



22-0643

TITLE: Consider/Discuss/Act on a Resolution Authorizing the Execution of Documents for the Acquisition of Water and Temporary Construction Easements and the Consideration of the Use of Eminent Domain to Condemn Property for the Construction of a Water Line on a Property Which is Generally Located Near the Northeast Corner of US Highway 75 (Central Expressway/Sam Johnson Highway) and Bloomdale Road.

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

MEETING DATE: July 19, 2022

DEPARTMENT: Development Services/Engineering

CONTACT: Gary Graham, PE, PTOE, Director of Engineering
Todd Wright, Real Estate Acquisitions Administrator

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 Bloomdale, LLC, as identified as owner of record by the Collin County Appraisal District, and any other persons or entities claiming an interest to the property, generally indicated on the attached Property Location Map, for the construction of a water line."

ITEM SUMMARY:

- This item provides authority to the City Manager to execute documents for the acquisition of Water and Temporary Construction Easements; and the use of eminent domain to condemn property for the construction of a water line to serve the future development of adjacent or nearby properties in accordance with a Development Agreement.

BACKGROUND INFORMATION:

- The City entered into a Development Agreement with property owner CH-B Trinity Falls, L.P. (Trinity Falls), or its assigns, for the development of Trinity Falls located near the corner of FM 543 and Trinity Falls Parkway.
- Under the Agreement, Trinity Falls, or its assigns, agreed to fund and construct, at no cost to the City, certain public infrastructure including the extension of offsite utility and drainage improvements across an approximate 70-acre tract owned by Bloomdale, LLC (Bloomdale), to provide service to Trinity Falls property and all other areas within the 850 Pressure Plane as shown on the attached Property Location Map.
- Prior to commencement of construction Trinity Falls, or its assigns, is required to convey or cause to be conveyed any necessary off-site infrastructure easements which include a Water easement and a Temporary Construction easement (collectively “Easements”). The Easements are necessary to convey water to Trinity Falls property and all other areas within the 850 Pressure Plane as shown on the attached Property Location Map.
- Trinity Falls, or its assigns, obtained an independent appraisal to determine the fair market value of the Easements and extended an offer to purchase from Bloomdale. Trinity Falls, or its assigns, has been unsuccessful in the acquisition of the Easements after using all commercially reasonable efforts to do so.
- In accordance with the agreement:
 1. If Trinity Falls, or its assigns, is unable to acquire all the necessary offsite easements after using reasonable and diligent efforts, upon written notice to the City, the City agrees to use its eminent domain authority subject to approval of City Council to acquire the necessary property interests for Trinity Falls, or its assign’s construction of the requisite facilities.
 2. Trinity Falls, or its assigns, has been unsuccessful in its efforts to obtain all the necessary easements and has submitted satisfactory documentation of its efforts along with a written request that the City use its eminent domain authority to acquire the needed property rights.
 3. In the event the City elects to acquire any property interests through eminent domain, Trinity Falls, or its assigns, agrees to reimburse the City for all costs associated with acquiring those interests for public use.
- 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 a water line to serve future development and adjacent and nearby properties.
- 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:

- Per the development agreement, funds for the acquisition of easements will be provided for by Trinity Falls, or its assigns.

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Resolution](#)

[Location Map](#)