



City of Conway, Arkansas  
Resolution No. R-20-22

**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 DONAGHEY AVENUE 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 on Donaghey Avenue ("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 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 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 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:** Thomas and Agnes Erbach are 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:

**A part of the Northeast Quarter of the Northeast Quarter of Section 14, Township 5, Range 14 West, City of Conway, Arkansas, being more particularly described as follows:**

**BEGINNING** at the Southeast Corner of said Northeast Quarter of the Northeast Quarter; thence N 88°23'33" W a distance of 40.00 feet; thence N 01°49'58" E a distance of 199.99 feet; thence S 88°23'23" E a distance of 41.20 feet to the East line of said Northeast Quarter of the Northeast Quarter; thence S 02°10'37" W along said East line a distance of 200.00 feet to the POINT OF BEGINNING, containing 8.120 square feet or 0.19 acres, more or less.

**ALSO:**

**PERMANENT DRAINAGE EASEMENT DESCRIPTION:**

**A part of the Northeast Quarter of the Northeast Quarter of Section 14, Township 5, Range 14 West, City of Conway, Arkansas, being more particularly described as follows:**

**COMMENCING** at the Southeast Corner of the Northeast Quarter of the Northeast Quarter thence N 02°10'37" E a distance of 200.00 feet; thence N 88°23'23" W a distance of 41.20 feet to the POINT OF BEGINNING; thence continuing N 88°23'23" W a distance of 35.33 feet; thence S 01°36'37" W a distance of 11.00 feet; thence S 88°10'02" E a distance of 35.29 feet; thence N 01°49'58" E a distance of 11.14 feet to the POINT OF BEGINNING, containing 390 square feet or 0.01 acres, more or less

**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 21<sup>st</sup> day of April, 2020.

**Approved:**



**Mayor Bart Castleberry**

**Attest:**



**Michael O. Garrett**  
City Clerk/Treasurer