



## Legislation Details (With Text)

**File #:** 3538-2022      **Version:** 1

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

**File created:** 12/7/2022      **In control:** Public Service & Transportation Committee

**On agenda:** 2/6/2023      **Final action:** 2/8/2023

**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 FRA Intersection Improvements - Cleveland Avenue 5th Avenue to Lehner Road Project; to authorize an expenditure of \$500.00; and to declare an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
2/8/2023	1	CITY CLERK	Attest	
2/7/2023	1	MAYOR	Signed	
2/6/2023	1	COUNCIL PRESIDENT	Signed	
2/6/2023	1	Columbus City Council	Approved	Pass

**BACKGROUND:** The City’s Department of Public Service (“DPS”) is performing the FRA Intersection Improvements - Cleveland Avenue 5<sup>th</sup> Avenue to Lehner Road Project, Project No. 538003-100000 (PID 108642) (“Public Project”). The City must acquire certain fee simple title and lesser real estate located in the vicinity of Cleveland Avenue corridor from 5<sup>th</sup> Avenue to Lehner Road (collectively, “Real Estate”) in order for DPS to timely complete the Public Project. The City passed Ordinance Number 1252-2021 authorizing the City Attorney to acquire the Real Estate. Furthermore, the City also adopted Resolution 0096X-2022 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 Cleveland Avenue corridor from 5<sup>th</sup> Avenue to Lehner 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 0096X-2022. 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 Highway G O Bonds Fund, Fund 7704 for Ten percent (10%) of the total cost (\$50.00) pursuant to existing Auditor’s Certificate ACDI001490-10 and the Federal Transportation Grant Fund, Fund Number 7765, for Ninety percent (90%) of the total cost (\$450.00) pursuant to existing Auditor’s Certificate ACDI001490-20.

**EMERGENCY JUSTIFICATION:** Emergency action is requested in order to acquire the Real Estate and allow DPS to timely complete the project and preserve the grant funding for 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 FRA Intersection Improvements - Cleveland Avenue 5<sup>th</sup> Avenue to Lehner Road Project; to authorize an expenditure of \$500.00; and to declare an emergency.

**WHEREAS**, the City intends to make, improve, or repair certain public right-of-ways by completing the FRA Intersection Improvements - Cleveland Avenue 5<sup>th</sup> Avenue to Lehner Road Project, Project No. 538003-100000 (PID 108642) (“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 Cleveland Avenue corridor from 5<sup>th</sup> Avenue to Lehner Road; and

**WHEREAS**, the City, pursuant to the passage of Ordinance Number 1252-2021 and the adoption of Resolution Number 0096X-2022, 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 Cleveland Avenue corridor from 5<sup>th</sup> Avenue to Lehner Road 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 0096X-2022 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 FRA Intersection Improvements - Cleveland Avenue 5<sup>th</sup> Avenue to Lehner Road Project, Project No. 538003-100000 (PID 108642) (“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**

**Parcel 4-WD FMVE (\$500.00)**

Northside Church of God, Inc. nka Fresh Start Worship Center - Columbus, Inc.  
1790 Cleveland Avenue  
Columbus, Ohio 43211

**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 Cleveland Avenue corridor from 5<sup>th</sup> Avenue to Lehner 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 Five Hundred U.S. Dollars (\$500 00), or so much as may be needed from existing Auditor's Certificates ACDI001490-10 and ACDI001490-20.

**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.