



City of Conway, Arkansas  
Resolution No. R-19-35

**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 TYLER STREET IMPROVEMENT 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 Tyler Street ("the Project"), the City is in the process of planning and developing sufficiently wide and safe roads, streets, boulevards, sidewalks 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 sidewalks. 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 sidewalks. 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, sidewalks 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, pedestrian passage 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 landowner described herein upon which to construct and maintain said roadway, streets, boulevards, sidewalks 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 the landowner described herein upon which to construct and maintain said roadway, streets, boulevards, sidewalks 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:** John, Russell and Carmen Brashears are the individuals who own real estate upon and along the Project area which is needed for the Project. The street address of the property is 1604 Tyler Street, Conway, Arkansas 72032, with the real estate in question more particularly described below:

PART OF LOT 197 FIDLAR'S SURVEY AS SHOWN ON B.G. WILSON'S MAP OF THE CITY OF CONWAY AS SHOWN IN PLAT BOOK A, PAGE 46, RECORDS OF FAULKNER COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SAID LOT 197; THENCE ALONG THE NORTH RIGHT OF WAY LINE OF TYLER STREET A DISTANCE OF 100.20' TO THE WEST PROPERTY LINE OF BRESHEARS, PARCEL #710-02999-000; THENCE LEAVING SAID RIGHT OF WAY AND ALONG SAID PROPERTY LINE, NORTH A DISTANCE OF 8.00'; THENCE LEAVING SAID PROPERTY LINE EAST, PARALLEL WITH THE NORTH RIGHT OF WAY LINE OF TYLER STREET A DISTANCE OF 71.54'; THENCE LEAVING SAID PARALLEL LINE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 44.63', WITH A RADIUS OF 28.00', WITH A CHORD LENGTH OF 40.06' TO THE WEST RIGHT OF WAY LINE OF CLIFTON STREET; THENCE ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 36.66' TO THE POINT OF BEGINNING, CONTAINING 979.13 SQUARE FEET, (0.0225 ACRES) MORE OR LESS.

**SECTION 3:** The City is further in need of Temporary Construction Easements for the Project, as more particularly described above, from the landowners as identified and detailed above.

**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, sidewalks, 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:** 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 27<sup>th</sup> day of August, 2019.

Approved:  
  
Mayor Bart Castleberry

**Attest:**

  
Michael O. Garrett  
City Clerk/Treasurer