

**RESOLUTION NO. CSO#5066-04-2023**

**A RESOLUTION OF THE CITY OF BURLESON, TEXAS AUTHORIZING THE COMMENCEMENT OF NEGOTIATIONS AND, IF NECESSARY, THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE PURPOSE OF ACQUIRING PROPERTY FOR USE BY THE CITY FOR THE CONSTRUCTION AND MAINTENANCE OF ROADWAY AND PUBLIC UTILITY IMPROVEMENTS ALONG LAKEWOOD DRIVE TO SERVE EXISTING AND NEW DEVELOPMENT IN THE CITY AND FOR OTHER PUBLIC PURPOSES PERMITTED BY LAW.**

**WHEREAS**, the City of Burleson (the “City”) is in the process of constructing roadway and public utility improvements along Lakewood Drive to serve existing and new development in the City (the “Project”); and

**WHEREAS**, in order to complete construction of the Project, it is necessary for the City to acquire certain land and easements from the property owners who own land across which the Project will be located; and

**WHEREAS**, the City has contacted the owner of the following property in order to negotiate the acquisition of the following tract of land that is necessary to the construction of the Project:

A 0.177 acre (7,726 square foot) tract of land situated in the H.G. Catlett Survey, Abstract No. 185, Johnson County, Texas, being a portion of a tract of land conveyed to Marion O. Bush, and Wife Marilyn F. Bush in that deed recorded in Volume 515, Page 29, Deed Records, Johnson County, Texas (D.R.J.C.T.); and

**WHEREAS**, the City Council finds and determines that the acquisition of the above tract for the Project is necessary and constitutes a public use for a public purpose; and

**WHEREAS**, the City Council now deems it necessary to authorize the law firm of Taylor, Olson, Adkins, Sralla & Elam, L.L.P. to initiate condemnation proceedings in order to acquire the necessary land.

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

**SECTION 1.**

The City Council of the City of Burleson, Texas, hereby finds and determines that the recitals made in the preamble of this Resolution are true and correct, and incorporates such recitals herein.

## **SECTION 2.**

The City Council hereby finds and determines that a public necessity exists for the Project and that the acquisition of the above referenced land, which is more fully described in Exhibit "A" attached to this Resolution and incorporated into this Resolution for all purposes, is necessary for such purposes.

## **SECTION 3.**

The law firm of Taylor, Olson, Adkins, Sralla & Elam, L.L.P. is hereby authorized to bring condemnation proceedings against the Owner, and any and all other parties having an interest in the above referenced property, for the purpose of acquiring such land through the exercise of the City's power of eminent domain, given that that the following conditions have already been met:

- (a) The City obtained ownership information and a legal description for the parcel to be acquired;
- (b) The Owner and/or other parties were located through the exercise of due diligence, and the City Manager, or his designated representative, has:
  - (1) Made an initial offer to the Owner and/or other parties for the purchase of the above referenced land in accordance with Section 21.0113, Texas Property Code; and
  - (2) Made a final offer to the Owner and/or other parties for the purchase of the above referenced land in accordance with Section 21.0113, Texas Property Code; and
- (c) The Owner and/or other parties failed or refused to accept the City's final offer; and
- (d) The City has otherwise complied with all statutory prerequisites to the filing of eminent domain proceedings.

## **SECTION 4.**

The City Council hereby finds and determines that the above described land is needed so that the City of Burleson can construct and maintain the Project, which is a public purpose and is necessary to serve the public health, safety and welfare.

## **SECTION 5.**

This Resolution shall take effect upon its adoption, and it is so Resolved.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary

## **EXHIBIT A**

A tract of land situated in the M.C. Catlett Survey, Abstract No. 185, Johnson County, Texas, being a portion of a tract of land conveyed to Marion O. Bush and wife, Marilyn F. Bush, in that Deed Recorded in Volume 515, Page 29, Deed Records, Johnson County, Texas (D.R.J.C.T) and being more particularly described by metes and bounds as follows:

Beginning at a 1/2" iron rod found with a cap stamped "RP'S 5544" in the Southeasterly Line of said bush tract for the most Westerly corner of Lot 1, Block 1, Monroe Addition, according to the Plat recorded in Volume 9, Page 321, Plat Records, Johnson County, Texas, said 1/2" iron rod also being the most westerly corner of a tract of land conveyed to the City of Burleson and described as Tract 1 in the Deed Records in Instrument No. 2022-37909, D.R.J.C.T;

Thence S 44 deg 32' 48" W along said Southeasterly Line, a distance of 17.82 feet to a Cotton Spindle Set in County Road 914 (Variable R-O-W) for the most Southerly corner of said Bush Tract;

Thence N 45 deg 37' 46" W along said County Road and the Southwesterly Line of said Bush Tract, a distance of 149.89 feet to a Cotton Spindle Set in the Southeasterly Line of a tract of land conveyed to the City of Burleson in that Deed Recorded in Instrument No. 2022-38578, D.R.J.C.T., for the most Westerly Corner of said Bush Tract;

Thence N 44deg 55' 39" E along said Southwesterly Line and the Northwesterly Line of said Bush Tract, a distance of 52.16 feet to a 1/2" iron rod found with a cap stamped "RPLS 5544" for the most Westerly corner of said City of Burleson Tract;

Thence leaving said corner and said Northwesterly line S 45deg 12' 26" E, a distance of 149.54 feet to a 1/2" iron rod found with a cap stamped "RPLS 5544" in the Southeasterly line of said Bush Tract and in the Northwesterly Line of said Monroe Addition, for the most Northerly corner of said Tract 1;

Thence S 44° 32' 48" W along said common line and the Northwesterly line of said Tract 1, a distance of 33.23 feet to the point of beginning and containing 7726 square feet of land, more or less.