



CITY OF MCKINNEY, TEXAS

Legislation Text

File #: 18-673, **Version:** 1

Consider/Discuss/Act on a Resolution Authorizing the Execution of Documents for the Acquisition of Easements and the Consideration of the Use of Eminent Domain to Condemn Property for the Construction of Utility Lines Along US 380 (University) from about Red Bud Drive Continuing East for Approximately 4,600 Feet and Along a Portion of Custer Road Commencing Approximately 300 Feet South of its Intersection with University and Continuing South for Approximately 1,000 Feet in Association with the US 380 Water Line Improvements Project (WA4415)

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

MEETING DATE: August 6, 2018

DEPARTMENT: Development Services/Engineering

CONTACT: Michael Hebert, PE, Assistant Director of Engineering

RECOMMENDED CITY COUNCIL ACTION:

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

"I move that we approve this item as written and authorize the use of the power of eminent domain to acquire all necessary easements from property owners, generally indicated on the attached property locator map, for the construction of utility lines generally known as the US 380 Water Line Improvements Project."

ITEM SUMMARY:

- This item provides authority to the City Manager to execute documents for the acquisition of utility easements (UE) and temporary construction easements (TCE); and the use of eminent domain to condemn property to complete the construction of a portion of the US 380 Water Line along University from about Red Bud Drive continuing east for approximately 4,600 feet and along a portion of Custer Road commencing approximately 300 feet south of its intersection with University and continuing south for approximately 1,000 feet (Project).

BACKGROUND INFORMATION:

- The City of McKinney Capital Improvements Program includes funds needed for the construction of 12-inch, 16-inch and 24-inch water mains generally along US 380 from Custer Road to the west side of Red Bud Estates.
- Per the 2012-2013 Water Master Plan these mains are needed to deliver water to the

distribution system in the 920 pressure plane in order to meet the demands of the City's growing population and businesses.

- The affected properties are located along the water line shown on the attached property locator map.
- The City obtained appraisals in order to send bonafide and fair market offers to purchase the necessary easements for the Project.
- Both initial and final offers were sent to the affected property owners.
- 5 of 13 property owners have accepted the City's offers to purchase the subject water line and temporary construction easements.
- The City still needs to acquire easements from the remaining property owners.
- Several of the remaining property owners have been non-responsive to the City's offers to purchase.
- This agenda item provides authority to the City Manager to execute documents for the acquisition of easements and to take all necessary steps to acquire property rights in order to construct the Project.
- As previously presented to Council, Senate Bill 18 (SB 18) was passed into law during the Texas 82nd Regular Legislative Session and became effective September 1, 2011. The Bill created the following impacts on negotiations and the eminent domain practices of the City:
 - The Truth in Condemnation Procedures Act states that a governmental entity must authorize the initiation of a condemnation proceeding at a public meeting and must be approved by a record vote.
 - The Act also requires the governmental entity to include in the notice for the public meeting, "the consideration of the use of eminent domain to condemn property" as an agenda item.
 - Under the Act, a single ordinance or resolution authorizing the initiation of the condemnation proceeding may be adopted for all units (parcels) of property to be condemned for a utility line from point to point, along a general area/route without identifying a list of specific parcels.
 - The required motion (as provided above) indicates that the first record vote applies to all units of property to be condemned. If action is taken as a single vote, the minutes of the meeting must reflect that the first vote applies to all units.

FINANCIAL SUMMARY:

- Funds for the acquisition of easements are available in WA4415.

BOARD OR COMMISSION RECOMMENDATION:

- N/A