



## AGENDA MEMORANDUM

Future Item for the City Council Meeting of February 25, 2014

Action Item for the City Council Meeting of March 18, 2014

**DATE:** January 21, 2014

**TO:** Ronald L. Olson, City Manager

**THRU:** Mark Van Vleck, P. E., Interim Assistant City Manager of Public Works and Utilities  
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826-3897

**FROM:** Daniel Biles, P. E., Executive Director Public Works  
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826-3729

**Motion adopting a resolution for the acquisition of real property rights for the Navigation Boulevard Street Improvement Project – Up River Road to Leopard Street, Bond 2012**

### **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, right-of-way easements, utility easements, and temporary construction easements for a street improvement project known as the Navigation Boulevard Street Improvement Project which is to be generally located from Leopard Street northward to Up River Road, Bond 2012; **(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 Navigation Boulevard Street Improvement Project – Up River Road to Leopard Street, Bond 2012, 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 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 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:**

Department of Engineering Services (Capital Construction)  
Department of Street Operations

**FINANCIAL IMPACT:**

Operating                       Revenue                       Capital                       Not applicable

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

**Comments:** None

**RECOMMENDATION:**

Approval of the Resolution as presented.

**LIST OF SUPPORTING DOCUMENTS:**

Exhibit A, Parcel Ownership List  
Exhibit B, Project Location Map  
Resolution