



**TITLE:** Consider/Discuss/Act on Adoption of a Resolution Determining a Public Necessity to Acquire Certain Property for Public Use by Eminent Domain for Right-of-Way (in Fee Simple) for the Construction, Access and Maintenance Associated with a Roadway Infrastructure Project Along Louisiana Street from State Highway 5 to Throckmorton Street; Along Greenville Street from Louisiana Street to Andrews Street; Along Throckmorton Street from Louisiana Street to Virginia Street; and Along Louisiana Street from Throckmorton Street to Old Settler's Park and Authorizing the City Manager to Establish Procedures for Acquiring the Right-of-Way (in Fee Simple) on Said Property, and Take All Steps Necessary to Acquire the Needed Property Rights in Compliance with all Applicable Laws and Resolutions

**MEETING DATE:** April 16, 2013

**DEPARTMENT:** Development Services / Engineering

**CONTACT:** Jack Carr, PE, Director of Engineering

**RECOMMENDED CITY COUNCIL ACTION:**

- Approval of Resolution using a motion in a form substantially similar to the following:

*"I move that the City of McKinney, Texas, City Council approve this item as written and adopt the Resolution described in this agenda item and authorize the use of the power of eminent domain to acquire for public use all necessary right-of-way (in fee simple) from the owner of the property depicted on and described by metes and bounds attached to said Resolution, said depictions and descriptions being incorporated in their entirety into this motion for all purposes including the construction, access and maintenance of infrastructure improvements along Louisiana Street from State Highway 5 to Throckmorton Street; and Greenville Street from Louisiana Street to Andrews Street; Throckmorton Street from Louisiana Street to Virginia Street; and Louisiana Street from Throckmorton Street to Old Settler's Park associated with the Roadway Infrastructure Project."*

- A roll call vote is required for this item.

**ITEM SUMMARY:**

- This Resolution provides authority to the City Manager to execute documents for the acquisition of right-of-way and the use of Eminent Domain to condemn property to construct:
  - Paving, drainage, utility, and streetscape improvements on:
    - Louisiana Street from SH 5 to Throckmorton Street; and
    - Greenville Street from Louisiana Street to Andrews Street.
  - Sidewalk improvements on:
    - Throckmorton Street from Louisiana Street to Virginia Street; and
    - Louisiana Street from Throckmorton Street to Old Settler’s Park.

**BACKGROUND INFORMATION:**

- The subject Roadway Project Infrastructure Project is funded by a grant awarded to the City of McKinney by the North Central Texas Council of Governments (NCTCOG) in 2010.
- The NCTCOG funding category targets public/private partnerships that foster growth and development in and around historic downtowns, main streets, infill areas, and existing or future transit stations.
- The Project includes paving, drainage, utility, streetscape and sidewalk improvements.
- Construction is anticipated to commence later this year and be completed next summer.
- The City needs to acquire ROW (in fee simple) prior to construction of the Project.
- The affected property owner has been informed of the project details and necessity for the acquisition of a portion of his property.
- An appraisal has been completed and sent to the property owner along with a final offer for the proposed acquisition.
- The City and the property owner have not been able to agree on an equitable settlement for the acquisition of the ROW. Although staff will continue to negotiate an amicable settlement, the need to file an action in Eminent Domain is necessary to keep the project on schedule.
- The acquisition of the following property is necessary for the Roadway Infrastructure Project:

Property Owner	Description	Area	Exhibit
Daniel Perez	Fee Simple ROW	0.082 Acres	A

**FINANCIAL SUMMARY:**

- Funds for the right-of-way acquisition are available in the Capital Improvements Program in CO1208.

**BOARD OR COMMISSION RECOMMENDATION:**

N/A