



City of Conway, Arkansas
Resolution No. R-20-31

A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO ACT PURSUANT TO ARKANSAS CODE ANNOTATED §18-15-201 ET SEQ., AND OTHER STATE STATUTORY AUTHORITY TO SEEK CONDEMNATION BY EMINENT DOMAIN PROCEEDINGS OF CERTAIN PROPERTIES DESCRIBED HEREIN FOR THE PUBLIC PURPOSE OF CONSTRUCTING AND MAINTAINING STREET, ROAD AND BOULEVARD RIGHT OF WAY AND ALL NECESSARY AND PROPER EASEMENTS RELATED THERETO FOR THE CITY OF CONWAY’S DONAGHEY AVENUE PROJECT.

Whereas, the City of Conway, Arkansas, is a city of the First Class duly organized and existing as a municipal corporation under the laws of the State of Arkansas. The City of Conway (“the City”) has its principal place of business within the borders of Faulkner County, Arkansas. Under Arkansas law, the City is empowered under Arkansas Code Annotated § 18-15-201, *et seq.*, and other statutory authority to condemn real property by eminent domain for the purposes of streets, parks, boulevards, and public buildings (among other lawful purposes); and

Whereas, as part of the planning, construction and maintenance of the City’s right of way on Donaghey Avenue (“the Project”), the City is in the process of planning and developing sufficiently wide and safe roads, streets, boulevards and necessary and proper rights of way within the statutory areas relative to the corporate limits of Conway as set out in A.C.A. § 18-15-201(a)(2), the City Council for the City of Conway has found and determined that it is necessary for public purposes to acquire the real properties described herein upon which to construct and maintain said roadway, street and utility easements. Being unable to reach an agreement and compromise as to the amount of just compensation to pay the landowner, it is now necessary for public purposes to acquire the real properties described herein upon which to construct and maintain said roadway and utility easements. Because the City has established a legitimate public purpose for said properties, it is empowered under ACA §18-15-201 to seek condemnation through eminent domain of the properties as described herein and to properly compensate the owners of said lands pursuant to state law.

Whereas, to secure timely access to said real properties, however, it is necessary that eminent domain authority be declared, established, and exercised for the purpose of the construction, maintenance, and public use of the improved roadway, streets, boulevards, utilities, rights of way, and appropriate appurtenances developed thereto. As well and on behalf of the public, the City must continue ownership and control of the real property described herein, as necessary for the public purposes of continued maintenance, traffic control, safety, drainage and necessary and proper services throughout the affected areas and properties described herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

Section 1: The City Council for the City of Conway hereby finds and determines that it is necessary for public purposes to acquire the real properties owned by certain landowners described herein

upon which to construct and maintain said roadway, streets, boulevards and necessary easements. Being unable to reach an agreement and compromise as to the amount of just compensation to pay the respective landowners, it is necessary for public purposes to acquire the real properties owned by these landowners described herein upon which to construct and maintain said roadway, streets, boulevards, utilities and necessary easements. Because the City has established a legitimate public purpose for said properties, the City is empowered under Ark. Code Ann. §18-15-201 to seek condemnation through eminent domain of the properties described herein and to properly compensate the owners of said lands pursuant to state law.

Section 2: Southeast Realty Investments, LLC owns real estate upon and along the Project area which is needed for the Project. The real estate in question is more particularly described below:

A part of Lots 9, 10 & 11, Block 47 1/2, Nettie Hoss Subdivision of Block 47, Robinson's Plan, City of Conway, Faulkner County, Arkansas, being more particularly described as follows:

BEGINNING at the Northwest corner of said Lot 9; thence S 88°38'36" E along the North line of said Lot 9 a distance of 11.02 feet; thence S 06°35'49" E a distance of 107.44 feet; thence S 59°39'00" E a distance of 91.28 feet to the South line of said Lot 11; thence N 88°23'49" W along the South line of said Lot 11 a distance of 106.57 feet to the Southwest corner of said Lot 11; thence N 01°40'52" E along the West line of said Lots 9,10 & 11 a distance of 150.19 feet to the POINT OF BEGINNING, containing 4,910 square feet or 0.11 acres, more or less.

ALSO:

TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

A part of Lots 9, 10 & 11, Block 47 1/2, Nettie Hoss Subdivision of Block 47, Robinsons Plan, City of Conway, Faulkner County, Arkansas, being more particularly described as follows:

COMMENCING at the Northwest corner of said Lot 9; thence S 88°38'36" E along the North line of said Lot 9 a distance of 11.02 feet to the POINT OF BEGINNING; thence continuing S 88°38'36" E along the North line of said Lot 9 a distance of 55.34 feet; thence S 01°40'52" W a distance of 128.43 feet; thence N 59°39'00" W a distance of 45.64 feet; thence N 06°35'49" W a distance of 107.44 feet to the POINT OF BEGINNING, containing 5,508 square feet or 0.13 acres, more or less.

Section 3: To secure timely access to said real properties, however, it is necessary that eminent domain authority be declared, established, and exercised for the purpose of the construction, maintenance, and public use of the improved roadway, streets, boulevards, utilities, rights of way, necessary and proper easements and appropriate appurtenances developed thereto. As well and on behalf of the public, the City must continue ownership and control of the real property described herein, as necessary for the public purposes of continued maintenance, traffic control, safety and necessary and proper rights of way and easements throughout the affected areas and properties described herein.

Section 4: The Office of the City Attorney of the City is hereby authorized to act on behalf of the City and initiate statutory proceedings for eminent domain and condemnation of the lands

described herein for the purposes stated herein, up to and including filing appropriate legal pleadings and process in those courts of law having jurisdiction over such process and proceedings.

PASSED this 12th day of May 2020.

Approved:



Mayor Bart Castleberry

Attest:



Michael O. Garrett
City Clerk/Treasurer