



Legislation Details (With Text)

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Type: Ordinance **Status:** Passed

File created: 6/2/2017 **In control:** Public Service & Transportation Committee

On agenda: 6/19/2017 **Final action:** 6/20/2017

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 the Livingston Avenue Phase C- Fifth Street to Kennedy Drive (530161-100166) Public Improvement Project and authorize the City Attorney to spend funds pursuant to an existing Auditor's certificate; and to declare an emergency. (\$10,763.00)

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
6/20/2017	1	CITY CLERK	Attest	
6/20/2017	1	MAYOR	Signed	
6/19/2017	1	COUNCIL PRESIDENT	Signed	
6/19/2017	1	Columbus City Council	Approved	Pass

BACKGROUND:

The City's Department of Public Service (DPS) is performing the Livingston Avenue Phase C- Fifth Street to Kennedy Drive (530161-100166) Public Improvement Project ("Public Project"). The City must acquire certain fee simple title and lesser real estate located along the public right-of-way of Livingston Avenue from Fifth Street to Kennedy Drive, Columbus, Ohio 43215 (collectively, "Real Estate") in order for DPS to complete the Public Project. The City passed Ordinance Number 2407-2016 authorizing the City Attorney to acquire the Real Estate on behalf of the City. Furthermore, the City also adopted Resolution 0268X-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 Livingston Avenue's public roadway 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 Resolution 0268X-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 Streets & Highway Bond Fund pursuant to existing Auditor's

Certificate ACDI000190-10.

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 Livingston Avenue Phase C- Fifth Street to Kennedy Drive (530161-100166) Public Improvement Project and authorize the City Attorney to spend funds pursuant to an existing Auditor's certificate; and to declare an emergency. (\$10,763.00)

WHEREAS, the City intends to make, improve, or repair certain public right-of-ways by completing the Livingston Avenue Phase C- Fifth Street to Kennedy Drive (530161-100166) Public Improvement Project ("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 right-of-way of Livingston Avenue from Fifth Street to Kennedy Drive, Columbus, Ohio 43215 (collectively, "Real Estate") in order to complete the Public Project; and

WHEREAS, the City, pursuant to the passage of Ordinance Number 2407-2016 and the adoption of Resolution 0268X-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; and

WHEREAS, an emergency exists in the usual daily operation of the City in that it is immediately necessary to authorize the City Attorney to appropriate and accept the remaining fee simple and lesser real estate necessary to timely complete the Project to help make, improve, or repair certain portions of Livingston Avenue's public roadway and associated appurtenances, which will be open to the public without charge; 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 (*i.e.* Real Estate) is (i) fully described in Resolution 0268X-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 Livingston Avenue Phase C- Fifth Street to Kennedy Drive (530161-100166) 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 12 T, P- FMVE \$963.00

GMC Real Estate Investments, LLC
4256 Mountview Road
Columbus, Ohio 43220

Parcel 18T-FMVE \$300.00
Michael H. Siewert
307 E. Livingston Avenue
Columbus, Ohio 43215

Parcel 24T-FMVE \$300.00
Edwardo Jordan
128 Heneretta Drive
Hurst, TX 76054

Parcel 29 WD, P, T1 T2- FMVE \$6,233.00
Livingston 431 LLC
C/o Goldman & Brunstein, LLP
500 S. Front Street Ste. 1200
Columbus, Ohio 43215

Parcel 30 WD - FMVE \$2,967.00
Owner:
Evergreen Quality Catering, Inc
C/o Brian Kooperman
100 S. Fourth Street Suite 100
Columbus, Ohio 43215

Purchase Contract/Buyer:
Daniel Rohletter, Attorney
155 E. Broad Street, PNC Plaza 12th
Columbus, Ohio 43215

TOTAL.....\$10,763.00

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 Livingston Avenue's public roadway 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 Ten Thousand, Seven Hundred Sixty-three and 00/100 U.S. Dollars (\$10,763.00), or so much as may be needed from existing Auditor's Certificate ACDI000190-10 established by Ordinance Number 2407-2016.

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.