



City of Conway, Arkansas  
Resolution No. R-16-01

**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 6<sup>TH</sup> 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 6<sup>th</sup> Street/6<sup>th</sup> 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.

**WHEREAS**, in recognition of the City's constitutional requirement to compensate the owner for the fair market value of the property described herein and subject to the condemnation by eminent domain proceedings, the City Council authorities the amount of funds to be used in acquisition of the property.

**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:** Denver Roller, Inc. own real estate upon and along the Project area which is needed for the Project, more particularly described below:

**A strip of land situated along part of the western side of Lot 1 Rock Solid Addition being recorded in Faulkner County, Arkansas Circuit Clerk's Office as Plat K-272 and being situated in the E ½, NE ¼, Section 7, T-5-N, R-13-W, Faulkner County, Arkansas, said strip being more particularly described as follows:**

**Beginning at the Southwest Corner of said Lot 1 Rock Solid addition Thence N02°02'00"E along the west line of said Lot 1, 323.11 feet; Thence S87°58'00"E, 30.00 feet; Thence S02°02'00"W, 179.73 feet; Thence S00°16'43"E, 140.53 feet to the south line of said Lot 1; Thence along said south line Lot 1 S87°17'01"W, 35.79 feet to the Point of Beginning, containing 0.231 Acres (10,056 S.F.) 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 properly complete the Project, a temporary construction easement is required by the City further described below for the purpose of providing a construction and work area for building streets, drainage and utilities and has been authorized for taking by the City Council of the City. The temporary construction easement will expire upon completion of construction or December 31, 2017, whichever occurs first.

#### **Temporary Construction Easement**

**A strip of land situated along part of the western side of Lot 1 Rock Solid Addition being recorded in Faulkner County, Arkansas Circuit Clerk's Office as Plat K-272 and being situated in the E ½, NE ¼, Section 7, T-5-N, R-13-W, Faulkner County, Arkansas, said strip being more particularly described as follows:**

**Commencing at the Southwest Corner of said Lot 1 Rock Solid addition Thence N87°17'01"E along the south line of said Lot 1, 35.79 feet to the Point of Beginning; Thence continuing along said south line N87°17'01"E, 80.00 feet; Thence N00°16'43"W, 45 feet; Thence S87°17'01"W, 60 feet; Thence N00°16'43"W, 94.23 feet; Thence N02°02'00"E, 179.32 feet; Thence N87°58'00"W, 20.00 feet; Thence S02°02'00"W, 179.73 feet; Thence S00°16'43"E, 140.53 feet to the to the Point of Beginning, containing 0.209 Acres (9,091 S.F.) 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 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 5.** To allow for the timely filing of the condemnation and to comply with the constitutional requirements of just compensation and having already approved certain funds for the Project, the amount of fifty-one thousand and five hundred dollars and no cents (\$51,500.00) shall be authorized for acquisition of the property described herein and based upon the independent, professional appraisal for the fair market value of the property, plus any rental and/or improvement compensation.

**SECTION 6:** 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 12<sup>th</sup> day of January, 2016.

Approved:

A handwritten signature in blue ink, appearing to read "Tab Townsell", written over a horizontal line.

Mayor Tab Townsell

Attest:

A handwritten signature in blue ink, appearing to read "Michael O. Garrett", written over a horizontal line.

Michael O. Garrett  
City Clerk/Treasurer