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Legislation Details (With Text)

File #: O2011-5577
Type: Ordinance **Status:** Passed
File created: 7/6/2011 **In control:** City Council
Final action: 7/28/2011
Title: Reduction in amount of real property to be acquired pursuant to O'Hare Modernization Program
Sponsors: Emanuel, Rahm
Indexes: O'Hare Modernization Program
Attachments: 1. O2011-5577.pdf

Date	Ver.	Action By	Action	Result
7/28/2011	1	City Council	Passed	Pass
7/21/2011	1	Committee on Aviation	Recommended to Pass	Pass
7/6/2011	1	City Council	Referred	

RAHM EMANUEL, MAYOR

OFFICE OF THE MAYOR

CITY OF CHICAGO

July 6, 2011

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

Ladies and Gentlemen:

At the request of the Commissioner of Aviation, I transmit herewith an ordinance authorizing a reduction in the amount of the taking of real property pursuant to the O'Hare Modernization Program.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

WHEREAS, the City of Chicago ("City") is a duly constituted and existing municipality within the meaning of Article VII, Section 1 of the 1970 Constitution of the State of Illinois ("Constitution"), and is a home rule unit of local government under Article VII, Section 6(a) of the Constitution and, as such, may exercise any power and perform any function pertaining to its government and affairs; and WHEREAS, the City owns and operates the airport known as Chicago O'Hare International Airport ("Airport"); and

WHEREAS, the City possesses the power and authority to acquire private and public property both within and outside its municipal boundaries and within and outside Cook County for Airport uses and purposes and uses and purposes related thereto pursuant to the provisions, among others, of its home rule powers and Divisions 101 and 102 of Article 11 of the Illinois Municipal Code and the O'Hare Modernization Act (620 ILCS 65/1, et seq.); and

WHEREAS, the Airport is essential as a part of the United States air transportation system; and

WHEREAS, the Airport is a major contributor to the economic welfare of the State of Illinois, the Midwest region of the United States and the City; and

WHEREAS, on July 31, 2002, the City Council (the "City Council") of the City enacted an ordinance approving the acquisition of certain real property and interests therein, to expand the existing boundaries of the

Airport for the uses and purposes set forth in the ordinance (the "2002 Ordinance"); and .

WHEREAS, the City intends to use the land acquired or to be acquired under the 2002 Ordinance for projects related to some or all of the following purposes: reconfiguration of existing runways and/or the construction of new runways consistent with all applicable laws and other airfield improvements including, without limitation, navigation aids and easements; the construction of a new terminal on the western portion of the Airport; the construction and reconstruction of ground transportation facilities in the acquisition area necessary and integral to the operation of the Airport, including but not limited to roadways, ramps, parking, staging, areas and/or mass transit facilities; and

WHEREAS, the City intends to acquire and maintain clear zones under the 2002 Ordinance ("Clear Zones and/or Runway Protection Zones") for the Airport as requested by the Federal Aviation Administration or as proposed by the City for tall structure approach and compatible land-use approach protection and for safety and ambiance control purposes; and

WHEREAS, the City determined it is necessary to acquire certain real property, interests therein and easements within the boundaries described in the exhibit attached to the 2002 Ordinance, in order to construct, operate, implement and maintain the above-described facilities, improvements and enhancements, including the property commonly known as 1651-1657

Carmen Drive, Elk Grove Village, Illinois, (PIN No: 08-36-102-022-0000) ("Parcel 55"); and

WHEREAS, the City was unsuccessful in negotiating the acquisition of Parcel 55 and thereafter filed an action in Circuit Court of Cook County to acquire Parcel 55, said case being entitled City of Chicago v. Rogers Industrial Park, LP, et al, No. 07 L 50820 (the "Condemnation Action"); and

