



City of Conway
Resolution No. R-17-37

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 ROUNDABOUT PROJECT AT THE INTERSECTION OF COLLEGE AVENUE AND SALEM ROAD AND TO REPEAL RESOLUTION NO. R-17-25.

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 Roundabout Project at the intersection of College Avenue and Salem Road ("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: WG DST 1 owns real estate upon and along the Project area which is needed for the Project, more particularly described below:

A parcel of land situated in the southeastern corner and along the east line of Lot 10A of Walgreen's Replat of Sherman Heights PUD (Plat No. K-164 in the Office of Faulkner Count Circuit Clerk & Recorder) being situated in the SE ¼, NE ¼, Section 10, T-5-N, R-14-W, Faulkner County, Arkansas more particularly described as follows:

Beginning at the Northeast Corner of said Lot 10A, thence N88°28'22"W, 5.00 feet along the north side of said Lot 10A; thence S02°01'17"W, 92.524 feet; thence along a curve to the right having a radius of 115 feet and a chord bearing S46°46'27"W, 161.931 feet to a point on the south line of said Lot 10-A; thence along the south line of said lot 10-A S88°28'22"E, 77.869 feet; thence along the southeasterly corner of said lot 10-A along a curve to the left having a radius of 41.5 feet and a chord bearing N46°46'27"E, 58.436 feet; thence along the east line of said Lot 10-A N02°01'17"E, 165.411 to the Point of Beginning and containing 0.079 acres 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. 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 **thirty two thousand, seven hundred and fifty dollars and no cents (\$32,750.00)** 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 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.


Section 6: This resolution shall repeal Resolution No. R-17-25 in its entirety.

PASSED this 25th day of July, 2017.

Attest:


Michael O. Garrett
City Clerk/Treasurer

Approved:


Mayor Bart Castleberry