



Legislation Details (With Text)

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On agenda: 2/14/2011 **Final action:** 2/16/2011

Title: To authorize the expenditure of \$77,725.00 or so much thereof as may be necessary to allow the City Attorney's Office, Real Estate Division, to complete the court ordered acquisition of Parcel 5 WD, T from Zaheer Fuel, LLC for the Hudson Street and High Street intersection improvements from the Build America Bonds Fund; to amend the 2010 C.I.B.; to authorize the transfer of monies within the Build America Bonds Fund; and to declare an emergency. (\$77,725.00)

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
2/16/2011	1	CITY CLERK	Attest	
2/15/2011	1	MAYOR	Signed	
2/14/2011	1	Columbus City Council	Approved	Pass
2/14/2011	1	COUNCIL PRESIDENT	Signed	
2/4/2011	1	CITY AUDITOR	Reviewed and Approved	
2/4/2011	1	Auditor Reviewer	Reviewed and Approved	
2/4/2011	1	Service Drafter	Sent for Approval	
2/4/2011	1	CITY ATTORNEY	Reviewed and Approved	
2/4/2011	1	Service Drafter	Sent to Clerk's Office for Council	
2/3/2011	1	Finance Reviewer	Reviewed and Approved	
2/3/2011	1	Finance Reviewer	Reviewed and Approved	
2/3/2011	1	FINANCE DIRECTOR	Reviewed and Approved	
2/3/2011	1	Service Drafter	Sent for Approval	
2/2/2011	1	Finance Reviewer	Reviewed and Approved	
2/1/2011	1	Service Reviewer	Reviewed and Approved	
2/1/2011	1	Service Drafter	Sent for Approval	
2/1/2011	1	SERVICE DIRECTOR	Reviewed and Approved	Pass
2/1/2011	1	Service Drafter	Sent for Approval	
1/26/2011	1	Service Drafter	Sent for Approval	

1. BACKGROUND

The City of Columbus Department of Public Service was involved in the construction of an intersection improvement project at the intersection of Hudson Street and High Street in 2008 along with various other intersection projects. It was bid in mid 2008 and the intersection improvements have been constructed; however, acquisition of the final parcel of right-of-way needed for this project has

not been completed. In early 2008 Zaheer Fuel, LLC (Parcel 5 WD, T) executed a purchase contract for the additional right-of-way needed from their site and the City Attorney's office requested a warrant for \$77,725.00 from the City Auditor's office. A warrant (Warrant 852607) was issued for the purchase of Parcel 5 and the City Attorney's office attempted to secure a "partial release of mortgage" from the mortgage company before completing the acquisition of the property.

The City's initial efforts to secure the necessary release were unsuccessful and after approximately 10 months, the Auditor's office requested the return of the Warrant with an assurance the funds would be placed back on the original acquisition Auditor's Certificate. In December of 2008, the Warrant was returned and the AC was credited with \$77,725.00. By October of 2009, the City had finally secured the partial release of mortgage but an IRS lien had been filed against the property. The property owner was unable to negotiate a payment arrangement with the IRS. In an effort to resolve the matter to the satisfaction of all of the parties, in June of 2010 the City Attorney's office filed an appropriation complaint but did not place the \$77,725.00 on deposit with the court. Several months later, once all of the parties to the lawsuit and the City had reached a settlement, the City Attorney's office again requested a warrant for the \$77,725.00. At that time it was determined the original hire and acquire AC had been accidentally canceled and that there were no funds available to pay the settlement. The following legislation authorizes the City Attorney's Office to complete the acquisition of Parcel 5 WD, T from Zaheer Fuel, LLC and to expend \$77,725.00 or so much thereof as may be necessary to acquire this parcel.

2. FISCAL IMPACT

Monies to pay for these costs are available within the Build America Bonds Fund.

3. EMERGENCY DESIGNATION

Emergency action is requested to allow the City Attorney's Office, Real Estate Division to complete this court ordered acquisition without additional delay these funds must be made available to the City Attorney's office as soon as possible.

