

RESOLUTION 2014-43

**A RESOLUTION AUTHORIZING CONDEMNATION FOR THE
ACQUISITION OF PROPERTY AT 264 NATCHEZ STREET**

WHEREAS, the City of Franklin (City) has determined that certain improvements to 11th Avenue South are suitable and desirable for the public welfare; and

WHEREAS, these improvements are generally described as the construction of 11th Avenue South and Park Street water and sanitary sewer rehabilitation, installation of sidewalks and handicap ramps and repaving of both streets; and

WHEREAS, the City has an agreement (COF Contract No 2013-0079) dated January 14, 2014 with L&C Contractors to construct the 11th Avenue Project; and

WHEREAS, MTEMC is responsible for moving its pole that is currently in the sidewalk at the intersection of 11th Avenue South and Natchez Street, the City and MTEMC representatives have met and concluded that moving the pole will be an extensive undertaking and expensive; and

WHEREAS, the City has agreed that moving the sidewalk around the pole will be in the best interests of all parties and will require a new easement for the Project; and

WHEREAS, the City will follow TDOT and Federal Highway Administration (FHWA) procedures in the acquisition of the rights-of-way and easements; and

WHEREAS, the Franklin Board of Mayor and Aldermen expressly finds that the City has the power of eminent domain to extend public roads, see T.C.A. §29-17-301 *et seq.*, and to acquire Rights-of-Way and Easements necessary for proper completion of the said Project, and that the acquisition of such Rights-of-Way and/or Easements 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 owner and condemnation is the only alternative, then the City Attorney, or his/her designee, 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 ____ day of _____, 2014.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

By: _____
ERIC S. STUCKEY
City Administrator/Recorder

By: _____
DR. KEN MOORE
Mayor

Approved As To Form By:


Shauna R. Billingsley
City Attorney



MEMORANDUM

May 13, 2014

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator 
David Parker, City Engineer/CIP Executive
Paul Holzen, Director of Engineering
Patricia Proctor, Utilities Engineer II

SUBJECT: **Consideration of Resolution 2014-43 - A Resolution Authorizing Condemnation for the Acquisition of Property at 264 Natchez Street**

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider Resolution 2014-43 - A Resolution Authorizing Condemnation for the Acquisition of Property at 264 Natchez Street.

Background

On January 14, 2014, BOMA approved the construction contract (COF 2013-0079) for the 11th Avenue Improvements Project. The project consists of water and sanitary sewer main replacement, sidewalk and handicap ramp installation and repaving. Initially, this project was designed with Middle Tennessee Electric Membership Corporation (MTEMC) moving their existing pole at the intersection of 11th Avenue South and Natchez Street. After meeting about this in the field with MTEMC representatives, we have come to the conclusion that moving the pole in question would be time consuming, expensive, and require the placement of additional utility poles in adjacent properties. A mutually beneficial solution is to obtain an access easement behind the existing pole and install the sidewalk at least 5' wide behind the pole. This would enable the intersection to be ADA compliant without moving the pole. Staff is ready to move forward with the property acquisition on the project. As always, staff will work to settle all property acquisition without condemnation. However, in the event that an agreement cannot be reached, condemnation may be required.

Financial Impact

The cost for the acquisition of the necessary easement for this project will be based off of the appraised value as determined by the appraiser and incorporated in the project budget.

Recommendation

Staff recommends approval of Resolution 2014-43 - A Resolution Authorizing Condemnation for the Acquisition of Property at 264 Natchez Street. Approval of this Resolution will help staff to maintain the current schedule in the event negotiations falter.