



19-0470

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), Slope Easements and Drainage Easements for the Construction, Access and Maintenance Associated with a Roadway Infrastructure Project Along Country Lane from its Intersection with FM 546 to the Existing Concrete Pavement for Country Lane and Authorizing the City Manager to Establish Procedures for Acquiring the Right-of-Way (in Fee Simple) and Easements on Said Properties, and Take All Steps Necessary to Acquire the Needed Property Rights in Compliance with all Applicable Laws and Resolutions

COUNCIL GOAL: Operational Excellence
(2B: Balance available resources to accommodate the growth and maintenance needs of the city)

MEETING DATE: June 4, 2019

DEPARTMENT: Development Services / Engineering

CONTACT: Gary Graham, 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), slope easements and drainage easement 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 Country Lane from

its intersection with FM 546 to the existing concrete pavement for Country Lane 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 property rights and the use of Eminent Domain to condemn property to construct paving and drainage improvements on Country Lane from its intersection with FM 546 to the existing concrete pavement for Country Lane.

BACKGROUND INFORMATION:

- Upon completion of the ongoing TxDOT FM 546 construction project, a connection is proposed from the Country Lane and FM 546 intersection to the existing concrete pavement on Country Lane.
 - The project will construct two northbound through lanes, two southbound through lanes, and southbound right and left turn lanes at FM 546.
 - Construction is anticipated to commence this summer and anticipated completion is winter 2020.
 - The Project requires the acquisition of Right-of-Way (ROW), Slope Easements and Drainage Easements from two property owners prior to construction. The two property owners are Simpson Manufacturing Company, Inc. and MO & Associate LLC.
 - The property owners have been informed of the project details and necessity for the acquisition of a portion of their property.
 - Appraisals were commissioned and sent to the property owners along with both an initial and a final offer for the proposed acquisitions.
 - The City and Simpson Manufacturing Company reached an agreement on May 21, 2019 for the acquisition of the necessary property rights.
 - The remaining property owner, MO & Associates (MO), has not accepted the City's final offer to purchase sent on March 26, 2019. There is a current dispute and lawsuit filed regarding the ownership of the subject property. The City will be able to acquire clear title via the condemnation process. Once the dispute is settled the Court can determine who is entitled to payment (Award of Special Commissioners) for the Right-of-Way and Easements.
 - The acquisition of the following property is necessary for the Roadway Infrastructure Project:
-

Property Owner	Description	Area	Resolution Exhibit
MO & Associate, LLC	Fee Simple ROW	0.129 AC	B
	Slope Easement (2 tracts)	0.009 AC 0.015 AC	
	Drainage Easement	0.052 AC	

FINANCIAL SUMMARY:

- Funds for the right-of-way and easement acquisitions are available in the Capital Improvements Program in ST4372.
- There is \$1,311,600.00 in available funds in the ST4372 project.

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Resolution](#)
[Location Map](#)