

# T Transportation Committee

Metropolitan Council meeting: April 14, 2010

Item: 2010-96 SW

**Date** April 13, 2010  
**Prepared:**  
**Subject:** Delegation of Authority Policy for Central Corridor Light Rail Transit Right of Way Acquisition

## 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.

## Summary of Committee Discussion / Questions:

Mark Fuhrmann described this business item as one that adjusts current Met Council expenditure policies for acquisition of real property to delegate authority to the Central Corridor Project Director, the General Manager and Regional Administrator, and retaining its current authority for initiating eminent domain for parcels greater than \$250,000. The policy also shows that Met Council will seek FTA concurrence at required thresholds. This is a same week item because Mn/DOT is finishing a few appraisals that will exceed \$250,000 making an approval policy necessary.

Chair Meeks asked how soon the authority would take effect. Mr. Fuhrmann responded that as soon as the Met Council approves this policy, Mn/DOT will begin making acquisitions on parcels with completed appraisals. Chair Meeks asked where the higher-valued properties are located. Mr. Fuhrmann identified that 2 of the higher value parcels are located where the Operations Maintenance Facility is intended and 4 to 5 parcels are located where the diagonal station is intended. Chair Meeks also asked when the acquisition process will be complete. Mr. Fuhrmann said that most properties will be fully acquired by summer of 2011 unless they are in eminent domain, which can take longer. For those parcels, Mn/DOT can do quick takes to ensure right of access for construction. Council Member Leppik asked if eminent domain can be applied to easements needed at the University of Minnesota. Mr. Fuhrmann responded that Office of General Counsel and the Minnesota Legislature are looking into that question. Council Member Hilker asked how many of the parcels depicted in the Business Item attachment are at the University of Minnesota. Mr. Fuhrmann responded that none of the University of Minnesota properties are in that summary because the CCLRT Project has assumed that public properties would be donated at no cost to the project. Chair Meeks and Council Member Sersland-Beach expressed concerns that this item was binding the future Council to decisions that have potentially significant consequences. Council Member Aguilar said that this decision is similar to many other policy decisions for which the current members will not be present. Council Member Aguilar moved to approve the item; Council Member Leppik seconded. The motion passed. Three in favor; two opposed.

**T** Transportation Committee  
Meeting Date: April 12, 2010

Metropolitan Council Meeting: April 14, 2010

**ADVISORY INFORMATION**

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

<b>Table 1 – Initial Offers</b>		
<b>Proposed</b>		<b>Existing Policy</b> <b>3-3 I. D. (when Met Council is acquiring real estate)</b>
<b>Approval Thresholds</b>	<b>Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT</b>	
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.

<b>Table 2 – Approving Offers of Settlements and Settlements</b>		
<b>Proposed</b>		<b>Existing Policy</b> <b>3-3 I. D. (when Met Council is acquiring real estate)</b>
<b>Approval Thresholds</b>	<b>Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT</b>	
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.

<b>Table 3A – Initiating Eminent Domain</b>		
<b>Proposed</b>		<b>Existing Policy</b>
<b>Approval Thresholds</b>	<b>Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT</b>	
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.

<b>Table 3B – Eminent Domain – Decision to Appeal Commissioners Award</b>		
<b>Proposed</b>		<b>Existing Policy</b>
<b>Approval Thresholds</b>	<b>Met Council Oversight Authority in relation to MnDOT Acquisitions for CCLRT</b>	
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%
<b>Total *</b>	<b>136</b>	<b>100%</b>	<b>\$22,500,000</b>	<b>100%</b>

\* Based on estimates as of March 30, 2010