



# City Council Report

**Date:** November 19, 2018  
**To:** City Council  
**Through:** Kari Kent, Assistant City Manager  
**From:** Beth Huning, City Engineer  
Rob Kidder, Assistant City Engineer  
**Subject:** Mesa Drive, 8<sup>th</sup> Avenue to Main Street and Broadway Road from Wilbur to Lesueur Project  
Council District 4

## Purpose and Recommendation

The purpose of this report is to consider a staff recommendation to authorize staff to acquire certain parcels of land and land rights necessary for the Mesa Drive, 8<sup>th</sup> Avenue to Main Street and Broadway Road from Wilbur to Lesueur Project. At this time, staff continues to meet and negotiate with the property owners. However, to avoid construction delays, staff is requesting authorization to acquire certain parcels through eminent domain, only if necessary. Staff will continue to meet and negotiate with the property owners throughout the process. It's the City's intent to continue negotiating with the property owner with full expectations that a settlement will be reached. Our goal will continue to be, to acquire the property through negotiations with the property owners.

## Background

The Mesa Drive, 8<sup>th</sup> Avenue to Main Street and Broadway Road from Wilbur to Lesueur Project will provide pavement reconstruction, raised center medians, bike lanes, adding drainage structures and facilities, new water and gas mains, landscaping and street lighting.

Engineering will be using CMAR (Construction Management at Risk) method to construct this project. Utility relocations and intersection improvements are scheduled to begin sometime in the first quarter of 2019.

## Discussion

There are 128 parcels (92 owners) in which certain parcels, rights-of-way and easements are needed for this project. Real Estate Services began appraising the properties in January 2018 and sent written offers to each of the owners in April and May 2018.

The City is required by law to pay what is called "just compensation" for the land needed for the Mesa Drive, 8<sup>th</sup> Avenue to Main Street and Broadway Road from Wilbur to Lesueur

Project. “Just compensation” includes the value of the land and any additional money required to place the property owner in as good a position financially as he/she would have been if the property had not been taken for the project. Staff has successfully negotiated purchases on 90 parcels (67 owners).

To avoid construction delays, staff is requesting authorization to acquire the property through eminent domain, only if necessary. Staff seeks Council approval to start the court proceedings on those parcels where the City and Property owners have not yet reached an agreement regarding the just compensation for land rights. Staff will continue to work with the individual property owners and attempt to reach an agreement as to the just compensation amount for each remaining land right. However, filing the court actions will allow the City to seek the Order of Immediate Possession (OIP), so that the Project may continue while the just compensation negotiations continue a parallel course. When negotiations are lengthy, lender issues or title encumbrances occur, it is necessary to obtain an (OIP) to avoid construction delays.

For the Gilbert Road Extension of Light Rail, there were ten (10) properties where eminent domain was used. We successfully settled all of them but two (2) properties using an administrative settlement and/or mediation with the owner/owner’s attorney. They did not require the use of jury trial.

There has been one (1) Public Meeting held in April 2018. Public Relations and Real Estate have discussed the raised median with property owners along Broadway Road and Mesa Drive.

Attached to this Council Report is Exhibit A, which shows the affected properties where staff has made an offer to the property owner and has yet to reach an agreement or are in escrow and have not closed escrow. It also includes a chart with the owner’s name, address, the type of property right (s) needed for this Project and the status of the acquisition.

### **Alternative**

The project cannot begin as scheduled if the use of eminent domain is not authorized when necessary.

### **Fiscal Impact**

The recommendation does not have a fiscal impact on the overall cost of the project.

### **Concurrence**

The Engineering and Transportation Departments concur with this recommendation.