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Legislation Details (With Text)

File #: O2021-2179
Type: Ordinance
File created: 5/26/2021
Status: Passed
In control: City Council
Final action: 6/25/2021
Title: Acquisition of certain right-of-way parcels for Division Street Reconstruction Project
Sponsors: Lightfoot, Lori E.
Indexes: Acquisition
Attachments: 1. O2021-2179.pdf

Date	Ver.	Action By	Action	Result
6/25/2021	1	City Council	Passed	Pass
6/15/2021	1	Committee on Housing and Real Estate	Recommended to Pass	
6/15/2021	1	Committee on Housing and Real Estate		
5/26/2021	1	City Council	Referred	

OFFICE OF THE MAYOR

CITY OF CHICAGO

LORI E. LIGHTFOOT

MAYOR

May 26, 2021

TO THE HONORABLE, THE CITY COUNCIL OF
THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Transportation, I transmit herewith an ordinance

authorizing a right-of-way acquisition for the Division Street Reconstruction Project.

Your favorable consideration of this ordinance will be appreciated.

ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, pursuant to an ordinance (the "Approved Ordinance") adopted by the City Council of the City ("City Council") on October 7, 2020 and published at pages 21449 to 21461 in the Journal of Proceedings of the City Council ("Journal") that determined and declared that it is useful, desirable and necessary that the City acquire the Acquisition Parcels described in Exhibit A of the Approved Ordinance, or certain portions thereof or interests therein, for public purposes including the implementation of the objectives of the described plans for the Division Street project, and thereby authorized the Department of Transportation ("CDOT"), with the assistance of the Corporation Counsel, to undertake acquisition of the Acquisition Parcels or certain interests therein, including if necessary with the exercise of the power of eminent domain; and

WHEREAS, the Approved Ordinance stated that the "Commissioner of CDOT is authorized to execute such documents as may be necessary to implement the provisions of this ordinance, subject to the approval of the Corporation Counsel;" and

WHEREAS, the Approved Ordinance omitted a statement of its express intention to authorize the Commissioner to provide indemnifications in connection with such acquisition agreements, subject to the approval of the Corporation Counsel; and

WHEREAS, the General Assembly in 735 ILCS 30/25-7-103.12, has authorized the use of quick-take eminent domain proceedings by municipalities for the purposes set forth in Division 74.2 and 74.3 of Article 2 of the Illinois Municipal Code, said purposes being the redevelopment of commercial or business areas by removing commercial blight for redevelopment purposes, and for the same purposes when established pursuant to home rule powers; and

WHEREAS, the City Council has adopted the North Branch South, Goose Island, and Near North Tax Increment Financing Redevelopment Project Area Redevelopment Plans, on February 5, 1998, July 10, 1996, and July 30, 1997, respectively, and amendments thereto, thereby finding blighted area eligibility criteria were met in those areas; and

WHEREAS, the City Council hereby finds that such blight or conservation areas contain buildings and structures that are detrimental to the health, safety and welfare of the occupants and the welfare of the urban community because of a lack of adequate utilities or access to transportation (65 ILCS 5/11-74.2-1); and

WHEREAS, the City Council hereby finds that such blighting conditions can be eradicated by assuring opportunities for development through the redevelopment, development, improvement, maintenance, and redevelopment of business districts (65 ILCS 5/11-74.3-1); and

WHEREAS, the City under its home rule power finds that it useful and necessary to use quick-take to acquire the Acquisition Parcels for the same purposes as those set forth in Divisions 74.2 and 74.3 of the Illinois Municipal Code (65 ILCS 5/11-74.2 and 74.3); and

WHEREAS, the General Assembly in 735 ILCS 30/25-7-103.13 has authorized the use of quick-take eminent domain within an area designated as an enterprise zone by the municipality under the Illinois Enterprise Zone Act; and

WHEREAS, by ordinance adopted by the City Council on November 5, 2014 and published at pages 95120 to 95126 of the Journal in accordance with the Illinois Enterprise Zone Act, the City established Enterprise Zone No. 4 for the period extending from January 1, 2016 until December 31, 2030; and

WHEREAS, all of the Acquisition Parcels, except for Parcel 027, are located within Enterprise Zone No. 4; and

WHEREAS, the City finds that it useful and necessary to use quick-take to acquire the all the Acquisition Parcels except Parcel 027 for public purposes, including those under the Illinois Enterprise Zone Act; and

WHEREAS, pursuant to Resolution No. 20-CDC-02 adopted on June 9, 2020, the Community Development Commission of the City (the "Commission") approved the acquisition by CDOT of the Acquisition Parcels or portions thereof or interests therein, in furtherance of the Redevelopment Plans in the applicable areas without further Commission action; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The schedule for the acquisition of the Acquisition Parcels or portions thereof, as set forth in Exhibit A which is attached and incorporate, is hereby adopted by the City Council.

SECTION 3. Section 3 of the Approved Ordinance is hereby amended to delete the language struck through and to add the underscored language, as follows:

SECTION 3. The Corporation Counsel is authorized to negotiate with the owner(s) for the purchase of the Acquisition Parcels or portions thereof. If the Corporation Counsel and the

owner(s) are able to agree on the terms of the purchase, including the interests therein, the Corporation Counsel is authorized to purchase the Acquisition Parcels or portions thereof or interests therein on behalf of the City for the agreed price with such purchase price to be paid out of legally available funds of the City, including, without limitation, the proceeds of any grants or other funds received by the City. If the Corporation Counsel is unable to agree with the any owner(s) of the Acquisition Parcel on the terms of the purchase, or if the owner(s) is or are incapable of entering unwilling or unable to enter into such a transaction with the City, or if the owner(s) cannot be located, then the Corporation Counsel is authorized to institute and prosecute condemnation proceedings, including a motion for immediate vesting of title, on behalf of the City for the purpose of acquiring fee simple title to the Acquisition Parcels as listed on Exhibit A under the City's power of eminent domain and in accordance with the schedule for the acquisition of the Acquisition Parcels adopted above. Such acquisition efforts shall commence within four (4) years of the date of the publication of this ordinance. For the Acquisition Parcels, commencement shall be deemed to have occurred upon the City's delivery of an offer letter to the owner(s) of such Acquisition Parcel.

SECTION 4. Section 4 of the Approved Ordinance is hereby amended to delete the language struck through and to add the underscored language, as follows:

SECTION 4. The Commissioner of CDOT is authorized to (1) execute such documents^ including a document providing indemnification to another party, as may be necessary to implement the provisions of this ordinance, subject to the approval of the Corporation Counsel^ (2) amend, modify, or change the schedule for the acquisition of the Acquisition Parcels adopted above, and (3) determine whether the acquisition of the Acquisition Parcels, or a portion thereof, or less than fee simple title is necessary to implement the Project, all subject to the approval of the Corporation Counsel.

SECTION 5. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 6. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby amended to the extent of such conflict.

SECTION 7. This ordinance shall be effective upon its passage and approval.

EXHIBIT A

Schedule for Acquisition of Acquisition Parcels

Acquire all fee simple interests and all temporary easements in those portions of the Acquisition Parcels designated on the plats on or before 10/30/2021. Commence road and bridge construction on or before 5/30/2022