

## MEMORANDUM

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January 31, 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  
Dan Allen, P.E., Assistant Director of Engineering  
Tom Ingram, P.E., Engineering Supervisor  
Jonathan Marston, P.E., Staff Engineer 2

SUBJECT: Resolution 2012-11; A Resolution Authorizing Condemnation for the Acquisition of Property for the McEwen Drive and Wilson Pike Intersection Improvement Project

### **Purpose**

The purpose of this memorandum is provide the Board of Mayor and Aldermen (BOMA) with information to consider, Resolution 2012-11, which authorizes condemnation for the acquisition of the necessary Right of Way and easements for the McEwen Drive and Wilson Pike Intersection Improvements Project.

### **Background**

On August 24, 2010, the Board of Mayor and Aldermen (BOMA) passed the Interlocal Agreement between the Williamson County Board of Education (WCBE) and the City of Franklin (COF) for Certain Infrastructure Related Improvements in the Breezeway Neighborhood (COF Contract No. 2010-0125). As a part of this agreement the WCBE agreed to make available to the City the sum of \$1,000,000 for use at the "City's discretion as project funding for addressing traffic mitigation priorities..." The City has directed this funding toward improvements at the intersection of McEwen Drive and Wilson Pike, the latter of which is State Route 252. One of the stipulations of this funding is that it shall not "extend beyond two years from the date of bond issuance for the Breezeway School Project." Bond(s) for the school project were issued on October 26, 2010. Therefore, the agreement stipulates that the \$1,000,000 in funding by the WCBE must be "spent or encumbered by contract prior to two years from the date of...bond issuance," or October 26, 2012.

The right-of-way plans for this project have been completed by Alfred Benesch and Company (formerly Clinard Engineering Associates, LLC). Title searches have also been completed on all properties expected to be impacted by the project. Appraisals on the affected properties are currently underway. Once appraisals are complete, staff will send out formal offer letters and meet with affected property owners.

However, in order to prevent the acquisition process from creating a potential delay, which could jeopardize the funding from the WCBE, staff has written Resolution 2012-11 to authorize condemnation proceedings. Staff will work diligently with all property owners and use condemnation only as a last resort.



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### **Financial Impact**

No additional financial impact at this time.

### **Recommendation**

Staff recommends approval of Resolution 2012-11 authorizing condemnation, if necessary, to finalize property acquisition for the McEwen Drive and Wilson Pike Intersection Improvement Project. Currently, property acquisition is scheduled to be completed in the Summer 2012. At this point, approval of this Resolution will only help staff to maintain this schedule in the event negotiations falter.

## RESOLUTION 2012-11

### **A RESOLUTION AUTHORIZING CONDEMNATION FOR THE ACQUISITION OF PROPERTY FOR THE McEWEN DRIVE AND WILSON PIKE INTERSECTION IMPROVEMENT PROJECT (COF CONTRACT NO. 2010-0152)**

**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 construction of intersection improvements at McEwen Drive and Wilson Pike as shown on Right-of-Way Plans prepared by Alfred Benesch & Company (COF Contract No. 2010-0152); 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 and Wilson Pike intersection improvement project is a high priority project with \$1,000,000.00 in funding from the Williamson County Board of Education (WCBE) that must be spent or encumbered by contract prior to October 26, 2012; 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 \_\_\_\_ day of \_\_\_\_\_, 2012.

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE**

By: \_\_\_\_\_  
**ERIC S. STUCKEY**  
City Administrator/Recorder

By: \_\_\_\_\_  
**DR. KEN MOORE**  
Mayor

**Approved As To Form By Shauna Billingsley, Interim City Attorney**

# EXHIBIT A

## McEwen Drive & Wilson Pike (SR 252) Intersection Improvements Project

E. McEwen Drive

Wilson Pike (SR252)

Map ID	Address	Map & Parcel
1	1862 Wilson Pk	061 00803
2	1858 Wilson Pk	061 01200
3	Wilson Pk	061 00806
4	1846 Wilson Pk	061 01100
5	1828 Wilson Pk	061 01000



1 inch = 200 feet

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