

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PFLUGERVILLE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE UNILATERAL PUBLIC EASEMENTS IN ACCORDANCE WITH THE UNIFIED DEVELOPMENT CODE AND CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS IN THE COURSE OF LAND DEVELOPMENT IN THE CITY OF PFLUGERVILLE.

WHEREAS, the City Council finds that the City of Pflugerville, Texas is a home-rule municipal corporation as provided by Texas law; and

WHEREAS, the City Council finds that Section 10.01 of the home-rule charter states in part: “The right of control or use of city public property can be transferred only by ordinance. No act or omission by the city council or by any officer or agent of the city shall be construed to grant, renew, extend, or amend any right, franchise, or easement affecting city public property, except in accordance with this charter”; and,

WHEREAS, the City Council finds the city adopts by council action its Unified Development Code (as amended) and its Capital Improvement Program (CIP) Projects (as amended), which include, incorporate and require unilateral public easements in the course of land development to provide for the health, safety and general welfare of the public; and,

WHEREAS, the City Council finds that the Texas Supreme Court has defined easements as a non-possessory interest that authorizes its holder *to use the property* for only particular purposes and *is not a possessory interest in land*. *Marcus Cable Associates, L.P. v. Krohn*, 90 S.W.3d 697, 700 (Tex. 2002) (emphasis added, citing Restatement (Third) of Property (Servitudes) § 1.2 cmt. d.); and,

WHEREAS, the City Council finds that Section 4.01(c) (10) authorizes the City Manager, when authorized by the City Council, to “sign any contract, conveyance or other document”; and,

WHEREAS, the City Council finds it an expeditious use of its authority to streamline development and CIP Projects within the city and in order to provide for the health, safety and general welfare of the public to authorize the City Manager to execute and record unilateral public easements related to land development which are included, incorporated or required by the city’s Unified Development Code (as amended) and Capital Improvement Program Projects (as amended) in a form approved by the City Attorney’s Office, without the necessity of bringing them before City Council individually for approval;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE:

In accordance with the City Charter, the City Council hereby authorizes the City Manager to execute and record unilateral public easements related to land development which are included, incorporated or required by the city's Unified Development Code (as amended) and Capital Improvement Program Projects (as amended) in a form approved by the City Attorney's Office, without the necessity of bringing them before City Council individually for approval

PASSED AND APPROVED this 22th day of October 2013.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Jeff Coleman, Mayor

ATTEST:

Karen Thompson, City Secretary