WHEREAS, on March 28, 2008, the City filed its Amended Motion for Immediate Vesting of Title in the Condemnation Action to exercise quick take authority pursuant to the 2002 Ordinance and 735 ILCS 5/7-103 and 735 ILCS 30/25-7-103.149 (formerly 735 ILCS 5/7-103.149), for acquisition of certain exclusive and non-exclusive easements within Parcel 55, described on Exhibit "A" hereto, (the "NavAid Area"), to facilitate timely construction of a navigation aid necessary for new Runway 9L-27R; and

WHEREAS, on March 28, 2008, the Circuit Court approved and entered an Agreed Order Fixing Preliminary Just Compensation in the Condemnation Action for acquisition of the NavAid Area; and

WHEREAS, on June 4, 2008, that court entered an Order Vesting Title thereby confirming title to the NavAid Area to be vested in the City; and

WHEREAS, the City requested leave from the circuit court to amend the Complaint in the Condemnation Action to reduce the acquisition and, instead of the full fee taking of Parcel 55 as sought under the Complaint, to take only the NavAid Area within Parcel 55, and the Court, by order entered on April 27, 2011, denied the City's request to amend the Complaint unless the City and the Corporation Counsel obtained specific authorization from the City Council to accomplish proposed reduction in acquisition; and

WHEREAS, the City has determined, to avoid further litigation on this issue, that it is preferable to obtain explicit authority to reduce the acquisition sought under the Complaint in the Condemnation Action from the fee taking of Parcel 55 therein to the NavAid Area within Parcel 55, to comply with the request of the circuit court in the Condemnation Action; and

WHEREAS, the land acquisition authorized under the 2002 Ordinance remains useful, desirable and necessary for the purposes set forth therein; and

WHEREAS, the land acquisition authorized, under the 2002 Ordinance is necessary to improve air transportation services at the Airport, reduce delays throughout the national air transportation system, increase security and better serve the users of the Airport and enhance air services at the Airport;

NOW, THEREFORE,

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The foregoing findings, determinations and definitions are hereby adopted and made or remade as the findings, determinations and definitions of the City Council.

SECTION 2. The 2002 Ordinance is ratified and affirmed and remains in full force and effect.

SECTION 3. All actions to date by the Corporation Counsel to file and prosecute the Condemnation Action were authorized pursuant to the 2002 Ordinance and are ratified) and confirmed.

SECTION 4. For the reasons and purposes set forth in the 2002 Ordinance and herein, the City Council finds that it is useful, desirable and necessary for the City to acquire the NavAid Area.

SECTION 5. The Corporation Counsel is authorized to reduce the acquisition in the Condemnation Action from the full fee taking of Parcel 55 sought under the Complaint to the NavAid Area already acquired. The Corporation Counsel in consultation with the Commissioner of the City's Department of Aviation is authorized and directed to take any additional measures necessary to limit or mitigate the damages to the City or to the persons having an interest in Parcel 55.

SECTION 6. The authority conferred by this ordinance is in addition to and not in derogation of the 2002 Ordinance. At whatever later point the City determines that it is reasonably necessary to acquire the balance of Parcel 55, or any portion thereof, the Corporation Counsel shall continue to have authority to acquire those other portions pursuant to the 2002 Ordinance.

SECTION 7. This ordinance shall take effect immediate upon its passage. Exhibit "A" referred to in this ordinance reads as follows:

Exhibit "A"

PARCEL 1 (FEE TAKING) - An Area for Construction and Operation of ALSF-2 Approach Lighting System described as follows:

THAT PART OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT THREE, A RE-SUBDIVISION OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT TWO TOGETHER WITH THE NORTH 10 ACRES OF THE SOUTH 30 ACRES OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING WITH THE PLAT RECORDED JUNE 25, 1970 AS DOCUMENT 21193411, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5; THENCE NORTH 01 DEGREES 12 MINUTES 24 SECONDS WEST, 47.76 FEET ALONG THE EAST LINE OF SAID LOT 5; THENCE SOUTH 89 DEGREES 43 MINUTES 21 SECONDS WEST, 58.21 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 43 MINUTES 21 SECONDS WEST, 18.00 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 39 SECONDS WEST, 20.00 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 21 SECONDS EAST, 18.00 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 39 SECONDS EAST, 20.00 FEET TO THE POINT OF BEGINNING.

