



EMINENT DOMAIN/CONDEMNATION PROCESS STANDARD OPERATING PROCEDURE

1. GVSUD has been granted the power of eminent domain by the Texas legislature. Texas Water Code Section 49.222 requires that a district such as GVSUD follow the provisions of Texas Property Code Chapter 21:

Sec. 49.222. EMINENT DOMAIN. (a) A district or water supply corporation may acquire by condemnation any land, easements, or other property inside or outside the district boundaries, or the boundaries of the certificated service area for a water supply corporation, necessary for water, sanitary sewer, storm drainage, or flood drainage or control purposes or for any other of its projects or purposes, and may elect to condemn either the fee simple title or a lesser property interest.

(b) The right of eminent domain shall be exercised in the manner provided in Chapter 21, Property Code, except that a district or a water supply corporation shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit more than the amount of any award in any suit.

2. GVSUD follows the timelines in Chapter 21 of the Property Code for obtaining an easement (a right to use the land, but not ownership):
3. Procedures:
 - a. GVSUD will begin negotiations by attempting to engage in informal discussions with landowners in an effort to reach an agreement to purchase the easement.
 - b. If informal negotiations are unsuccessful, GVSUD will pursue the following actions and timeline.
 - **Day 0: Initial Offer**
 - GVSUD will send a “bona fide” meaning it meets all of technical requirements of Chapter 21 (sent by certified mail, include a draft easement, include a copy of any appraisal GVSUD has obtained in the last 10 years, include a copy of the Landowner’s Bill of Rights, and state what portion of the dollar offer is for “damages” to the remainder of the property).
 - GVSUD must provide at least 30 days following the “initial offer” for the landowner to respond (agree, reject, counteroffer).
 - **No earlier than Day 31: Final Offer**
 - If the landowner rejects or fails to respond, or makes an unacceptable counteroffer, GVSUD will send a “final offer.” However, a “final offer” is not valid if GVSUD has not included an independent written appraisal from a certified appraiser. **The offer has to be at least the value in the written appraisal.**

- There must be at least 30 days between the initial offer and final offer and the landowner must be given at least 14 days to respond to the final offer before a condemnation petition may be filed. *See Texas Property Code 21.0113.*
- **No sooner than 14 days after final offer: Condemnation Proceeding**
 - If no agreement is reached, GVSUD will file suit in either the district court of the county court of law in the county where at least part of the property is located. *See Texas Property Code 21.001 and 21.013.*
 - GVSUD’s petition must contain a description of the property to be condemned, the public use for which the property is being taken, the name of the property owner, state that the company and the landowner are unable to agree on the damages due, state that the company provided the landowner with a copy of the Bill of Rights, and state that the company made a bona fide offer as required. *See Texas Property Code 21.001.*
- **Special Commissioner Appointment, Hearing and Award**
 - No later than the 30th calendar day after the petition is filed, the judge will appoint three local landowners as “special commissioners” to determine compensation, and both the landowner and GVSUD have the right to strike a commissioner. *See Texas Property Code 21.014.*
 - No sooner than 20 days after appointment, the special commissioners will schedule a hearing on compensation, where the landowner may present appraisal reports or other evidence concerning the value of the property being condemned, the injury to the property owner, the benefit to the owner’s remaining property, and the use of the property for the purpose of the condemnation. *See Texas Property Code 21.015 – 21.016 & 21.041.*
 - After the hearing, the commissioners will issue an “award” stating the value of compensation GVSUD must pay the landowner. That award is then filed with the court.

NOTE: - once the commissioners make an award, GVSUD may take possession of the property, despite the potential for further litigation, if GVSUD pays a required amount to the landowner or to the court or posts a bond to secure the payment of damages. *See Texas Property Code 21.021.*

Appeal From Commissioners’ Findings. Either party may object to the findings of the special commissioners by filing a written statement with the court on or before the first Monday following the 20th day after the day the commissioners file their findings with the court, and the court try the case in the same manner as other civil causes. *See Texas Property Code 21.018.*

