

**RESOLUTION NO. 2012-05-\_\_\_\_\_ (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE EXECUTION OF DOCUMENTS FOR THE ACQUISITION OF PROPERTY RIGHTS NECESSARY TO CONSTRUCT A PORTION OF VIRGINIA PARKWAY COMMENCING EAST OF ROSE GARDEN DRIVE THEN WEST PAST INDEPENDENCE PARKWAY AND TO CONSTRUCT A PORTION OF INDEPENDENCE PARKWAY NORTH OF VIRGINIA PARKWAY INCLUDING ASSOCIATED UTILITIES; AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS FOR THE ACQUISITION OF EASEMENTS AND RIGHT-OF-WAY; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE CITY MANAGER OF THE CITY OF MCKINNEY, TEXAS, TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AND AUTHORIZING THE CITY MANAGER THE USE OF EMINENT DOMAIN TO CONDEMN PROPERTY AND TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS**

**WHEREAS**, the City Council of the City of McKinney, Texas, has determined that a public need and necessity exists for the construction of a portion of Virginia Parkway commencing east of Rose Garden Drive then west past Independence Parkway and to construct a portion of Independence Parkway North of Virginia Parkway including associated utilities, the location of which is generally set forth in the map attached hereto as Exhibit A; and

**WHEREAS**, the City Council has considered this project and has determined that a public necessity exists for this project and the need for the acquisition of certain property rights for this project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS:**

- Section 1. All of the above premises to be true and correct legislative and factual findings of the City Council, and they are hereby approved, ratified and incorporated into the body of this resolution as if copied in their entirety.
- Section 2. That the City Council of the City of McKinney, Texas hereby authorizes the City Manager to execute documents, as needed, to acquire the necessary easements and right-of-way for the construction of a portion of Virginia Parkway commencing east of Rose Garden Drive then west past Independence Parkway and to construct a portion of Independence Parkway North of Virginia Parkway including associated utilities.
- Section 3. That the City Council hereby finds and determines that a public use and necessity exists for the City of McKinney for the construction of a portion of Virginia Parkway commencing east of Rose Garden Drive then west past Independence Parkway and to construct a portion of Independence Parkway North of Virginia Parkway including associated utilities and to acquire the necessary property rights in those certain tracts or parcels of land deemed necessary for that construction as identified in the construction plans and specifications as amended, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of land, the location of which lots, tracts or parcels are generally shown on the location map attached hereto as Exhibit A, with the anticipated right-of-way (ROW), gas pipeline easement (GPE), drainage (DE) easements and temporary construction easements (TCE), being no more than the following: (1) Rodolfo B. Mora and Margarita J. Mora: (Virginia Pkwy) 0.283 acres ROW; (2) Daron L. Pace and Avalyn Pace (Virginia Pkwy and

Independence Pkwy) 0.333 acres ROW; (3) Locke Jayne Deur Burns et al: (Virginia Pkwy and Independence Pkwy) 3.837 acres ROW, 0.633 acres GPE, TCE 0.668 acres, 0.010 acres DE with a 0.021 acres TCE.

- Section 4. That the City Manager is authorized and directed to negotiate for and to acquire the required property rights for the City of McKinney, and to acquire said rights in compliance with State and Federal law. That the City Manager is specifically authorized and directed to do each and every act necessary to acquire the needed property rights including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to designate a qualified appraiser of the property to be acquired when such appraisal is necessary and, where necessary, the use of Eminent Domain to condemn property.
- Section 5. That the City Manager is specifically authorized and directed to do each and every act necessary to acquire the needed property rights including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to designate a qualified appraiser of the property to be acquired when such appraisal is necessary and, where necessary, to institute proceedings in eminent domain.
- Section 6. That the City Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of this property and, as such, the City Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose.
- Section 7. That the City Manager is specifically authorized to establish the just compensation for the acquisition of this property.
- Section 8. That, if the City Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the City Attorney or his designee is hereby authorized and directed to file or cause to be filed, against the owners and interested parties of the property, proceedings in eminent domain to acquire the above-stated interest in the property.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 1<sup>ST</sup> DAY OF MAY, 2012.**

CITY OF MCKINNEY, TEXAS

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA  
Assistant City Secretary

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney