



AGENDA MEMORANDUM

First Reading for the City Council Meeting of June 18, 2019
Second Reading for the City Council Meeting of June 25, 2019

DATE: May 23, 2019

TO: Peter Zaroni, City Manager

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Ordinance Granting an Easement and Temporary Construction Easement

CAPTION:

Ordinance granting an easement and a temporary construction easement to Southwestern Bell Telephone, LP (SWB) across Ben Garza Park for SWB's existing facilities so that SWB can update its fiber cable system as part of the Harbor Bridge Project.

PURPOSE:

Southwestern Bell Telephone (SWB) is required to reconstruct an existing underground cable facility within the City's park as a result of the Harbor Bridge project. There is an existing SWB facility located within the park; however, a recorded easement could not be located by either the City or SWB. This ordinance is to establish and delineate an easement for SWB's existing facilities.

BACKGROUND AND FINDINGS:

The City acquired 11.07 acres of land for Ben Garza Park in 1935. In the early 1940's, Southwestern Bell Telephone installed a manhole with various telephone cable conduits within the park. The cables provided communication services to the residents in the vicinity around the park. The facility installed by SWB was gradually updated with fiber optic cables and other infrastructure. As part of the Harbor Bridge project, SWB needs to update the fiber cable system and rebuild the old manhole which serves as a cable hub.

A recent search of the easement records was made at the Nueces County Clerks office. A recorded

easement to SWB was not found for their facility. The possibility exists that SWB was a franchisee of the City at the time and a permit or license was issued to install their facilities. In the absence of a recorded easement or any other type of license, City has agreed to grant SWB a perpetual easement to replace what could not be located. The new easement will delineate a 20-foot wide strip located across the park as shown on the attached Vicinity Map. A temporary construction easement will adjoin the permanent easement.

SWB has provided the Easement for Underground Telecommunication Facilities for approval by City Council. The easement requires SWB to move their facilities, at their cost, if it interferes with any future City improvements. City Council approval is needed to grant any real property rights. The passage of this ordinance grants the easement and allows the City Manager or designee to execute the attached easement instrument.

ALTERNATIVES:

- 1.) Grant this easement to Southwestern Bell Telephone, LP (Recommended)
- 2.) Deny the grant of the easement which could result in possible eminent domain proceedings by SWB and delays to the Harbor Bridge Project (Not Recommended)

OTHER CONSIDERATIONS:

Grant the easement as requested to document and delineate an easement within the park. Without documenting the underground line, there is risk of severing the fiber cable system during any future construction by the City.

CONFORMITY TO CITY POLICY:

The City is authorized under its home-rule authority, as well as under the grant of powers under Section 1, Article X of the Charter, to convey property. This ordinance also conforms to Section 1, Article IX of the Charter.

EMERGENCY / NON-EMERGENCY:

Non-Emergency

DEPARTMENTAL CLEARANCES:

Engineering Department
Park & Recreation Department

FINANCIAL IMPACT:☐ Operating ☐ Revenue☐ Capital☒ Not applicable

Fiscal Year: 2018-2019	Project to Date Expenditures (CIP only)	Current Year	Future Years	TOTALS
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s): None

COMMENTS: No expenditures are requested.**RECOMMENDATION:**

Approval of the Ordinance as presented.

LIST OF SUPPORTING DOCUMENTS:

Ordinance
Easement for Underground Telecommunications Facilities
Location Map
Vicinity Map
Presentation