

T Transportation Committee
Meeting Date: April 12, 2010

Metropolitan Council Meeting: April 14, 2010

ADVISORY INFORMATION

Date: March 30, 2010
Subject: Delegation of Authority Policy for Central Corridor Light Rail Transit Right of Way Acquisition
District(s), Member(s): All
Policy/Legal Reference: Council Policy – Expenditures 3-3 I. D.
Staff Prepared/Presented: Brian Lamb, General Manager, 612-349-7510
Mark Fuhrmann, Deputy General Mgr, 651-602-1942
Division/Department: Metro Transit / Central Corridor Project Office

Proposed Action

That the Metropolitan Council authorize modifications to Metropolitan Council Policy 3-3 I. D., Expenditures for the Acquisition of Real Property, by inserting a category outlining the Metropolitan Council’s oversight authority in relation to Minnesota Department of Transportation acquisition of right-of-way for the Central Corridor Light Rail Transit Project as set forth in the tables below.

Background

As part of the December 13, 2006 Cooperative Agreement between the Metropolitan Council and Minnesota Department of Transportation (Mn/DOT), Mn/DOT agreed to acquire the right-of-way needed for the Central Corridor Light Rail Transit (CCLRT) Project. Met Council agreed that it may acquire certain parcels directly if it made sense to do so, in which case Council staff would seek the authority of the Council to acquire that specific parcel. In the case of Mn/DOT acquiring property for the Project, the state will acquire the property in its own name and then transfer the property to the Met Council after the acquisition. The Federal Transit Administration (FTA) approved the CCLRT Project’s Real Estate Acquisition Management Plan, which outlines the Project’s adherence to federal and state laws and regulations, Met Council’s oversight of all offers to property owners, settlements, and eminent domain proceedings, and Mn/DOT’s process for acquiring property. The CCLRT Project currently estimates that 136 parcel transactions will take place for temporary and permanent easements and fee title acquisitions.

The four tables below summarize the Met Council’s oversight authority in relation to Mn/DOT’s acquisition of the right-of-way needed for the CCLRT Project and compares that to the Met Council’s existing expenditure policy for land that it acquires.

Table 1 – Initial Offers		
Proposed		Existing Policy 3-3 I. D. (when Met Council is acquiring real estate)
Approval Thresholds	Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT	
Over \$500,000	Regional Administrator approval and FTA concurrence required	Regional Administrator approval and FTA concurrence required
\$250,000 or Over	Regional Administrator approval	Metropolitan Council approval
Between \$125,000 and \$249,999	General Manager approval	Regional Administrator approval
Up to \$125,000	CCLRT Project Director approval	Regional Administrator approval

Table 2: These approval thresholds apply to settlements before and after condemnation proceedings.

Table 2 – Approving Offers of Settlements and Settlements		
Proposed		Existing Policy 3-3 I. D. (when Met Council is acquiring real estate)
Approval Thresholds	Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT	
Settlement exceeds initial offer by \$50,000	Regional Administrator approval and FTA concurrence required	Regional Administrator approval and FTA concurrence required
Settlement is less than \$50,000 over the initial offer but exceeds initial offer by more than 15% and Settlement is greater than \$10,000	General Manager approval	Regional Administrator approval (The existing policy is that when the Council has approved the acquisition of real property at an appraised value, the Regional Administrator has the authority to approve the expenditure of up to \$250,000 in settlement costs for each parcel.)
Settlement is less than \$50,000 over the initial offer but exceeds initial offer by less than or equal to 15% and Settlement is greater than \$10,000	CCLRT Project Director approval	Regional Administrator approval
Settlement is less than or equal to \$10,000	CCLRT Project Director approval	Regional Administrator approval

Table 3A: If no settlement is reached after 30 days from the date of the initial offer, Mn/DOT may seek Council approval to initiate eminent domain as shown in Table 3A.

Table 3A – Initiating Eminent Domain		
Proposed		Existing Policy
Approval Thresholds	Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT	
Initial offer exceeds \$500,000	FTA concurrence required	Metropolitan Council approval and FTA concurrence required
Initial offer is greater than \$250,000	Metropolitan Council approval	Metropolitan Council approval
Initial offer between \$50,000 and \$249,999	Regional Administrator approval	Metropolitan Council approval
Initial offer up to \$50,000	CCLRT Project Director approval	Metropolitan Council approval

Table 3B: A Commissioners' award may be appealed within 40 days of the filing of the award.

Table 3B – Eminent Domain – Decision to Appeal Commissioners Award		
Proposed		Existing Policy
Approval Thresholds	Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT	
Commissioners' award exceeds initial offer by \$50,000	FTA concurrence required Regional Administrator approval	FTA concurrence required
Commissioners' award is less than \$50,000 over the initial offer but exceeds initial offer by more than 15% and Commissioners' award is greater than \$10,000.	General Manager approval	No current policy
Commissioners' award is less than \$50,000 over the initial offer but exceeds initial offer by less than or equal to 15% and Commissioners' award is greater than \$10,000.	CCLRT Project Director approval	No current policy
Commissioners' award is less than or equal to \$10,000	CCLRT Project Director approval	No current policy

Rationale

The process described above is designed to ensure Council's oversight of the process and uses of funds for acquiring property, while also ensuring that Mn/DOT can make expedient and responsive offers and settlements to property owners. The attachment to this business item titled "Analysis of Proposed Approval Thresholds for CCLRT ROW Property Acquisition" shows the relative proportions of parcels and their costs for the approval categories presented in the tables above. Generally, the Regional Administrator and the FTA would approve a relatively low percentage of parcels but the highest percentage of the total estimated cost. Inversely, the Central Corridor Project Office would have delegated approval authority for a high percentage of parcels but a low percentage of the estimated total cost.

Funding

This item has no additional budget impact. The Council authorized the Regional Administrator to negotiate and execute a Subordinate Funding Agreement #4 with Mn/DOT for a not-to-exceed amount of \$25,000,000 for property acquisition for the CCLRT Project (Business Item 2009-307, September 23, 2009).

Known Support / Opposition

Mn/DOT supports the process described above.

Analysis of Proposed Approval Thresholds for CCLRT ROW Property Acquisition

Met Council Approval Thresholds	Estimated Number of Parcels	% of Estimated Parcels	Estimated Cost	% of Estimated Cost
Up to \$50,000	102	75%	\$1,150,000	5%
Between \$50,000 and \$124,999	12	8%	\$1,100,000	5%
Between \$125,000 and \$249,999	9	7%	\$1,750,000	8%
Between \$250,000 to \$499,999	8	6%	\$1,000,000	4%
Over \$500,000	5	4%	\$17,500,000	78%
Total *	136	100%	\$22,500,000	100%

* Based on estimates as of March 30, 2010