



Legislation Details (With Text)

File #: 0532-2019 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 2/11/2019 **In control:** Public Service & Transportation Committee

On agenda: 3/11/2019 **Final action:** 3/13/2019

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 Street Rehabilitation - Hamilton Road - I-70 to Refugee Public Improvement Project; and to declare an emergency.

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
3/13/2019	1	CITY CLERK	Attest	
3/12/2019	1	MAYOR	Signed	
3/11/2019	1	COUNCIL PRESIDENT	Signed	
3/11/2019	1	Columbus City Council	Approved	Pass

BACKGROUND: The City's Department of Public Service (DPS) is performing Arterial Street Rehabilitation - Hamilton Road - I-70 to Refugee (FRA-SR317-10.630 PID Number 95570) Public Improvement Project ("Public Project"). The City must acquire certain fee simple title and lesser real estate located in the vicinity of Hamilton Road between Refugee and I-70 (collectively, "Real Estate") in order for DPS to timely complete the Public Project. The City passed Ordinance Number 0229-2017 authorizing the City Attorney to acquire the Real Estate. Furthermore, the City also adopted Resolutions 0003X-2018, 0297X-2018 and 0006X-2019 establishing the City's intent to appropriate the Real Estate. Additionally, the City passed Ordinance 3283-2018 stating the City's intent to appropriate the real estate. The City is now seeking to add an additional appropriation for parcel 27-T2 that was inadvertently left off the initial resolution and subsequently included in Resolution Number 0006X-2019, and amend the funding allocation for parcel 40 to include funds going to parcel 40-BS. This ordinance does not require additional funding beyond what was addressed in ordinance 3283-2018, but instead amends parcels 27 and 40 on the initial appropriation ordinance to reflect proper service and fund allocation. All of the other parcels addressed in Ordinance 3283-2018 are to remain the same. The City's acquisition of the Real Estate will help make, improve, or repair certain portions of the public right-of-way of Hamilton Road between Refugee Road and I-70 Columbus, Ohio 43232 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 0003X-2018, 0297X-2018 and 0006X-2019. 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 a reimbursement grant in the Federal Transportation Grants Fund, Fund 7765, Grant #G591703 (Hamilton RD I70 to Refugee Rd PID95570). This grant pays for 90% of allowable costs, requiring a 10% local match. The 10% local match will come from the Streets and Highways

Bond Fund, Fund 7704, Project P530103-100052 (Arterial Street Rehabilitation - Hamilton Road - I-70 to Refugee Road). Auditor's Certificate ACDI000475 was previously established via Ordinance 3311-2017 for the purpose of acquiring the needed Real Estate. ACDI000475-10 will be used for the 90% reimbursable grant portion of the acquisitions, and ACDI000475-20 will be used for the 10% local match portion. No additional funding is being requested at this time.

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 Arterial Street Rehabilitation - Hamilton Road - I-70 to Refugee Public Improvement Project; and to declare an emergency.

WHEREAS, the City intends to make, improve, or repair certain public right-of-ways by completing the Arterial Street Rehabilitation - Hamilton Road - I-70 to Refugee (FRA-SR317-10.630 PID Number 95570) 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 public right-of-way of Hamilton Road between Refugee Road and I-70 Columbus, Ohio 43232; and

WHEREAS, the City, pursuant to the passage of Ordinance Number 0229-2017 and the adoption of Resolution Numbers 0003X-2018, 0297X-2018 and 006X-2019, and the passage of Ordinance Number 3283-2018 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 of Hamilton Road between Refugee Road and I-70 Columbus, Ohio 43232, which will be open to the public without charge; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Public Service in that it is immediately necessary 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 Street Rehabilitation - Hamilton Road - I-70 to Refugee Public Improvement Project; **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 Resolutions 0003X-2017 and 0006X-2019 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 - Hamilton Road - I-70 to Refugee (FRA-SR317-10.630 PID Number 95570) 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

27-WD -T1 -T2 FMVE \$ 167,645.00

Eastland Mall Holdings LLC

201 St Charles Ave., Suite 4600

New Orleans, LA 70170

40-WD, -T FMVE \$4,647.00

V & W Horiuchi LLC

1821 Fulton Street

Palo Alto, CA 94303

40-BS FMVE \$1,087.00 for Improvements

Heartland Bells, Inc. AKA Pacific Bells

C/o Pacific Bells / World Wide Wings

111 W. 39th Street

Vancouver, WA 98660

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 Hamilton 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 Six Hundred Thirty Thousand Seven Hundred Fifty-Eight and 00/100 U.S. Dollars (\$630,758.00) as was previously addressed in Ordinance Number 3283-2018, or so much as may be needed from existing Auditor's Certificates ACDI000475-10 and ACDI000475-20. This ordinance does not require additional spending beyond what was set up in Ordinance 3283-2018 but instead reallocates the spending for parcels 27 and 40.

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 for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby 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 days after passage if the Mayor neither approves nor vetoes the same