



MEMORANDUM

July 1, 2012

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator
David Parker, P.E., CIP Executive/City Engineer
Paul Holzen, P.E., Director of Engineering
Jonathan Marston, P.E., Staff Engineer 2

SUBJECT: Resolution 2012-41; A Resolution Authorizing Condemnation for the Acquisition of Property for the McEwen Drive Temporary Connector Project (COF Contract No 2012-0076)

Purpose

The purpose of this memorandum is to recommend approval of Resolution 2012-41. This resolution will authorize condemnation for the acquisition of the necessary Right of Way and easements for the McEwen Drive Temporary Connector Project.

Background

On April 24, 2012, the Board of Mayor and Aldermen (BOMA) passed Ordinance 2012-20 as amended, An Ordinance to Adopt the FY 2011-2015 Capital Investment program (CIP) and the Top Ten (10) Board of Mayor and Aldermen Priorities with associated Funding Plan. The right-of-way plans for this project have almost been completed by SEI. City Staff is in the process of getting contracts together for ROW acquisition (Title Searches, Appraisals, etc.) and will bring those contracts forward at the next BOMA meeting.

In an effort to prevent the acquisition process from creating a potential delay, staff has written Resolution 2012-41 to authorize condemnation proceedings. Staff will work diligently with all property owners and use condemnation only as a last resort.

Financial Impact

No additional financial impact at this time.

Recommendation

Staff recommends approval of Resolution 2012-41 authorizing condemnation, if necessary, to finalize property acquisition for the McEwen Drive Temporary Connector Project. Currently, property acquisition is scheduled to be completed in the fall 2012. At this point, approval of this Resolution will only help staff to maintain this schedule in the event negotiations falter.

RESOLUTION 2012-41

A RESOLUTION AUTHORIZING CONDEMNATION FOR THE ACQUISITION OF PROPERTY FOR THE McEWEN DRIVE TEMPORARY CONNECTOR PROJECT (COF CONTRACT NO. 2012-0076)

WHEREAS, the Board of Mayor and Aldermen has determined that the construction of certain road improvements within the City limits of Franklin is necessary, suitable and desirable for the public welfare; and

WHEREAS, these improvements are generally described as the relocation of McEwen Drive from the roundabout at Oxford Glen Drive & Cool Springs Boulevard to approximately 1600 feet east of said roundabout as shown on Right-of-Way Plans prepared by Sullivan Engineering, Inc. (COF Contract No. 2012-0076); and

WHEREAS, it will be necessary in connection with the construction of the improvements for the City to obtain rights-of-way (property) from landowners; and

WHEREAS, the Board has previously approved a budget for the above-described road project, which includes estimated amounts allocated for right-of-way (property) acquisition; and

WHEREAS, the McEwen Drive Temporary Connector Project is a high priority; and

WHEREAS, the Board expressly finds that the City has the power of eminent domain to extend public roads, see T.C.A. §29-17-201 *et seq.* and to acquire easements and rights-of-way necessary for proper completion of the said improvements, and that the acquisition of such easements and/or rights-of-way is for a public purpose and for a public use, and that the acquisition of the private property hereinafter described is necessary to accomplish said public use;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that the City Engineer and /or City Attorney, are authorized to obtain the necessary rights-of-way, permanent easements and/or temporary easements across the properties listed in

Exhibit A hereto and may enter into agreements with property owners with respect to the compensation to be paid for the said rights of way and easements, so long as such amounts are reasonable, within the project budget and supported by a qualified appraisal.

The City Engineer and City Attorney are authorized to continue negotiating with any landowner for the acquisition of the rights-of-way and/or easements without resort to condemnation. However, if an impasse is reached with a property and condemnation is the only alternative, then the City Attorney is authorized to commence necessary condemnation proceedings. After condemnation proceedings have commenced, the City Engineer and /or City Attorney, are authorized to enter into settlement agreements with property owners with respect to the compensation to be paid for the said rights-of-way and easements, so long as such amounts are reasonable, within the project budget and supported by a qualified appraisal.

IT IS SO RESOLVED AND DONE on this the 24th day of July, 2012.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

By: _____
ERIC S. STUCKEY
City Administrator

By: _____
DR. KEN MOORE
Mayor

Approved As To Form

By: _____
Shauna R. Billingsley
City Attorney