Said Parcel contains 360 square feet or 0.008 acres, more or less.

PIN: 08-36-102-022 (Parent Parcel)

PARCEL 2 (NON-EXCLUSIVE EASEMENT) - An area to Allow City, FAA and Its Agents to Tilt Structure Down for Maintenance and Also for Portions of Utility Construction described as follows:

THAT PART OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT THREE, A RE-SUBDIVISION OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT TWO TOGETHER WITH THE NORTH 10 ACRES OF THE SOUTH 30 ACRES OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING WITH THE PLAT RECORDED JUNE 25, 1970 AS DOCUMENT 21193411, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5; THENCE NORTH 01 DEGREES 12 MINUTES 24 SECONDS WEST, 47.76 FEET ALONG THE EAST LINE OF SAID LOT 5; THENCE SOUTH 89 DEGREES 43 MINUTES 21 SECONDS WEST, 23.54 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 43 MINUTES 21 SECONDS WEST, 34.67 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 39 SECONDS WEST, 20.00 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 21 SECONDS EAST, 34.67 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 39 SECONDS EAST, 20.00 FEET TO THE POINT OF BEGINNING.

Said Parcel contains 693.40 square feet or 0.016 acres, more or less.

PIN: 08-36-102-022 (Parent Parcel)

PARCEL 3 (EASEMENT) - An Additional Underground Utility Construction Area Outside of Parcel 2 described as follows:

THAT PART OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT THREE, A RE-SUBDIVISION OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT TWO TOGETHER WITH THE NORTH 10 ACRES OF THE SOUTH 30 ACRES OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING WITH THE PLAT RECORDED JUNE 25, 1970 AS DOCUMENT 21193411, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5; THENCE NORTH 01 DEGREES 12 MINUTES 24 SECONDS WEST, 60.76 FEET ALONG THE EAST LINE OF SAID LOT 5 TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 43 MINUTES 21 SECONDS WEST, 23.33 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 39 SECONDS WEST, 7.00 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 21 SECONDS EAST, 8.35 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 39 SECONDS WEST, 8.58 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 21 SECONDS EAST, 31.42 FEET; THENCE SOUTH 01 DEGREES 12 MINUTES 24 SECONDS EAST, 15.58 FEET TO THE POINT OF BEGINNING.

Said Parcel contains 433.12 square feet or 0.010 acres, more or less. PIN: 08-36-102-022 (Parent Parcel)

PARCEL 4 (NON-EXCLUSIVE EASEMENT) - An Access (Ingress/Egress) Area described as follows:

THAT PART OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT THREE, A RE-SUBDIVISION OF LOT 5 IN ROGERS INDUSTRIAL SUBDIVISION UNIT TWO TOGETHER WITH THE NORTH 10 ACRES OF THE SOUTH 30 ACRES OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING WITH THE PLAT RECORDED JUNE 25, 1970 AS DOCUMENT 21193411, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 5; THENCE NORTH 01 DEGREES 12 MINUTES 06 SECONDS WEST, 12.00 FEET ALONG THE WEST LINE OF SAID LOT 5; THENCE NORTH 88 DEGREES 25 MINUTES 43 SECONDS EAST, 266.14 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 39 SECONDS WEST, 37.09 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 21 SECONDS EAST, 24.00 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 39 SECONDS EAST, 48.55 FEET; THENCE SOUTH 88 DEGREES 25 MINUTES 43 SECONDS WEST, 289.96 FEET TO THE POINT OF BEGINNING.

Said Parcel contains 4,364 square feet or 0.100 acres, more or less. PIN: 08-36-102-022 (Parent Parcel)