To authorize the expenditure of \$77,725.00 or so much thereof as may be necessary to allow the City Attorney's Office, Real Estate Division, to complete the court ordered acquisition of Parcel 5 WD, T from Zaheer Fuel, LLC for the Hudson Street and High Street intersection improvements from the Build America Bonds Fund; to amend the 2010 C.I.B.; to authorize the transfer of monies within the Build America Bonds Fund; and to declare an emergency. (\$77,725.00)

WHEREAS, in 2008 the City of Columbus ("Columbus") constructed an intersection improvement project at the corner of Hudson Street and High Street; and

WHEREAS, acquisition of the final parcel of right-of-way needed for this project has not been completed however; and

WHEREAS, in early 2008 Zaheer Fuel, LLC (Parcel 5 WD, T) executed a purchase contract for \$77,725.00 for the additional right-of-way needed from their site; and

WHEREAS, the City Attorney's office requested and received a warrant from the City Auditor's office for the purchase of Parcel 5; and

WHEREAS, the City Attorney's office needed a "partial release of mortgage" from the Parcel 5 mortgage company to complete the acquisition of this parcel; and

WHEREAS, because the City's efforts to secure the necessary release had been unsuccessful, after approximately 10 months the Auditor's office requested the return of the Warrant with an assurance the funds would be placed back on the original acquisition Auditor's Certificate; and

WHEREAS, in December of 2008 the Warrant was returned to the City Auditor and the Auditors Certificate was credited with \$77,725.00; and

WHEREAS, by October of 2009 the City had finally secured the partial release of mortgage but an IRS lien had been filed against the property; and

WHEREAS, the property owner was unable to negotiate a payment arrangement with the IRS; and

WHEREAS, in June of 2010, in an effort to resolve the matter to the satisfaction of all of the parties, the City Attorney's office filed an appropriation complaint with the Franklin County Court of Common Pleas but did not place the \$77,725.00 on deposit with the court; and

WHEREAS, once all of the parties to the lawsuit and the City had reached a settlement, the City Attorney's office again requested a warrant for the \$77,725.00; and

WHEREAS, at that time it was determined the original hire and acquire AC had been accidentally canceled and that there were no funds available to pay the settlement; and

WHEREAS, the following legislation authorizes the City Attorney's Office to complete the acquisition of Parcel 5 WD, T from Zaheer Fuel, LLC and to expend \$77,725.00 or so much thereof as may be necessary to acquire this parcel; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Public Service, Division of Design and Construction in that it is immediately necessary to authorize the City Attorney's office to complete acquisition of this parcel from Zaheer Fuel, LLC and to expend \$77,725.00 or so much thereof as may be necessary to complete this court ordered acquisition without additional delay 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 City Attorney's Office, Real Estate Division, be and is hereby authorized to complete acquisition of Parcel 5 WD, T from Zaheer Fuel, LLC.

SECTION 2. That the 2010 CIB authorized within ordinance 0564-2010 be amended to provide sufficient authority for this project as follows:

Fund / Project Number / Project / Current CIB Amount / amendment amount / CIB amount as amended
746 / 530282-100057 / Resurfacing - Resurfacing 2010 Project 6 / \$151,087.00 / (\$77,725.00) / \$73,362.00
746 / 530086-100019 / Miscellaneous Intersection Improvements - Hudson Street at High Street / \$0.00 / \$77,725.00 / \$77,725.00

SECTION 3. That the transfer of cash and appropriation be authorized as follows:

Transfer from:
Fund / project number / project / Object Level 01/03 Codes / OCA Code / Amount
746 / 530282-100057 / Resurfacing - Resurfacing 2010 Project 6 / 06-6600 / 768257 / \$77,725.00

Transfer to:
Fund / project number / project / Object Level 01/03 Codes / OCA Code / Amount
746 / 530086-100019 / Miscellaneous Intersection Improvements - Hudson Street at High Street / 06-6600 / 768604 / \$77,725.00

SECTION 4. That the City Attorney's Office, Real Estate Division, be and is hereby authorized to expend \$77,725.00, or so much thereof as may be necessary from the Build America Bonds Fund as follows: Project 530086-100019; Department/Division 59-12; Minor Object 6601; OCA Code 768604; to pay those costs relative to the court ordered acquisition of this parcel.

SECTION 5. 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.