



City of Conway
Resolution No. R-15-58

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 I-40 OVERPASS AND AMITY/ELSINGER INTERSECTION 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 for the 6th Street I-40 Overpass and Amity/Elsinger Intersection Modifications ("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 A.C.A. §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 A.C.A. §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: Seayco – THF Conway Development, LLC is a corporation with business concerns located in the City of Conway in Faulkner County, Arkansas, which owns real estate upon and along the Project area which is needed for the Project, more particularly described below:

Part of Lot 7 and all of Lot 8, Conway Commons, being part of the South Half of the Northwest 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 being used as the Center Quarter Corner of Section 8 and the Southeast Corner of Conway Commons; thence North 88°07'06" West along the South Quarter Section line a distance of 1117.65 feet to point on the Eastern Right of Way of Amity Road as established by the Plat of Conway Commons, Book K, Page 2; thence North 38°28'20" West along said right of way line a distance of 196.91 feet to the POINT OF BEGINNING; thence North 38°28'20" West along said right of way line a distance of 380.23 feet to a point; thence North 40°34'13" West along said right of way line a distance of 29.99 feet; thence South 50°01'49" East a distance of 110.09 feet to a point; thence South 33°31'22 East a distance of 102.50 feet to a point; thence South 88°06'54" East a distance of 406.43 feet to a point on the Northern Right of Way of Elsinger Boulevard as established by the Plat of Conway Commons, Book K, Page 2; thence South 52°10'33" West along said right of way line a distance of 262.55 feet to a point; thence continuing along said right of way line along a curve 93.57 feet to the right, having a Radius of 60.00 feet, chord of which is North 83°08'54" West for a distance of 84.367 feet to the POINT OF BEGINNING and containing 1.04 acres (45,397 sq. ft.) more or less.

Together with the rights, easements and privileges in or to said lands that may be required for the full enjoyment of the right herein granted.

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 13th day of October, 2015.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett
City Clerk/Treasurer