

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, AUTHORIZING CERTAIN ACTIONS INCLUDING PROCEEDINGS IN EMINENT DOMAIN TO ACQUIRE PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS IN PARCEL NUMBER 1, 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 permanent easements and temporary construction easements from the landowner for construction of a 15-inch wastewater interceptor connecting to an existing wastewater line and extending from the east to the west side of SH 130 known as the Wilbarger Creek Wastewater Interceptor project (“Project”); and

WHEREAS, the public purpose of this wastewater interceptor is to provide wastewater service to the area northwest of the SH130 and SH45 interchange in the Wilbarger Drainage Basin to support the development and buildout of the Wilbarger Creek Sewershed by providing additional sanitary sewer capacity and transporting to the Wilbarger Creek Regional Wastewater Treatment Facility and that the City acquire such easements 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 of Pflugerville City Council finds that the City has, through agents and representatives, entered bona fide good faith negotiations with the landowners or their agents or representatives of the hereinafter described property and has failed to agree with the landowner and/or his agents or representatives the purchase price and damages, if any, due to said landowner. 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 rights in the property in connection therewith, over, across, upon and under certain real property, hereinafter called the “Property”, in Travis County, Texas, to wit:

<u>Parcel Number</u>	<u>Landowner</u>	<u>County</u>	<u>Survey</u>	<u>Abstract</u>	<u>Acres Owned</u>	<u>Easement Property Subject to Condemnation</u>	<u>Exhibit</u>
1	Kevin B. Finley	Travis	J.C. Lee Survey	488	5.290-acre tract, being Lot 23, Pflugerville Acres II Phase I.	0.0826-acre Permanent Utility Easement 0.1010-acre Temporary Construction Easement.	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 the construction of a wastewater interceptor to provide wastewater service to the area northwest of the SH130 and SH45 interchange in the Wilbarger Drainage Basin to support the development and buildout of the Wilbarger Creek Sewershed by providing additional sanitary sewer capacity and transporting to the Wilbarger Creek Regional Wastewater Treatment Facility which requires that the City acquire easements 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 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 owners 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 _____, 2024.

Victor Gonzales, Mayor
City of Pflugerville, Texas

ATTEST:

Trista Evans, City Secretary