

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, AUTHORIZING CERTAIN ACTIONS INCLUDING PROCEEDINGS IN EMINENT DOMAIN TO ACQUIRE FEE SIMPLE TITLE IN AN APPROXIMATE 0.0057 TRACT OF LAND AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ALL DOCUMENTS TO INSTITUTE EMINENT DOMAIN PROCEEDINGS; AND DIRECTING THE CITY ATTORNEY TO INITIATE CONDEMNATION PROCEEDINGS.

WHEREAS, the City of Pflugerville, Texas (the "City") has found and determined that public necessity requires the City to acquire certain fee simple property in the City and Travis County, Texas from landowner for the Russell Street, Caldwell's Lane, Taylor Street, and Lincoln Avenue project ("Project") for public purpose of improving existing roadways within the subdivision with varying pavement widths and numerous pavement failures; correct deficient parking spaces; provide infrastructure for storm runoff, provide for dedicated pedestrian facilities and provide sufficient water volumes for fire services and that the City acquire such rights in fee and the rights of ingress and egress over and across such tract of land by purchase or eminent domain proceedings pursuant to its power of eminent domain as outlined in Section 251.001 and 552.011 of the Texas Local Government Code, as amended, and other pertinent statutory authority; and

WHEREAS eminent domain proceedings in the State of Texas are governed by Chapter 21 of the Texas Property Code; and

WHEREAS, under Chapter 21 of the Texas Property Code, a governmental entity exercising the power of eminent domain must first authorize the initiation of the condemnation proceeding at a public meeting by a record vote adopting a resolution, ordinance, or order; and

WHEREAS, the City has determined a public need to acquire fee simple title to certain real property for the purpose of public safety for the improvement of deteriorating infrastructure by way of reconstruction of each of the existing subdivision roadways along with new construction of Grant Avenue, East Lincoln Ave and East Taylor Street incorporating curb and gutter, underground storm drain facilities, sidewalks facilities throughout the Project (with exception of Grant Avenue), street lighting and new water mains with fire hydrants to provide fire protection of the subdivision; and

WHEREAS, the City has found that in order to promote the public safety, and to facilitate fire protection for the subdivision the expansion to the width of Grant Avenue is required to allow for an increased turning radius at the intersection with Caldwell's Lane in order to allow larger fire fighter vehicles and the Fire Department's longest apparatus an adequate turning radius to safely maneuver this portion of the intersection and to ensure an unobstructed pathway for these larger vehicles to respond to an emergency currently and in the future; and

WHEREAS, the City of Pflugerville City Council finds that the City has, through agents and representatives, entered bona fide good faith negotiations with the owner and/or owner’s agents or representatives of the hereinafter described property and has failed to agree with the owner and/or his agents or representatives the purchase price and damages, if any, due to said owner. Now, therefore, the City is authorizing the use of its power of eminent domain to condemn property; and

WHEREAS the City Council further finds that a public necessity exists and that acquiring the property referenced herein is necessary to accomplish the above-described public purpose and public use.

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

SECTION 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council of the City of Pflugerville, Texas and made a part hereof for all purposes as findings of fact.

SECTION 2. Public necessity requires that the City of Pflugerville, Texas acquire fee simple property in connection therewith, over, across, upon and under certain privately owned real property, hereinafter called the Property, in Travis County, Texas, to wit:

<u>Parcel Number</u>	<u>Landowner(s)</u>	<u>County</u>	<u>Survey</u>	<u>Abstract</u>	<u>Description</u>	<u>Property</u>	<u>Exhibit(s)</u>
3	Joel Bennett	Travis	H.W. Forley	288	Lot 7, Block F Vol. 2, Pg. 204, P.R.T.C.T Document 2005176078 O.P.R.T.C.T	0.0057 acre (250 s/f) (In fee)	A

As more fully described in **Exhibit “A”** attached hereto and made a part hereof for all purposes, from said landowner or other persons who are determined to be the owners of the Property, for the public purpose of constructing, operating, maintaining, repairing, replacing, rehabilitating, and improving the Project. Public necessity also requires that the City of Pflugerville, Texas acquire rights in fee and the rights of ingress and egress over and across such Property either through purchase or by the process of eminent domain and that the City of Pflugerville, Texas take all other lawful action necessary and incidental to such purchases or eminent domain proceedings.

SECTION 3: It is hereby determined that the City of Pflugerville, Texas, and the owner of such property interests have been unable to agree and cannot agree upon the value of such property interests or the damages to be paid, if any, and further settlement negotiations have become futile.

SECTION 4. The City Council of the City of Pflugerville, Texas hereby authorizes and directs the City Manager or the City Manager’s Designee, on behalf of the City, to condemn the property interests in the Property described above and to sign and execute all necessary documents to institute eminent domain proceedings for the acquisition of the Property described above and in **Exhibit “A”** herein.

SECTION 5. The City of Pflugerville City Council authorizes and directs the City Attorney, on behalf of the City, to initiate condemnation proceedings and such other actions as are necessary to acquire the property interest in the Property described above and in **Exhibit “A”** herein, by the exercise of the power of eminent domain.

SECTION 6: All acts and proceedings done or initiated by the employees, agents, and attorneys of the City of Pflugerville, Texas for the acquisition of such property is hereby authorized, ratified, approved, confirmed, and validated and declared to be valid in all respects as of the respective dates thereof with and in regard to the grantor from whom such rights have been or are being acquired.

SECTION 7. If it is later determined that there are any errors in the descriptions contained herein or if later surveys contain more accurate revised descriptions, the City Attorney is authorized to have such errors corrected or revisions made without the necessity of obtaining a new resolution of the City Council authorizing the condemnation of the corrected or revised Property.

SECTION 8: If any provisions, sections, subsections, sentences, clauses or phrases of this Resolution, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Resolution shall not be affected thereby, it being the intent of the City Council of the City of Pflugerville, Texas in adopting this Resolution that no portion thereof, or provisions or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Resolution are declared to be severable for that purpose.

SECTION 9: All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters ordained herein.

SECTION 10: It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code, and that the vote authorizing the adoption of this Resolution and the use of eminent domain power as specified herein was taken in a public meeting by record vote.

SECTION 11. This Resolution shall become effective immediately upon its passage.

<u>Council Member</u>	<u>In Favor</u>	<u>Opposed</u>
Mayor Victor Gonzales	_____	_____
Council Member Doug Weiss (Pro Tem)	_____	_____
Council Member Ceasar Ruiz	_____	_____
Council Member Kimberly Holiday	_____	_____
Council Member Rudy Metayer	_____	_____
Council Member Jim McDonald	_____	_____
Council Member David Rogers	_____	_____

PASSED AND APPROVED on this _____ day of _____, 2022.

Victor Gonzales, Mayor
City of Pflugerville, Texas

ATTEST:

Trista Evans, City Secretary