



AGENDA MEMORANDUM

Future Item for the City Council Meeting of January 8, 2013
Action Item for the City Council Meeting of January 15, 2013

DATE: December 21, 2012

TO: Ronald L. Olson, City Manager

FROM: Daniel Biles, P.E. Director of Engineering Services
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**Resolution for the acquisition of real property rights for the
Mary Rhodes Pipeline, Phase 2 Project.**

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 and by waterline easements for a water line pipeline project known as the Mary Rhodes Pipeline Phase 2, which is to be generally located along the route from Bay City, Texas to Lake Texana described as follows:

From a point which begins on the west bank of the Colorado River in Matagorda County, Texas just north of the State Highway 35 bridge and runs approximately 41 miles to the City's pump station adjacent to the Palmetto Bend Dam on Lake Texana located in Jackson County, Texas; said pipeline further described as follows: leaving the Colorado River, the alignment will parallel State Highway 35 in a southwesterly direction through Matagorda County for approximately 13 miles until just east of Blessing, Texas, where the alignment will break more westerly to follow the Union Pacific Railroad easement on the north side of Blessing, Texas for approximately 2.5 miles west of Blessing and continuing in a southwesterly direction for approximately 5 miles; the alignment will parallel FM 616 and continue through Matagorda County to the Jackson County line where it will continue parallel to FM 616 in Jackson County through Francitas, Texas for approximately 9 miles until just east of La Ward, Texas where the alignment will turn northwesterly to circumnavigate La Ward for approximately 1.5 miles; the alignment will then parallel SH172 in a northerly direction out of La Ward for approximately 2 miles where it will turn westerly following FM 3131 approximately 8 miles to the west delivery system on the west bank of the Navidad river in Jackson County; **(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 within the water line route 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 Mary Rhodes Pipeline Phase II Project, 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 July 6, 2011, City Council approved Resolution No. 029162 which determined a public necessity for acquisition of easements for the Mary Rhodes Pipeline Phase 2 Project for public purposes, use and construction of a water pipeline. The resolution also authorized the City Manager, City Attorney and Agents of the City to acquire easements by means of negotiations or eminent domain proceedings, if necessary.

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

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 Water 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	8,751,400	5,094,600	TBD	13,846,000
Encumbered / Expended Amount	8,751,400			8,751,400
This item				
BALANCE	0.00	5,094,600	TBD	5,094,600

Fund(s): Water Capital Improvement Program Revenue Bonds and Future year programming.

Comments: Future requirements based upon negotiated land acquisition costs.

RECOMMENDATION:

Approval of the Resolution as presented.

LIST OF SUPPORTING DOCUMENTS:

Proposed Route Map
Resolution