-10, the Sanitary G.O. Bonds Fund, Fund 6109 pursuant to existing Auditor’s Certificate ACDI000754-10, and the Sanitary G.O. Bonds Fund, Fund 6109 pursuant to existing Auditor’s Certificate ACDI000938-10. The allocation of the money will be as follows: \$32,560.00 from ACDI000758-10 for the acquisition of parcels 2WD and 2T and a 23% portion of parcels 3S1 and 3S2. The remaining \$31,108.00 for 77% of parcels 3S1 and 3S2 and all of parcel 4S will come from ACDI000754-10 until it is depleted with the remaining balance coming from ACDI000938-10.

**EMERGENCY JUSTIFICATION:** Emergency action is requested in order to acquire the Real Estate and allow DPS to

timely complete the Public Project without unnecessary delay, which will preserve the public peace, health, property, safety and welfare.

To authorize the City Attorney to file complaints in order to immediately appropriate and accept the remaining fee simple and lesser real estate necessary to timely complete the Agler Road Sidewalk Improvements Project; and to declare an emergency. (\$63,668.00)

**WHEREAS**, the City intends to make, improve, or repair certain public right-of-ways by completing the Urban Infrastructure Recovery Fund (UIRF) - Agler Road Sidewalk Improvements Project (Project No. 440005-102094) (“Public Project”); and

**WHEREAS**, the City intends for the City Attorney to acquire the necessary fee simple title and lesser real estate located in the vicinity of the public right-of-way of Agler Road from Cassady Avenue to Citygate Drive/Corban Commons Drive, and on Gatewood Road from Agler Road to the existing sidewalk approximately 80 feet north of Agler Road, Columbus, Ohio; and

**WHEREAS**, the City, pursuant to the passage of Ordinance Numbers 2525-2016, 0081-2018, and 0360-2019 and the adoption of Resolution Number 0239X-2019, intends to authorize the City Attorney to spend City funds and file the necessary complaints to immediately appropriate and accept title to the remainder of the Real Estate; and

**WHEREAS**, the City intends for the Real Estate’s acquisition to help make, improve, or repair certain portions of the public right-of-way of Agler Road from Cassady Avenue to Citygate Drive/Corban Commons drive, and on Gatewood Road from Agler Road to the existing sidewalk approximately 80 feet north of Agler Road, Columbus, Ohio, which will be open to the public without charge; and

**WHEREAS**, an emergency exists in the usual daily operations of DPS in that it is immediately necessary to declare the City’s intent to appropriate and accept the Real Estate in order to prevent unnecessary delay in completing the Public Project, which will preserve the public peace, property, health, welfare, and safety; and **now, therefore:**

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

**SECTION 1.** That the fee simple and lesser real estate associated with the project parcel numbers listed in Section Four (4) of this ordinance (“Real Estate”) are (i) fully described in Resolution 0239X-2019 and incorporated into this ordinance for reference as if rewritten, and (ii) to be immediately appropriated and accepted for the public purpose of the Department of Public Service (“DPS”) timely completing the Urban Infrastructure Recovery Fund (UIRF) - Agler Road Sidewalk Improvements Project (Project No. 440005-102094) (“Public Project”).

**SECTION 2.** That the City declares, pursuant to the City's power and authority under the Ohio Constitution, Ohio Revised Code Sections 715.01, 717.01, 719.01, and 719.02, the City's Charter, and Columbus City Code Chapter 909, the appropriation of the Real Estate is necessary for the Public Project, because the City was unable to locate the Real Estate’s owner(s) or agree in good faith with the Real Estate’s owner(s) regarding the amount of just compensation to be paid by the City for the Real Estate.

**SECTION 3.** That the City intends to obtain immediate possession of the Real Estate for the Public Project.

**SECTION 4.** That the City declares that the fair market value of the Real Estate as follows:

**PUBLIC PROJECT PARCEL NUMBER(S) (FMVE)**  
**REAL ESTATE OWNER**  
**OWNER ADDRESS**

2WD,T: Estate of Rita J. Helm, deceased  
c/o Erik Brunckhorst, Attorney  
Baxter & Borowicz Co., LPA  
150 E. Wilson Bridge Rd, Suite 230  
Worthington, OH 43085  
**FMVE: \$27,128.00**

3S1,S2: Agler Green Ltd Partnership  
c/o KBK Enterprises  
4249 Easton Way, Suite 220  
Columbus, Ohio 43219  
**FMVE: \$23,617.00**

4S: Agler Elderly Housing LP  
c/o William Dodson  
PO Box 247198  
Columbus, Ohio 43224  
**FMVE: \$12,923.00**

**SECTION 5.** That the City Attorney is authorized to file petitions necessary to appropriate the Real Estate in the appropriate court of common pleas and impanel a jury to inquire and assess the amount of just compensation for the Real Estate.

**SECTION 6.** That the Real Estate's acquisition for the Public Project is required to make, improve, or repair certain portions of the public right-of-way of Agler Road and associated appurtenances, which will be open to the public without charge.

**SECTION 7.** That the City Attorney, in order to pay for the Real Estate's acquisition and appropriation costs for the Public Project, is authorized to spend up to Sixty-three Thousand Six Hundred Sixty-Eight and 00/100 U.S. Dollars (\$63,668.00) or so much as may be needed from existing Auditor's Certificates ACDI000758-10, ACDI000754-10, and ACDI000938-10.

**SECTION 8.** That the City Auditor is authorized to make any accounting changes to revise the funding source associated with this ordinance.

**SECTION 9.** That this ordinance, for the reasons stated in the preamble, which are made a part of this ordinance and fully incorporated for reference as if rewritten, is declared to be an emergency measure and shall take effect and be in force from and after this ordinance's adoption and approval by the Mayor or ten (10) days after its adoption if the Mayor neither approves nor vetoes this ordinance.