

Agenda Item IC1 – Adopt Resolution declaring the necessity for acquisition of real properties in the form of Temporary Construction and Access Easements

Purpose:

The purpose of this agenda item is to recommend that the Board adopt the proposed resolution declaring the necessity for acquisition of real property interests in the form of Temporary Construction and Access Easements, to enable the required public right-of-way improvements (streets and sidewalks) to be completed along Leroy Ave and Lynn Lane, as part of the new middle school construction project.

Background:

Right of Way construction (streets and sidewalks) is scheduled to start on Lynn Lane as early as May 2026 and start on Leroy Ave after school ends June 10, 2026 - although some work may begin prior. The work is scheduled to be completed in the Fall 2026 (subject to change). Permits for the work have been issued.

In general, the contractor needs permission to temporarily access and restore approximately five (5) feet of private property adjacent to the Right of Way (ROW) property line or proposed improvements.

In some cases, the temporary access will have a larger footprint to allow for proper grading and improvements to be made on private property so the slope and transition to the new curbs and road are appropriate.

Permission from the property owners for temporary access to their private property is in the form of a Temporary Construction Easement for Access and Construction - inclusive of restoration obligations.

Temporary Construction Easements are for the time of construction through the City's acceptance of the work – estimating 6 months.

Friendly, informal efforts have been made by staff to reach out to property owners and secure the requisite temporary easements. There are 12 property who have voluntarily approved their temporary construction and access easement.

There are 14 property owners who have not voluntarily provided temporary easements. These are listed in the resolution.

MRSD will continue to work informally with property owner to secure voluntary temporary construction easements, but in order to meet scheduling demands, MRSD needs to use a parallel process of Eminent Domain to secure the temporary construction easements.

Exercising the authority of Eminent Domain provides due process and constitutionality in securing temporary access and establishing a fair and just agreement between the district and property owners.

The proposed agreements will likely require the district compensating the property owner (in some form) for temporary access to their property, which will be supported by an expert valuation process. For example, the district would essentially be renting the 5' strip of property for 6 months.

The district is contracting with an attorney and property valuation company that both specialize in Eminent Domain.

Even though it is necessary to exercise the power of Eminent Domain to stay on schedule, the district will continue to work cooperatively and communicate directly with property owners to negotiate Temporary Construction Easements as a parallel process during the legal Eminent Domain process.

In addition, the district will work with property owners and do what is reasonable and practical to resolve issues with drainage, fences, plants, boulders, and other requests.

In order to exercise its power of eminent domain, the Board needs to adopt the proposed resolution to declare the necessity for acquisition of real property interests in the form of Temporary Construction and Access Easements to enable the required public right-of-way improvements (streets and sidewalks) to be completed along Leroy Ave and Lynn Lane as part of the new middle school construction project.

Respectfully Submitted by:

Dr. Tony Mann, Superintendent