

## **A RESOLUTION**

**OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, AUTHORIZING THE POWER OF EMINENT DOMAIN FOR THE ACQUISITION OF PERMANENT PIPELINE EASEMENTS AND CERTAIN PROPERTY RIGHTS NECESSARY FOR THE CONSTRUCTION, ENLARGEMENT AND MAINTENANCE OF PIPELINES AND APPURTENANCES DESIGNED TO CARRY WATER AND WASTEWATER; ACQUISITION OF TEMPORARY WORKSPACE EASEMENTS; AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ALL DOCUMENTS TO INSTITUTE EMINENT DOMAIN PROCEEDINGS; AND AUTHORIZING THE CITY ATTORNEY TO INITIATE CONDEMNATION PROCEEDINGS**

**WHEREAS**, the City of Fair Oaks Ranch, Texas (the "City") has found and determined that public necessity requires the City to acquire certain water and wastewater pipeline easements and temporary workspace easements in connection therewith in Bexar County, Texas from landowners for a Water and Wastewater Lines Extension Project ("Project"); and,

**WHEREAS**, the City desires that the City Manager or his designee negotiate the purchase of the easement properties listed herein with the landowners, and if unsuccessful in purchasing the needed property interests, institute condemnation proceedings, to acquire the easement properties; and,

**WHEREAS**, the City is authorized by Sections 251.001 and 552.011 of the Texas Local Government Code, as amended, to institute eminent domain proceedings to acquire an interest in certain real property for a public use; 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 property rights to certain real property and improvements for the purpose of constructing, enlarging, and maintaining water and wastewater pipelines to address the ongoing water and wastewater needs of the City and in order to convey wastewater to a treatment facility; and

**WHEREAS**, to facilitate the utility pipeline construction, improvements and appurtenances; temporary workspace easements will also be obtained adjacent to the permanent utility easements to provide the City's contractor with adequate space for construction and maintenance activities; and

**WHEREAS**, the City Council further finds that a public necessity exists and that acquiring the easement properties is necessary to accomplish the above described public purpose and public use; and

**WHEREAS**, the City is authorizing the use of its power of eminent domain to condemn the easement properties described below.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF FAIR OAKS RANCH, 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 Fair Oaks Ranch, Texas and made a part of this Resolution for all purposes as findings of fact.
- SECTION 2.** Public necessity requires that the City acquire certain permanent water and wastewater pipeline easements ("PWE") and temporary workspace easement ("TWE") in connection therewith, over, across, upon and under certain privately owned real properties in Bexar County, Texas, and as more fully described in **"Exhibit A"** attached hereto and made a part hereof for all purposes, from said Landowner(s) or other persons who are determined to be the owner(s) of the easement properties, for the public purpose of constructing, operating, maintaining, repairing, relocating, replacing and removing a water and wastewater pipeline system to be constructed for the Project. Public necessity also requires that the City acquire the rights of ingress and egress over and across such lands 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.** The City Council hereby authorizes the City Manager or his designee, to negotiate with the landowners to acquire the property rights for the City in the easement properties described above and in **"Exhibit A"** herein. However, if the City Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the City Manager or his designee, on behalf of the City, is authorized to condemn the above-referenced easement property interests and to sign and execute all necessary documents to institute eminent domain proceedings for the acquisition of the easement properties.
- SECTION 4.** City Council authorizes and instructs the City Attorney, on behalf of the City, to initiate condemnation proceedings at such time as directed by the City Manager or his designee and take such other actions as are necessary to acquire the property interest in the easement properties described above and in **"Exhibit A"** herein, by the exercise of the power of eminent domain.
- SECTION 5.** 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 easement property.
- SECTION 6.** 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 Fair Oaks Ranch, 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 7.** 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 8.** This Resolution shall become effective immediately upon its passage.

**PASSED and APPROVED on this 5th day of January 2023 and recorded as follows:**

|                                | <b>FOR</b> | <b>AGAINST</b> | <b>ABSTAIN</b> |
|--------------------------------|------------|----------------|----------------|
| <b>Mayor Greg Maxton</b>       |            |                |                |
| <b>Council Member Stroup</b>   |            |                |                |
| <b>Council Member Elizondo</b> |            |                |                |
| <b>Council Member Bliss</b>    |            |                |                |
| <b>Mayor Pro Tem Koerner</b>   |            |                |                |
| <b>Council Member Parker</b>   |            |                |                |
| <b>Council Member Muenchow</b> |            |                |                |

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Gregory C. Maxton, Mayor

ATTEST:

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Christina Picioccio, TRMC, City Secretary

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Denton Navarro Rocha Bernal & Zech, P.C.,  
City Attorney