



City of Conway
Resolution No. R-15-21

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 6TH STREET OVER INTERSTATE 40 AND RELATED AMITY ROAD – ELSINGER BOULEVARD ROUNDABOUT 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 a new 6th Street Overpass across Interstate 40 along with a related intersection Improvements the intersection of Amity Road – Elsinger Boulevard – New 6th Street Overpass ("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 and easements 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 and easements 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 and easements 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: Bobby Dale Linn Revocable Trust, Mary Kathryn Linn Revocable Trust and Mary Kathryn Linn Trustee is individuals who own real estate upon and along the Project area which is needed for the Project. The real estate in question is more particularly described below:

STREET RIGHT OF WAY

The following described real estate for the construction of public street, drainage, utilities and related appurtenances, save and except such minerals therein and thereunder, as oil, gas, distillate, condensate, salt water and its component parts, and all other hydrocarbons which do not interfere with the surface use for highway purposes, situated in the County of Faulkner, State of Arkansas, to wit:

Part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 5 North, Range 13 West, Faulkner County, Arkansas, more particularly described as follows:

Commencing at a One Inch Steel Rod found at the Center Quarter Corner of Section 8; thence North 88°07'06" West along the North line of said Northeast Quarter of the Southwest Quarter a distance of 971.60 feet to a point on the Eastern Right of Way of Amity Road and the POINT OF BEGINNING; thence South 06°08'23" East along said right of way line a distance of 65.39 feet to a point; thence South 13°41'44" East along said right of way line a distance of 46.07 feet to a point; thence South 05°07'18" West along said right of way line a distance of 205.34 feet to a point on the Eastern Right of Way of Amity Road as established by an Easement Deed filed in Book 2002, Page 12722; thence North 24°28'09" West along said right of way line a distance of 350.57 feet to a point on the North line of said Northeast Quarter of the Southwest Quarter; thence South 88°07'06" East along said North line a distance of 145.71 feet to the POINT OF BEGINNING and containing 0.59 acres (25,526 sq. ft.) more or less.

PERMANENT EASEMENT

An exclusive and permanent right of way and easement for street, drainage and utility purposes, across, through and over the following lands situated in the County of Faulkner, State of Arkansas:

LEGAL DESCRIPTION

Part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 5 North, Range 13 West, Faulkner County, Arkansas, more particularly described as follows:

Commencing at a One Inch Steel Rod found at the Center Quarter Corner of Section 8; thence North 88°07'06" West along the North line of said Northeast Quarter of the Southwest Quarter a distance of 643.01 feet to the POINT OF BEGINNING; thence South 32°31'15" West a distance of 34.87 feet to a point; thence North 88°07'06" West a distance of 229.13 feet to a point; thence South 66°17'22" West a distance of 80.46 feet to a point on the Eastern Right of Way of Amity Road; thence North 06°08'23" West along said right of way line a distance of 65.39 feet to a point on the North line of said Northeast Quarter of the Southwest Quarter; thence South 88°07'06" East along said North line a distance of 328.59 feet to the POINT OF BEGINNING and containing 0.25 acres (10,874 sq. ft.) more or less.

DRAINAGE EASEMENT

An exclusive and permanent easement for construction of storm drainage facilities and utilities and the operation and maintenance of storm drainage facilities and utilities, through and over the following lands situated in the County of Faulkner, State of Arkansas:

LEGAL DESCRIPTION

Part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 5 North, Range 13 West, Faulkner County, Arkansas, more particularly described as follows:

Commencing at a One Inch Steel Rod found at the Center Quarter Corner of Section 8; thence North 88°07'06" West along the North line of said Northeast Quarter of the Southwest Quarter a distance of 971.60 feet to a point on the Eastern Right of Way of Amity Road; thence South 06°08'23" East along said right of way line a distance of 65.39 feet to the POINT OF BEGINNING; thence North 66°17'22" East a distance of 80.46 feet to a point; thence South 88°07'06" East a distance of 98.51 feet to a point; thence South 02°26'29" West a distance of 41.64 feet to a point; thence South 78°33'17" West a distance of 162.67 feet to a point on the Eastern Right of Way of Amity Road; thence North 13°41'44" West along said right of way line a distance of 46.07 feet to the POINT OF BEGINNING and containing 0.21 acres (9,010 sq. ft.) more or less.

SECTION 3: The City is further in need of Temporary Construction Easements (4,996 Square Feet) for the Project, as presented on the Attached Exhibit A. The temporary construction will expire upon completion of the drainage and street improvements or no later than December 31, 2016.

Temporary Construction Easement

A temporary construction right of way and easement (4,996 sq. ft.) on, over, across, through and under the following described lands, for the purpose of providing a construction and work area for building streets, drainage and laying of utilities and that this right of way and easement shall be located upon and over such portion of the following described lands:

Legal Description

Part of the Northeast Quarter of the Southeast Quarter of Section 8, Township 5 North, Range 13 West, Faulkner County, Arkansas, more particularly described as follows:

Commencing at the Northeast Corner of said NE ¼, SW ¼ Section 8 thence North 88°07'06" West, 641.01 feet; thence South 32°31'15" West, 34.87 feet to the POINT OF BEGINNING; thence continuing South 32°31'15" West, 48.39 feet; thence North 88°07'06" West, 106.36 feet; thence North 02°26'29" East, 41.64 feet thence South 88°07'06" East, 130.62 feet to the POINT OF BEGINNING and containing 0.11 acres (4,996 sq. ft.) more or less.

SECTION 4: 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 and easements described herein, as necessary for the public purposes of continued maintenance, drainage, traffic control, safety and necessary and proper rights of way and easements throughout the affected areas and properties described herein.

SECTION 5: 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 28th day of April, 2015.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett
City Clerk/Treasurer