

# EMINENT DOMAIN CHECKLIST

## **City Council Resolution/Ordinance Authorizes ED:**

- \_\_\_\_\_ Check the Resolution/Ordinance to make sure it authorizes the City to acquire the land by eminent domain and make sure it describes the property(ies) to be acquired by legal description/survey.

## **Initial Offer Letter:**

- \_\_\_\_\_ Addressed to the property owner(s). § 21.0111(a); § 21.0113(b)(1)
- \_\_\_\_\_ Sent by CMRRR. § 21.0111(a)
- \_\_\_\_\_ Offers to purchase the property (or the interest to be acquired). § 21.0111(a)
- \_\_\_\_\_ Includes a statement in bold/large font regarding damages or an appraisal valuing damages. § 21.0113(b)(1)(A)(i)-(ii)
- \_\_\_\_\_ Encloses all appraisal reports from 10 years prior to date of Initial Offer Letter. § 21.0111(a)
- \_\_\_\_\_ A copy of the Landowner's Bill of Rights is enclosed (see Atty. Gen. website for a copy). § 21.0112
- \_\_\_\_\_ A copy of the deed or other title transfer document is enclosed, OR evidence is included that the deed or other title transfer document was previously provided to the property owner § 21.0113(b)(1)(C)
- \_\_\_\_\_ The name and telephone number of a representative of the entity who is an employee/agent/legal representative. § 21.0113(b)(1)(D).
- \_\_\_\_\_ Allows landowner 30 days to respond/accept offer. *Implied from* § 21.0113(3)

## **Final Offer Letter:**

- \_\_\_\_\_ Made a minimum of 30 days **after** Initial Offer Letter. § 21.0113(3)
- \_\_\_\_\_ Offer is based on an appraisal report by certified appraiser. § 21.0113(4)
- \_\_\_\_\_ Offer is equal to, or greater than, the amount of that appraisal report. § 21.0113(5)
- \_\_\_\_\_ A copy of the following is enclosed OR evidence is included that the following were previously provided to the property owner: § 21.0113(b)(6)
  - \_\_\_\_\_ Written Appraisal Report
  - \_\_\_\_\_ Deed/Conveyance Document
  - \_\_\_\_\_ Landowner's Bill of Rights

\_\_\_\_ States that the landowner has at least 14 days to respond to offer. § 21.0113(b)(7)

**Petition cannot be filed until earlier of:**

\_\_\_\_ 15 days after Final Offer Letter CMRRR green card is signed (by the landowner or his attorney),

**OR**

\_\_\_\_ 20 days after letter is mailed via CMRRR (post-mark date) (mailbox rule)

Proof of post-mark date is found on the white certified mail receipt, as stamped by the United States Post Office only.

**Petition must:**

\_\_\_\_ State the name of the landowner, if known. § 21.012(b)(3)

\_\_\_\_ Describe Property. § 21.012(b)(1)

\_\_\_\_ State specific public use (i.e., specific road name, powerline easement, park, etc.). § 21.012(b)(2)

\_\_\_\_ State that the landowner and condemnor are unable to agree on damages. § 21.012(b)(4)

\_\_\_\_ State that the Landowner's Bill of Rights was provided to landowner. § 21.012(b)(5)

\_\_\_\_ State the condemnor made a bona fide offer. § 21.012(b)(6)

\_\_\_\_ Petition must be mailed by **BOTH** regular mail and CMRRR to landowner **AND** include a copy to their attorney, if applicable. § 21.012(c)

**Special Commissioners and Hearing:**

\_\_\_\_ Judge appointed 3 Special Commissioners and 2 alternates. § 21.014(a)

\_\_\_\_ Strike Period: Within 10 days after the Order Appointing is signed or 20 days after petition filed. § 21.014(a)

\_\_\_\_ If striking: notice sent by e-file to opposing counsel **OR** first-class mail to *pro se* litigant.

\_\_\_\_ Condemnor must send Order Appointing Special Commissioners by CMRRR to all parties and attorneys. § 21.014(d)

- \_\_\_\_\_ Special Commissioners Oaths signed and notarized. § 21.014(b)
- \_\_\_\_\_ 20 days passed since the (Final) Order Appointing Special Commissioners was signed before Order Setting Hearing is signed. § 21.015(a)
- \_\_\_\_\_ Notice of Hearing served on all parties a minimum of 21 days before hearing date (day 1 is the day the landowner is served). § 21.016(b)
- \_\_\_\_\_ Return of Service of Notice of Hearing states how and when served. § 21.016(c)

**SCH Award:**

- \_\_\_\_\_ States the amount of damages due to the landowner. § 21.048(1)
- \_\_\_\_\_ Signed, dated, and filed with the Court. § 21.048(1)
- \_\_\_\_\_ Includes a statement of costs (Special Commissioner Fees). § 21.048(2)
- \_\_\_\_\_ Court Clerk mailed copy of Award to the parties by CMRRR. § 21.049

**Objections:**

- \_\_\_\_\_ Objections to Award filed by any party by the Monday following 20 days after Award filed with Court. § 21.018(a)
- \_\_\_\_\_ Objections served on all parties by party filing Objections. (Note: this is not in the Property Code, but is best practice based on case law). *See* § 21.018(b)

**OR**

**Judgment in Absence of Objections:**

- \_\_\_\_\_ Court entered JAO based on SCH Award. § 21.061