



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

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TRANSMITTAL LETTER FOR BOARD MEETING OF FEBRUARY 4, 2021

COMMITTEE ON REAL ESTATE

Mr. Brian A. Perkovich, Executive Director

Authority to pay preliminary just compensation in the amount of \$90,000.00 to acquire the permanent and temporary easements in the eminent domain lawsuit entitled *The Metropolitan Water Reclamation District of Greater Chicago v. Prime33 Development LLC, et al.*, Case No. 20L050009 in the Circuit Court of Cook County, Illinois, Account 501-50000-667340, Stormwater Management Fund

Dear Sir:

On August 6, 2015, the Board of Commissioners ("Board") adopted Ordinance No. R15-006 establishing the right-of-way for the construction, operation and maintenance of the Addison Creek Channel Improvement Project located in the municipalities of Northlake, Stone Park, Melrose Park, Bellwood, Westchester, and Broadview (Contract 11-187-3F) ("Project"). Ordinance R15-006 was subsequently amended by Ordinances R15-007, R18-003, R19-002, and R20-001 to include additional right-of-way needed for the Project. Said Ordinances authorized and directed the Executive Director to negotiate with the respective owners to acquire fee simple title or such lesser interests, as appropriate, in and to the real estate described in the Ordinances.

On September 6, 2018, the Board authorized the District to enter into intergovernmental agreements with the City of Northlake, Village of Stone Park, Village of Melrose Park, Village of Bellwood, Village of Westchester, and Village of Broadview for the Project. The proposed channel improvements are broken down into nine reaches along approximately 15,300 linear feet of Addison Creek beginning at Hirsch Street in the City of Northlake and continuing to Cermak Road in the Village of Broadview. The Addison Creek channel improvements, along with the proposed Addison Creek Reservoir, will provide flood reduction benefits to approximately 2,200 properties.

The Project requires the acquisition of permanent and temporary easements on the property commonly known as 3815 West Lake Street in Stone Park, Illinois. The property is improved with a one-story nightclub. However, the property interests needed for the Project will not impact the building. The permanent easement area is located adjacent to the Addison Creek and totals approximately 6,582 square feet. The temporary easement area is located behind the building and is approximately 656 square feet. The easements are necessary to construct the channel improvements at this location and to provide for construction access and staging.

After the parties could not agree on the amount of compensation for the easements, the District filed an eminent domain lawsuit entitled *The Metropolitan Water Reclamation District of Greater Chicago v. Prime33 Development LLC, et al.*, Case No. 20L050009 in the Circuit Court of Cook County, Illinois. Since filing the lawsuit on January 6, 2020, the District and the owner have agreed to an amount of preliminary just compensation of \$90,000.00 ("preliminary just compensation award"), with a guaranteed final just compensation minimum of \$75,000.00. This agreement as to the preliminary just compensation award will allow the District to acquire the necessary property interests immediately upon deposit of the award with the Cook County Treasurer and allow construction to proceed on schedule.

The preliminary compensation of \$90,000.00, with a guaranteed minimum of \$75,000.00 for final just compensation, is within the range of value for the easements based on a fair market value appraisal obtained by the District. The opinion of value provided by the District's appraiser, William J. Enright, MAI, was \$56,996.00. The opinion of value provided by the property owner's appraiser, Gary K. DeClark, MAI, was \$275,700. Considering this substantial discrepancy in appraised values, reaching this agreement on the preliminary just compensation award is in the District's best interests because it avoids the uncertainty associated with a quick-take hearing.

This agreement does not limit the range of value evidence that can be presented in a final trial; it only limits the minimum award the owner is entitled to receive. The final just compensation to be paid for the easements will be resolved by the court at a later date, at which time the District will seek Board approval if any additional payments are needed. If the court or jury awards a final compensation verdict of less than \$90,000.00, the District will receive a refund up to \$15,000.00.

The District has coordinated closely with the property owner to mitigate the impact to the property and business operations as much as possible, including fencing requirements and work windows.

Accordingly, it is requested that the Executive Director recommend to the Board of Commissioners that it adopt the following orders:

1. That payment of preliminary just compensation in the amount of \$90,000.00 be authorized to acquire the permanent and temporary easements in the eminent domain lawsuit entitled *The Metropolitan Water Reclamation District of Greater Chicago v. Prime33 Development LLC, et al.*, Case No. 20L050009 in the Circuit Court of Cook County, Illinois, with a guaranteed minimum final compensation award of \$75,000.00.
2. That the General Counsel be authorized and directed to execute and deliver the Agreed Preliminary Just Compensation Order with the court and take such other actions as may be necessary to effectuate said order and to attain said property interests for the Project.

Requested, Susan T. Morakalis, General Counsel and Catherine A. O'Connor, Director of Engineering;
STM:CAO:EMA:BJD:CN

Recommended, Brian A. Perkovich, Executive Director

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for February 4, 2021

Attachment