

COUNCIL ACTION FORM

SUBJECT: AUTHORIZING THE USE OF EMINENT DOMAIN, IF NECESSARY, TO OBTAIN EASEMENTS AND ACQUIRE LAND FOR THE EAST INDUSTRIAL AREA UTILITY EXTENSION PROJECT

BACKGROUND:

The East Industrial Area Utility Extension Project consists of the extension of water and sanitary sewer to the recently annexed area east of Interstate 35. More specifically, it involves the installation of water main and gravity sewer between I-35 and Potter Ave (formerly 590th), and force sewer from Teller Ave (formerly 580th) to west of Freel Drive. As a result of this project, temporary and permanent easements are needed from 11 different property owners, and an approximately 2-acre parcel of land needs to be acquired (from 1 property owner) for a lift station and future water tower.

The 12 property owners were initially contacted by A & R Land Services, Inc. earlier this month, and as of November 14th, four have signed agreements, six are in progress, and two have so far refused. City staff will continue to work towards a resolution in all remaining cases. However, the use of eminent domain may be required as a last resort in order to move forward with this project.

A bid letting in early spring 2019 is anticipated, therefore, authorizing the use of eminent domain (if necessary) is requested so that further delays in the land and easement acquisition process may be avoided.

ALTERNATIVES:

1. Authorize the use of eminent domain, if necessary, to obtain easements and acquire land for the East Industrial Area Utility Extension Project.
2. Do not authorize the use of eminent domain at this time for the East Industrial Area Utility Extension Project.

MANAGER'S RECOMMENDED ACTION:

Staff will continue to make good faith efforts to negotiate land and easement acquisitions with property owners, but requests that eminent domain be authorized at this time to prevent any future delays. **The use of eminent domain is a power that the City only uses as a last resort to ensure that its ability to provide essential services for the community is not compromised by unrealistic expectations or demands.**

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as described above.