



## Legislation Details (With Text)

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**File #:** 0603-2017      **Version:** 1

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

**File created:** 3/1/2017      **In control:** Public Service & Transportation Committee

**On agenda:** 3/27/2017      **Final action:** 3/29/2017

**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 Arterial Street Rehabilitation - Cleveland Avenue at Schrock Road (PID 530086-100025) Public Improvement Project ("Public Project"); and authorize the City Attorney to spend funds from the State & Highway Engineering fund, the Streets & Highway General Obligation Bond, and the Highway Improvement Non Bond Fund (Federal State Highway Engineering Fund) pursuant to existing Auditor's certificates; and to declare an emergency. (\$3,186,064.00)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
3/29/2017	1	CITY CLERK	Attest	
3/28/2017	1	MAYOR	Signed	
3/27/2017	1	COUNCIL PRESIDENT	Signed	
3/27/2017	1	Columbus City Council	Approved	Pass

**BACKGROUND:**

The City's Department of Public Service (DPS) is engaged in the Arterial Street Rehabilitation - Cleveland Avenue at Schrock Road (PID 530086-100025) Public Improvement Project ("Public Project"). The City is partnering with the City of Westerville, Ohio, an Ohio municipal corporation ("Westerville"), in completing the Public Project. The City and Westerville must acquire and accept certain fee simple title and lesser real property interests located in the vicinity of Cleveland Avenue and Schrock Road, Columbus, Ohio 43229 (collectively, "Real Estate") in order to timely complete the Public Project. The Real Estate will be acquired in either the name of the City or the City of Westerville, and the City passed Ordinance Number 0297-2015 authorizing the City Attorney to acquire the Real Estate on behalf of the City and Westerville. Furthermore, the City also adopted Resolutions 0126X-2015 and 0001X-2016 declaring the City's (i) public purpose and necessity of the Public Project, and (ii) intent to appropriate the Real Estate. The City's acquisition of the Real Estate will help make, improve, or repair certain portions of Cleveland Avenue's public roadways and associated appurtenances, 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 Resolutions 0126X-2015 and 0001X-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.

**CONTRACT COMPLIANCE:**

Not applicable.

## **FISCAL IMPACT:**

Funding to appropriate the Real Estate will come from the State & Highway Engineering fund, the Streets & Highway General Obligation Bond, and the Highway Improvement Non Bond Fund (Federal State Highway Engineering Fund) pursuant to existing Auditor's Certificates ACDI000022-10, ACDI000272-10 and ACDI000277-10.

## **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 the remaining fee simple and lesser real estate necessary to timely complete Arterial Street Rehabilitation - Cleveland Avenue at Schrock Road (PID 530086-100025) Public Improvement Project ("Public Project"); and authorize the City Attorney to spend funds from the State & Highway Engineering fund, the Streets & Highway General Obligation Bond, and the Highway Improvement Non Bond Fund (Federal State Highway Engineering Fund) pursuant to existing Auditor's certificates; and to declare an emergency. (\$3,186,064.00)

**WHEREAS**, the City intends to make, improve, or repair certain public right-of-ways by completing the Arterial Street Rehabilitation - Cleveland Avenue at Schrock Road (PID 530086-100025) Public Improvement Project ("Public Project");

**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 right-of-way Cleveland Avenue and Schrock Road, Columbus, Ohio 43229 (collectively, "Real Estate") in order to complete the Public Project;

**WHEREAS**, the City, pursuant to the passage of Ordinance Number 0297-2015 and the adoption of Resolutions 0126X-2015 and 0001X-2016, 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;

**WHEREAS**, the City intends for the Real Estate's acquisition to help make, improve, or repair certain portions of Cleveland Avenue's public roadways and associated appurtenances, which will be open to the public without charge;

**WHEREAS**, an emergency exists in the usual daily operations of Department of Public Service in that it is immediately necessary to authorize the City Attorney file complaints 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; now, therefore,

## **BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS, OHIO:**

**SECTION 1.** That the fee simple and lesser real estate associated with the project parcel numbers listed in Section Four (4) of this ordinance (*i.e.* Real Estate) is (i) fully described in Resolutions 0126X-2015 and 0001X-2016 and incorporated into this ordinance for reference as if rewritten, and (ii) to be immediately appropriated and accepted for the public purpose of DPS timely completing the Arterial Street Rehabilitation - Cleveland Avenue at Schrock Road (PID 530086-100025) Public Improvement Project ("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 7WL, WD, TV-(FMVE: \$69,681)**

**Calvary Apostolic Church**

**2551 W. Schrock Road**

**Westerville, Ohio 43081**

**Parcel 8WD,TV1,TV2-(FMVE: \$9,937)**

**Flags Columbus Partners LP**

**2815 Townsgate Road Suite 130**

**Westlake Village, CA 91361**

**Pcl 12-WL, -S, -TV (FMVE \$3,106,446.00)**

**Speedway Superamerica, LLC nka Speedway, LLC**

**539 S. Main Street**

**Findley, OH 45840**

**&**

**Speedway, LLC**

**C/O Leanne Benson**

**4125 Fisher Road**

**Columbus, OH 43228**

**TOTAL.....\$3,186,064.00**

**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 Cleveland Avenue's public roadways 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 Three Million, One Hundred Eighty-six Thousand, Sixty-four and 00/100 U.S. Dollars (\$3,186,064.00), or so much as may be needed from existing Auditor's Certificates ACDI000022-10, ACDI000272-10 and ACDI000277-10 established by Ordinance Number 0297-2015.

**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 of 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 passage and approval by the Mayor or ten (10) days after its passage if the Mayor neither approves nor vetoes this ordinance.