



Legislation Details (With Text)

File #: 2180-2018 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 7/17/2018 **In control:** Public Service & Transportation Committee

On agenda: 7/30/2018 **Final action:** 8/3/2018

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 Arterial Rehabilitation - Polaris Parkway at Orion Place project; and to declare an emergency. (\$1,352,916.00)

Sponsors:

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|-----------|------|-----------------------|----------|--------|
| 8/3/2018 | 1 | ACTING CITY CLERK | Attest | |
| 8/2/2018 | 1 | MAYOR | Signed | |
| 7/30/2018 | 1 | COUNCIL PRESIDENT | Signed | |
| 7/30/2018 | 1 | Columbus City Council | Approved | Pass |

BACKGROUND:

The City's Department of Public Service is currently engaged in the Arterial Rehabilitation - Polaris Parkway at Orion Place project (DEL-CR615-0.000 PID 95549) ("Public Project"). The Public Project encompasses widening Polaris Parkway to provide a third through lane in both directions from I-71 to Olde Worthington Road, including the construction of a two-lane roundabout at the intersection of Olde Worthington Road and Orion Place. This project also includes the installation of a shared use path, sidewalk, traffic signal replacement, landscaping and street lighting. The City must acquire certain fee simple title and lesser real estate located in the vicinity of the public right-of-way of Polaris Parkway, Columbus, Ohio 43240 (collectively, "Real Estate") in order for DPS to complete the Public Project. The City passed Ordinance Number 2384-2016 authorizing the City Attorney to acquire the Real Estate. Furthermore, the City also adopted Resolutions 0063X-2017 and 0181X-2018 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 Polaris Parkway, Columbus, Ohio 43240 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 0063X-2017 and 0181X-2018, as applicable. 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 Federal State Highway Engineering Fund pursuant to existing Auditor's Certificates ACDI000196-30 and ACDI000196-10.

EMERGENCY JUSTIFICATION:

Emergency action is requested in order to acquire the Real Estate 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 the Arterial Rehabilitation - Polaris Parkway at Orion Place project; and to declare an emergency. (\$1,352,916.00)

WHEREAS, the City intends to make, improve, or repair certain public right-of-ways by completing the Arterial Rehabilitation - Polaris Parkway at Orion Place project (DEL-CR615-0.000 PID 95549) ("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 Polaris Parkway, Columbus, Ohio 43240; and

WHEREAS, the City, pursuant to the passage of Ordinance Number 2384-2016 and the adoption of Resolutions 0063X-2017 and 0181X-2018, 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 in the vicinity of Polaris Parkway, Columbus, Ohio 43240, 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 (*i.e.* Real Estate) is (i) fully described in Resolutions 0063X-2017 and 0181X-2018 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 Rehabilitation - Polaris Parkway at Orion Place Public Improvement Project (DEL-CR615-0.000 PID 95549) ("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 18WD
FMVE: \$229,655
Donald R. Kenney, Trustee
470 Olde Worthington Road
Westerville, OH 43082

Parcel 19WDV,T
FMVE: \$59,295
Office Pointe, LLC
470 Olde Worthington Road
Westerville, OH 43082

Parcel 20WD,T
FMVE: \$15,042
Southern Polaris, LLC
Attn: Sheila Hoch
570 Delaware Avenue
Buffalo, NY 14202

Parcel 25WDV
FMVE: \$9,638
ST Investment Properties, LLC
480 Worthington Road, Suite 350
Westerville, Ohio 43082

Parcel 100WD,T
FMVE: \$139,950
Kenney Airport Hotel II Corp.
470 Olde Worthington Road
Westerville, OH 43082

Parcel 101WD,T
FMVE: \$152,246
Shoppes at Orion, LLC
470 Olde Worthington Road
Westerville, OH 43082

Parcel 103WD,T
FMVE: \$6,349
Badrivishal, LLC
C/O The Witness Group
600 Enterprise Drive
Lewis Center, Ohio 43035

Parcel 105
FMVE \$52,960
Polaris TH LLC
c/o Franz Geiger
N.P. Limited Partnership
8800 Lyra Drive, Suite 550

Columbus, Ohio 43240

Parcel 105-BS-1
FMVE: \$8,481
Tim Donut U.S. Limited, Inc.
Attn: Mason Worth
226 Wyecroft Road
Oakville, ON
L6K 3X7

Parcel 109-WD, -U, -CH, -S1, -S2, -T
FMVE: \$679,300
IMO US Georgia, LLC, a Delaware limited liability company
c/o Jean Jacquemetton
6300 S. Syracuse Way, Suite 290
Centennial, CO 80111

TOTAL.....\$1,352,916

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 in the vicinity of Polaris Parkway, 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 One Million Three Hundred Fifty-Two Thousand Nine Hundred Sixteen and 00/100 U.S. Dollars (\$1,352,916.00), or so much as may be needed from existing Auditor's Certificates ACIDI000196-30 and ACIDI000196-10.

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.