



AGENDA MEMORANDUM

Future Item for the City Council Meeting of January 12, 2016

Action Item for the City Council Meeting January 19, 2016

DATE: October 20, 2015

TO: Ronald L. Olson, City Manager

FROM: Valerie H. Gray, P.E., Executive Director of Public Works
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**Resolution for the acquisition of real property rights
by eminent domain for the
Island Gate Plaza Center Alternative Access 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 a Right-of-Way and Temporary Construction Easement known as Parcel 3 for a street improvement project known as the Island Gate Plaza Center Alternative Access Project; **(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 easement interests in the property owned by Kimco Corpus Christi L.P.; **(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 described herein by a single record vote of the City Council.

PURPOSE:

This resolution will be required should it become necessary to proceed with eminent domain proceedings in order to acquire the remaining easement needed for this street 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. Eminent domain proceedings will be necessary only if the City and the landowner cannot reach an agreement on the value of the parcel and any damage to the remaining property or if the landowner refuses to sell regardless of price. The resolution also authorizes the City Manager or his designee to execute all real estate purchase contracts and instruments, provided that the amounts are within Council-approved project budgets.

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. This resolution is in the form required under Senate Bill 18 and other state law requirements. Staff requests Council to adopt and approve the resolution as presented

BACKGROUND AND FINDINGS:

The Island Gate Plaza Center is a highly developed commercial area located at the southwest corner of Everhart Road and South Padre Island Drive (SPID). Major tenants include Michaels, Best Buy, Ross, Shoe Carnival and Bed Bath & Beyond. Access to the center is currently provided via three driveways located on SPID frontage road and one driveway on Everhart Road. Access to this center from the frontage road is limited to eastbound traffic since the frontage road is one-way eastbound. Access is further complicated by traffic exiting from the SPID main lanes on the Everhart Road off ramp. The traffic volume and weaving movements make this area dangerous for vehicular traffic and difficult for entry into the Center. Access from Everhart Road is limited to southbound traffic and northbound left turns are prohibited by traffic delineators during weekends and holidays, this situation is greatly compounded by higher traffic counts.

A previous study performed by HDR Engineering as part of the Traffic Congestion Projects for the City determined that it would be beneficial to construct an access street from Corona Drive to the back of the Island Gate Plaza Center. This rear access way would serve as a multi-purpose traffic solution to: 1) relieve traffic congestion and stacking on the SPID frontage road caused by exiting from the strip center at its SPID driveways; 2) prevent south bound traffic stacking on Everhart Road caused by traffic exiting the strip center; and 3) provide an auxiliary access to the rear of the center from Corona which would relieve ingress problems from the other entrances. The new access street will be marked by the City with a traffic control sign at the Corona entrance to identify and facilitate the new entrance for motorists. The access street will be constructed in conjunction with the Corona Drive Street Improvement Project (Bond 2014).

The proposed 25 foot wide access street will include a two lanes, with curb, gutter, and 5-foot pedestrian sidewalk to the rear corner of the strip center. City staff has acquired two of the three parcels required. City staff made an offer of just compensation to the landowner, Kimco Realty, in the amount of \$20,500 based on a real estate appraisal

obtained by the City. The landowner rejected the City's offer due to concerns of excessive traffic and other safety issues. After further negotiations and discussions on the owner's issues, a subsequent and final offer was made in the amount of \$27,800 based on new land sales data. The final offer has not been accepted nor have they provided any counter offer. The landowner has been given written notification of the upcoming Corona Drive street project along with the required Texas Landowner Bill of Rights. The City's offer will remain valid until such time eminent domain proceedings are filed in a court of law.

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 conforms 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 Department

FINANCIAL IMPACT:

☐ Operating ☐ Revenue ☐ Capital ☐ Not applicable

Fiscal Year: 2015-2016	Project to Date Expenditures (CIP only)	Current Year	Future Years	TOTALS
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s):

Comments: None

RECOMMENDATION:

Approval of the Resolution as presented.

LIST OF SUPPORTING DOCUMENTS:

Council Exhibit
Resolution
Presentation