

Mayor and Council Communication

DATE: 11/28/23

M&C FILE NUMBER: M&C 23-1022

LOG NAME: 21PMD 02505 P03 CONDEMN R

SUBJECT

(CD 6) Amend Mayor and Council Communication L-16243 to Adopt Resolution Authorizing Condemnation by Eminent Domain to Acquire 9.5664 Acres of Land in Right-of-Way Easements, 1.013 Acres of Land in Permanent Slope Easements, 0.7113 Acres of Land in Permanent Drainage Easements and 1.7255 Acres of Land for a Temporary Construction Easement from Property Owned by COHIX, LLC, a Texas Limited Liability Company, Located in the Moses Walters Survey, Abstract No. 1598, J. H. Duncan Survey, Abstract No. 398 in City of Fort Worth, Tarrant County, Texas, for the McCart Avenue/McPherson Boulevard Project (2014 Bond Program)

RECOMMENDATION:

It is recommended that the City Council:

1. Amend Mayor and Council Communication L-16243 to adopt the resolution authorizing condemnation by eminent domain to acquire 9.5664 Acres of Land in Right-of-Way Easements, 1.013 Acres of Land in Permanent Slope Easements, 0.7113 Acres of Land in Permanent Drainage Easements and 1.7255 Acres of Land for a Temporary Construction Easement from Property Owned by COHIX, LLC, a Texas Limited Liability Company, Located in the Moses Walters Survey, Abstract No. 1598, J. H. Duncan Survey, Abstract No. 398 in City of Fort Worth, Tarrant County, Texas, for the McCart Avenue/McPherson Boulevard Project (2014 Bond Program).
2. Declare the necessity to acquire the various property interests for the McCart Avenue/McPherson Project;
3. Declare that negotiations between the City and the landowner to acquire 9.5664 Acres of Land in Right-of-Way Easements, 1.013 Acres of Land in Permanent Slope Easements, 0.7113 Acres of Land in Permanent Drainage Easements and 1.7255 Acres of Land for a Temporary Construction Easement from Property Owned by COHIX, LLC, a Texas Limited Liability Company, Located in the Moses Walters Survey, Abstract No. 1598, J. H. Duncan Survey, Abstract No. 398 in City of Fort Worth, Tarrant County, Texas, for the McCart Avenue/McPherson Boulevard Project (2014 Bond Program) were unsuccessful due to the inability to reach a mutually agreed upon value for the property interest being acquired by the City;
4. Adopt the attached resolution authorizing the City to use its power of eminent domain to acquire the property for public use for the McCart Avenue/McPherson Project;
5. Authorize the City Attorney to institute condemnation by eminent domain proceedings to acquire the described property interests from the property owner;
6. Authorize a payment pursuant to an award of commissioners or a negotiated settlement; and
7. Authorize the City Manager or his designee to accept and record the appropriate instruments.

DISCUSSION:

On June 25, 2019 Mayor & Council Communication (M&C) (L-16243), the Fort Worth City Council authorized condemnation by eminent domain to acquire 14.501 acres of land for right-of-way, 1.2429 acres for permanent slope easements, 1.0151 acres for permanent drainage and 1.306 acres for temporary construction. However, since M&C L-16243 was approved, Cohix, LLC sold various portions of land resulting in a decrease in easement interest needed for the McCart Avenue/McPherson Project. Therefore, staff is recommending that M&C L-16243 be amended to decrease the easement interest needed on the property.

The land rights in the subject property are needed for new travel lanes, intersection improvements, storm drainage improvements, sidewalks, and streetlights as necessary. An independent appraisal established fair market value for the various property interests in the total amount of \$1,435,700.00.

Negotiations were unsuccessful due to the inability to reach a mutually agreed upon value for the property interests being acquired by the City. Upon approval, a Special Commissioners' hearing will be brought to acquire the various property interests on the property.

Parcel No.	Legal Description	Acreage/Interest
3A-ROW-1, 3A-ROW-2, 3B-ROW, 3B-ROW-2, 3B-ROW-3, 3B-ROW-4, 3C-ROW	Mose Walters Survey, Abstract No. 1598, J.H. Duncan Survey, Abstract No. 398	9.5664 Acres/Right-of-Way Easements
3B-SE-1, 3B-SE-2, 3B-SE-3, 3B-SE-4, 3B-SE-5, 3C-SE-1, 3C-SE-2	Mose Walters Survey, Abstract No. 1598, J.H. Duncan Survey, Abstract No. 398	1.013 Acres/Permanent Slope Easements
3A-DE-1, 3B-DE 1, 3B-DE-4, 3C-DE	Mose Walters Survey, Abstract No. 1598, J.H. Duncan Survey, Abstract	0.7113 Acres/Permanent Drainage

	No. 398	Easements
3A- 1-TCE, 3A-2-TCE, 3B-TCE, 3C-TCE	Mose Walters Survey, Abstract No. 1598, J.H. Duncan Survey, Abstract No. 398	1.7255 Acres/Temporary Construction Easement

Funding is budgeted in the 2014 Bond Program Fund for the purpose of funding the McCart Ave & McPherson Blvd project, as appropriated.

To approve this Mayor and Council Communication (M&C), the Council Member making a motion to authorize condemnation by eminent domain should say:

I move that the Fort Worth City Council adopt the resolution authorizing use of the power of eminent domain to acquire 9.5664 acres of land in right-of-way easements, 1.013 acres of land in permanent slope easements, 0.7113 acres of land in permanent drainage easements and 1.7255 acres of land for a temporary construction easement from property owned by COHIX, LLC, a Texas Limited Liability Company, located in the Moses Walters Survey, Abstract No.1598, J. H. Duncan Survey, Abstract No. 398 in City of Fort Worth, Tarrant County, Texas. The land rights in the subject property are needed for the McCart Avenue/McPherson Project; a public purpose that provides for new travel lanes, intersection improvements, storm drainage improvements, sidewalks, and streetlights as necessary. The property is further described by metes and bounds and depicted by survey exhibits attached to this Mayor and Council Communication.

This property is located in Council District 6.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that funds are available in the current capital budget, as previously appropriated, in the 2014 Bond Program for the McCart Ave & McPherson Blvd project to support the approval of the above recommendations and acquisition of easements. Prior to any expenditure being incurred, the Property Management Department has the responsibility to validate the availability of funds.

Submitted for City Manager's Office by: Dana Burghdoff 8018

Originating Business Unit Head: Steve Cooke 5134

Additional Information Contact: Dickson Robin 2554