



## Legislation Details (With Text)

**File #:** 0785-2016      **Version:** 1

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

**File created:** 3/15/2016      **In control:** Public Service & Transportation Committee

**On agenda:** 6/20/2016      **Final action:** 6/22/2016

**Title:** To authorize the City Attorney to file complaints in order to immediately appropriate and accept fee simple and lesser real estate title interests necessary to timely complete the FRA-COTA BRT Public Improvement Project; and authorize the City Attorney to spend funds from the Streets and Highways Bond Fund; and to declare an emergency. (\$39,761.00)

### Sponsors:

### Indexes:

### Code sections:

### Attachments:

Date	Ver.	Action By	Action	Result
6/22/2016	1	CITY CLERK	Attest	
6/21/2016	1	ACTING MAYOR	Signed	
6/20/2016	1	COUNCIL PRESIDENT	Signed	
6/20/2016	1	Columbus City Council	Approved	Pass

### BACKGROUND:

The City's Department of Public Service (DPS) is engaged in the FRA-Central Ohio Transit Authority (COTA) - Cleveland Avenue Bus Rapid Transit (BRT) - (PID 94357; 3163 Dr E) Public Improvement Project ("Public Project"). The City must acquire certain fee simple title and lesser real property interests located in the vicinity of the public right-of-way of Cleveland Avenue, Columbus, Ohio 43215 (collectively, "Real Estate") in order for DPS to complete the Public Project. The City passed Ordinance Number 0567-2015 authorizing the City Attorney to acquire the Real Estate. The City also adopted Resolution Numbers 0152x-2015, 0214x-2015, 0020x-2016, and 0102x-2016 declaring the City's (i) public purpose and necessity of the Public Project, and (ii) intent to appropriate the Real Estate.

The City Attorney, pursuant to Columbus City Code, Section 909.03, served notice to all of the owners of the Real Estate the (i) Public Project's public purpose and necessity, and (ii) adoption of the appropriate Resolution Number 0152x-2015, 0214x-2015, 0020x-2016 or 0102x-2016. 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 the City would pay to acquire the Real Estate.

### CONTRACT COMPLIANCE:

Not applicable.

### FISCAL IMPACT:

Funding to appropriate the Real Estate will come from the Federal State Highway Engineering Fund, Fund number 766.

### EMERGENCY JUSTIFICATION:

Emergency action is requested in order to acquire the Real Estate and allowing 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 fee simple and lesser real estate title interests necessary to timely complete the FRA-COTA BRT Public Improvement Project; and authorize the City Attorney to spend funds from the Streets and Highways Bond Fund; and to declare an emergency. (\$39,761.00)

**WHEREAS**, the City intends to improve certain portions of the public right-of-way of Cleveland Avenue by allowing the Department of Public Service (DPS) to engage in the FRA-Central Ohio Transit Authority (COTA) - Cleveland Avenue Bus Rapid Transit (BRT) - (PID 94357; 3163 Dr E) Public Improvement Project (i.e. Public Project);

**WHEREAS**, the City intends for the City Attorney to acquire the necessary fee simple title and lesser property interests located in the vicinity of the public right-of-way of Cleveland Avenue, Columbus, Ohio 43215 (i.e. Real Estate) in order for DPS to complete the Public Project;

**WHEREAS**, the City, pursuant to the passage of Ordinance Number 0567-2015 and adoption of Resolution Numbers 0152x-2015, 0214x-2015, 0020x-2016 and 0102x-2016, intends to authorize the City Attorney to spend funds and file necessary complaints to immediately appropriate and accept the remainder of the Real Estate;

**WHEREAS**, an emergency exists in the usual daily operations of Department of Public Service 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, OHIO:

**SECTION 1.** The fee simple and lesser real estate title interests associated with the project parcel numbers listed in Section 4 of this ordinance (i.e. Real Estate) are (i) fully described in Resolution Numbers 0152x-2015, 0214x-2015, 0020x-2016 and/or 0102x-2016 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-Central Ohio Transit Authority (COTA) - Cleveland Avenue Bus Rapid Transit (BRT) - (PID 94357; 3163 Dr E) Public Improvement Project (i.e. Public Project).

**SECTION 2.** 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.** The City intends to obtain immediate possession of the Real Estate for the Public Project.

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

Public Project's Parcel Number(s) (FMVE)  
Real Estate's Owner(s)  
Owner's Address(es)

Parcel 6-WD (\$451.00)  
E.J.B. Inc.  
Hilltop Transportation

805 Cleveland Ave., Columbus, OH 43201

Parcel 7-WD (\$451.00)  
William E. & Gayle M. Hall  
6140 Sherman Road, Galena, Ohio 43021

Parcel 8-WD (\$300.00)  
L&N UP Alum Creek, LLC  
3540 E. Fulton St., Columbus, OH 43227

Parcel 11-WD & T (\$1,838.00)  
Virgil S. Schnell, Jr. & Margie Schnell  
839 Liverpool Place, Westerville, Ohio 43081

Parcel 22-WD (\$937.00)  
Makan Group, Inc.  
5010 Paula Ct., Columbus, OH 43220

Parcel 27-WD & T (\$1,440.00)  
Webber Corner, LLC  
2727 Cleveland Ave., Columbus, OH 43224

Parcel 28-WD (\$300.00)  
Jerald E. Mann  
247 S. Main Street, Marion, OH 43302

Parcel 29-WD (\$535.00)  
Rigoberto Garcia  
502 Walnut Blvd, Lewis Center, OH 433035

Parcel 31-WD & T (\$8,335.00)  
3129 Cleveland Ave, LLC  
c/o Brian Kooperman, 100 S. Foruth St., Columbus, OH 43215

Parcel 32-WD & T (\$3,774.00)  
B&Y Group, LLC  
c/o Joe Miller, 52 E. Gay Street, Columbus, OH 43215

Parcel 33-WDV & T (\$5,363.00)  
Northern Lights Improvements, LLC  
c/o Sarah Merkel, 580 White Plains Road, Tarrytown, NY 10591

Parcel 35-WDV & T (\$1,797.00)  
Julius L. Baker and Son  
C/o Stephen Baker, 605 75<sup>th</sup> Avenue, St. Pete Beach, FL 33706  
3319 E. Livingston Ave., Columbus, OH 43227

Parcel 36-WDV & T (\$1,167.00)  
Roseline Aleanu  
405 Grandlin Park Drive, Blacklick, OH 43004

Parcel 38-WD & T (\$9,968.00)  
LRC Morse Investors LTD

1585 Frederick Blvd, Akron, OH 44320

Parcel 43-WD & T (\$2,389.00)

6211 Cleveland LLC

P.O. Box 3419, Westerville, OH 43086

Parcel 44T (\$716.00)

Paul J. Gaiser, Walter P. Gaiser and Erich Gaiser

450 W. Schrock Road, Westerville, OH 43081

TOTAL.....\$39,761.00

**SECTION 5.** The City Attorney is authorized to file the necessary complaints 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.** 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 Eleven Thousand, Nine Hundred-twenty, and 00/100 U.S. Dollars (\$39,761.00), or so much as may be needed, from existing ACIDI000011 (AC037782-001) established by Ordinance Number 0567-2015.

**SECTION 7.** City Auditor is authorized to make any accounting changes to revise the funding source associated with this ordinance.

**SECTION 8.** This ordinance, for the reasons stated in the preamble of this ordinance, which are fully incorporated into this ordinance as if rewritten, is 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 (10) days after its passage if the mayor neither approves nor vetoes this ordinance.