

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF PFLUGERVILLE, TEXAS AMENDING THE POLICY AND PROCEDURES FOR ACQUISITION OF REAL PROPERTY OR PROPERTY RIGHTS

WHEREAS, on February 8, 2000, by Resolution Number 00-02-08-3D the City Council adopted policy and procedures for acquisition of real property or property rights; and

WHEREAS, on August 27, 2002, by Resolution Number 257-02-08-27-4H, the City Council adopted revised policy and procedures for acquisition of real property or property rights; and

WHEREAS, the City Council has determined that it is necessary to review and update these standard procedures to ensure compliance with all state and government laws.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

The adopted policy and procedures for acquisition of real property or property rights is hereby amended as indicated in Exhibit A.

PASSED AND APPROVED this 25th day of May, 2021.

Victor Gonzales, Mayor

ATTEST:

Karen Thompson, City Secretary

Exhibit A
CITY OF PFLUGERVILLE

Property Acquisition Procedures

The City of Pflugerville established processes and procedure guidelines associated with property acquisition as required by the Texas Property Code (TPC) Chapter 21 and Texas Local Government Code (TLGC) Chapter 251 and 252.051 where applicable.

City staff determines need and ability to implement or initiate a Capital Project that requires property acquisition the project will follow the process as outlined for planning, design and bid construction, development, valuation and negotiation phases accordingly.

Each phase as outlined will require City staff to review in compliance with TPC Chapter 21 and TLGC Chapter 252 accordingly.

I. Development Phase

1. City staff shall initiate the design phase immediately following approval and execution of a professional services agreement and issued a Notice to Proceed, allowing the following to be performed:
 - i. Complete preliminary planning or engineering study to determine general boundaries of project.
 - ii. Design consultant or City Staff engages surveyor to prepare survey of property to be acquired including metes and bounds and sketch exhibit.
 - iii. City Staff to procure Land Agent for Right of Entry (ROE) and Right-of-Way (ROW) services for the project. City's project manager shall coordinate with the consultant to confirm location, project information and parcels of interest to be surveyed or need for review or assessment associated with the project requirements.
 - iv. Land Agent to initiate contact with affected property owners regarding the project by sending a ROE letter from the City including an explanation of the project. (typically a 14-30 day process)
2. If the property owner allows Right of Entry (ROE):
 - i. City Design consultant can proceed with ordering the Survey and order title commitment from Title Company, review commitment and provide to surveyor for Schedule B exceptions. (typically a 10 day process)
 - ii. Survey and geotechnical data or information as needed shall be collected as agreed between the City and property owner within the timeframe as agreed on the ROE form.
 - iii. If requested, the Land Agent may share the preliminary alignment of the project if the exhibit shown is marked as draft.
3. Process when a property owner denies Right of Entry:
 - i. Land Agent will reach out to the property owner at least seven (7) times within a twenty-one (21) business day timeframe, staff will also attempt to reach the property owner if the Land Agent is not successful within the twenty-one (21) day timeframe, staff will attempt a final good-faith effort to gain the ROE before any further action is taken.
 - ii. When a resolution is not reached, action must be requested from City Council for approval and direction to declare the necessity of the survey injunction prior to filing the motion with Travis County Court. (typically a 14-21 day process)
 - iii. Land Agent to facilitate coordination between all involved parties.

II. Valuation Phase

1. Prior to parcel appraisal, Land Agent will coordinate with the property owner to discuss the ROW/Easements and allow an opportunity for an in-person meeting with the property owner. City Staff or Land Agent to procure Appraiser to evaluate property to be acquired
2. Appraiser shall perform an analysis or assessment for market valuation on each as parcel as identified for the project within 30 to 45 days or as agreed by City Staff.
3. Appraiser shall provide appraisal reports to City for review and approval of report information as complete and accurate based on project scope and City Infrastructure requirements.
 - i. City Staff and Land Agent evaluate appraisals and determine appraisal offer to property owner.
 - ii. City Staff will give direction to the Land Agent regarding limits to a negotiating range for each project, based on each appraised value up to \$50,000 as determined for best negotiated value with the property owner, unless otherwise an amount approved by City Council.

III. Negotiation Phase

1. Land Agent will issue an Initial offer Letter (IOL) with appraisal to the property owner via certified mail with a return receipt, (Land Agent will engage with property owner to facilitate a fair settlement to the best of their ability. Seeking to obtain the easement by negotiation or acquisition).
2. If a property owner presents the Land Agent with a counteroffer that exceeds the appraisal value and \$50,000, staff will present the counteroffer to City Council to request direction on the best path forward on the counteroffer.
3. If owner accepts the City's offer, staff will process the purchase agreement and all conveyance documents with the Land Agent and Title Company.
 - i. If an easement cost is under \$1,5000, no title is necessary. The agreement and all conveyance documents will be signed by City Manager and recorded through the County. This will expedite the process as well as eliminate closing costs. (typically 15-30 day process)
 - ii. If an easement cost is between \$1,500 and \$50,000.00 the agreement and all conveyance documents will be signed by City Manager then it must be turned into Title Company, any curative title must be performed and then closing will occur. (typically a 30 day process)
 - iii. If an easement cost is above \$50,000 the agreement will be brought forward to City Council for consideration and approval.
 - (a) If approved, and the property owner is not a business the City Manager may execute documents and a Form 1295 is not required. (typically 30-45 day process)
 - (b) If approved, and the property owner is a business or entity a Form 1295 is required prior to City Manager signature. (typically 30-45 day process)
4. If the property owner does not acknowledge the offer and/or make a written counter within thirty (30) days, a final offer will be sent to the property owner. If the property owner does not respond within the next thirty (30) days, or if an equitable settlement cannot be reached, the City reserves the right to enter eminent domain. (typically 60+ day process)
 - i. City staff will follow the state law relating to eminent domain, which may be Chapter 21 of the Property Code or any other state law governing and relating to the condemnation of land for public use by a municipality.

When all parcels have been acquired, staff should maintain all easement document as stated within the record retention policy. All permanent easements should be submitted to the City's Geographic Information System (GIS) Department to record in the City's database.