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**TO:** Mayor Chuck Barney  
Members of the City Council

**FROM:** Chris Owen, Federal Compliance Officer

**DATE:** April 21, 2017

**SUBJECT:** EMINENT DOMAIN AUTHORITY (ACQ169)

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**I. RECOMMENDED ACTION**

1. Recommend the Committee and Council adopt resolution offering to purchase land and authorizing use of eminent domain.
2. Authorize the Mayor to sign the agreement

**II. DEPARTMENT CONTACT PERSONS**

Chris Owen, Federal Compliance Officer 857-1553

**III. DESCRIPTION**

A. Background

The property at 1830 Burdick Expy W is a critical need for phases 1-3 of the flood control project. The law firm of Swanson & Warcup has been engaged for over a year trying to negotiate a settlement on the city's behalf, however no agreement has been made and further delays risk compromising future construction progress and effective use of funds.

**IV. IMPACT:**

A. Strategic Impact:

Eminent Domain action is congruent with the city's authority and in line with city and HUD intentions to remove residents from harms way while creating protective measures for the greater good.

B. Service/Delivery Impact:

Eminent Domain authority will enable the court system to force a resolution (still within HUD guidelines of "just compensation" for the homeowner) and get property ownership to the city so construction may commence without delays.

C. Fiscal Impact:

Funds are coming from HUD CDBG-DR grant (allocation 2). The appraised value for the partial take of property needed is \$73,578 and the last verbal counter offer from the property owner was \$225,000. Attorney fees will need to be paid in addition to whatever the court determines. Determining an exact cost at this point would be very difficult.

**V. ALTERNATIVES**

The City Council could deny the eminent domain authority and negotiation attempts will continue until an agreement can be reached. Risk is that no agreement may ever be reached, or that negotiations go beyond the construction start date and impede flood control structures from being built, which jeopardizes the funding recently authorized by the state legislature.

It should be understood that if an agreement is able to be reached before an actual judgment, that route remains the preferred option. Judgment is intended to be the action of last resort.

**VI. TIME CONSTRAINTS**

Time is of the essence because Public Works and the SRJB expect construction to reach this area in the early 2018 construction season and we need sufficient time for the court process to work through, which is anticipated to take up to a year.

**VII. LIST OF ATTACHMENTS**

- A. Resolution provided by Swanson & Warcup, eminent domain legal service provider

Approved for Council Agenda: \_\_\_\_\_

Date: \_\_\_\_\_