



AGENDA MEMORANDUM

Future Item for the City Council Meeting of July 23, 2013

Action Item for the City Council Meeting of July 30, 2013

DATE: June 25, 2013

TO: Ronald L. Olson, City Manager

FROM: Daniel Biles, P.E. Director of Engineering Services
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Motion adopting a resolution for the acquisition of real property rights for the Holly Road Street Improvement Project – Greenwood Dr. to (SH 286) Crosstown Expressway, Bond 2008

CAPTION:

A resolution of the City Council of the City of Corpus Christi, Texas **(1)** determining the public necessity and public use for the acquisition of parcels of land by fee simple title to the surface estate, utility easements, and temporary construction easements for a street improvement project known as the Holly Road Street Improvement Project which is to be generally located from Greenwood Dr. to (SH286) Crosstown Expressway, Bond 2008; **(2)** authorizing the City Manager or his designee to negotiate and execute all documents necessary to acquire the property interests subject to availability of funds appropriated for such purposes; **(3)** authorizing the City Manager to institute condemnation by eminent domain proceedings to acquire the fee simple and easement interests in the properties; **(4)** authorizing payment pursuant to an award by Special Commissioners; **(5)** authorizing acceptance and recording of appropriate legal instruments; and **(6)** approving condemnation for all units of property to be acquired by condemnation the parcels of land described herein by a single record vote of the City Council.

PURPOSE:

Should it ever become necessary to use proceedings in eminent domain to acquire the property rights needed for the Holly Road Street Improvement Project – Greenwood Dr. to (SH286) Crosstown Expressway, Bond 2008, Council must first determine that a

public use and necessity exists for the Project, and then must delegate its authority to use the power of eminent domain to the City Manager. Only if the City and the landowners cannot reach an agreement on the value of the parcel and any resulting damages would eminent domain proceedings become necessary to acquire the easement or fee simple rights. The City Manager also requests authority to purchase the necessary property rights by authorizing the City Manager or his designee to execute all real estate purchase contracts and related instruments, provided that the amounts are within Council-approved project budgets.

BACKGROUND AND FINDINGS:

On September 1, 2011, Texas Senate Bill 18 also known as SB18, became effective which requires all entities with eminent domain authority, to follow certain procedures prior to initiating eminent domain proceedings under Section §21.012 of the Texas Property Code. The new procedures are more restrictive on the condemning authorities and stipulate certain requirements. One of them is the requirement of a vote on the use of eminent domain by a governmental entity under Section 2206.052 of the Texas Government Code. The original resolution approved on July 6, 2011 lacked certain details now required by SB 18. This resolution and the motion to adopt it are in a form required under Senate Bill 18 and other state law requirements. Staff requests Council pass the motion to adopt the resolution as presented

The City will proceed to acquire land rights including fee simple surface rights, utility easement, and temporary construction easements from nine various landowners within the project area. The landowners, listed on the attached Parcel Ownership List, have been given written notification of the upcoming street project along with the required Texas Landowner Bill of Rights. Offers of just compensation will be presented based on real estate appraisals obtained by the City. Negotiations will commence upon presentation of the written offers.

ALTERNATIVES:

No alternatives are available for a governmental entity to be able to use of its power of eminent domain. Under Texas law, Council must adopt a resolution at a public meeting by record vote delegating its authority. .

OTHER CONSIDERATIONS:

None

CONFORMITY TO CITY POLICY:

The resolution conforms to the City Charter, Code of Ordinances, Article X, General Powers and Provisions, Section 1. The resolution and the motion adopting it conform to Senate Bill 18 (SB18), Chapter 21 of the Property Code, and Chapter 2206.052 of the Government Code.

EMERGENCY / NON-EMERGENCY:

Non-Emergency

DEPARTMENTAL CLEARANCES:

Engineering and Street Departments

FINANCIAL IMPACT:

Operating Revenue Capital Not applicable

Fiscal Year: 2012-2013	Project to Date Expenditures (CIP only)	Current Year	Future Years	TOTALS
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s): Streets, FY 2011-2012 and future FY2013-2014 programming.

Comments: None

RECOMMENDATION:

Approval of the Resolution as presented.

LIST OF SUPPORTING DOCUMENTS:

Project Location Map
Parcel Ownership List
Resolution