

RESOLUTION NO. 25-021R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS FINDING AND REAFFIRMING THAT A PUBLIC NECESSITY EXISTS TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN FOR MUNICIPAL PURPOSES FOR A STREET SYSTEM, INCLUDING DRAINAGE FACILITIES, AND OTHER PUBLIC USES IN REAL PROPERTIES AS PORTIONS OR WHOLE OF TRACTS OF LAND GENERALLY DESCRIBED IN THE BEXAR COUNTY REAL PROPERTY RECORDS AT VOLUME 2595, PAGE 153, BEING A 0.625-ACRE TRACT BEING THE REMAINDER PORTION OF THE ESTATE OF IVAH H. SMITH'S SAID 58.18-ACRE TRACT, PROPERTY BEING WHOLLY OR PARTIALLY OWNED BY THE ESTATE OF IVAH H. SMITH AND BEING MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AND REAFFIRMING NOTICE OF AN OFFICIAL DETERMINATION TO ACQUIRE REAL PROPERTY FOR THE STREET SYSTEM, INCLUDING DRAINAGE AND OTHER PUBLIC USES; PROVIDING AND REAFFIRMING AUTHORIZATION FOR THE CITY MANAGER TO OBTAIN THE NECESSARY APPRAISAL REPORT(S) AND THE MAKING OF BONA FIDE OFFERS OF JUST COMPENSATION FOR FEE SIMPLE PROPERTY; AUTHORIZING AND/OR REAFFIRMING THE AUTHORITY OF LEGAL COUNSEL TO INSTITUTE EMINENT DOMAIN PROCEEDINGS ON BEHALF OF THE CITY FOR THE ACQUISITION OF THE FEE SIMPLE PROPERTY ON SAID TRACTS IF NEGOTIATIONS ARE UNSUCCESSFUL; AUTHORIZING AND REAFFIRMING APPROPRIATION OF FUNDS FROM A LAWFUL SOURCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Leon Valley, Texas ("City"), by authority of Chapter 251 of the Texas Local Government Code and Chapter 21 of the Texas Property Code is authorized to initiate eminent domain proceedings to acquire real property for street systems and drainage works, and other public uses; and

WHEREAS, the City Council of the City of Leon Valley ("City Council") has investigated and determined that there is a public necessity for the acquisition, by eminent domain, of a street and drainage system, ("Purposes") on the following tract of land:

GENERALLY DESCRIBED IN THE BEXAR COUNTY REAL PROPERTY RECORDS AT VOLUME 2595, PAGE 153, BEING A 0.625-ACRE TRACT BEING THE REMAINDER PORTION OF THE ESTATE OF IVAH H. SMITH'S SAID 58.18-ACRE TRACT, PROPERTY BEING WHOLLY OR PARTIALLY OWNED BY THE ESTATE OF IVAH H. SMITH.

The property that is the subject of this Resolution is graphically depicted in Exhibit "A" attached hereto and incorporated herein for all purposes as the "Subject" property. It is the intent of the City to acquire the whole or portions of the property for the purpose of improving the street and drainage systems, among other public purposes; and

WHEREAS, the City Council has investigated and determined that the taking of said real property is necessary for public use; and

WHEREAS, this Resolution shall be cumulative of all the other resolutions of the City of Leon Valley and shall not repeal any of the provisions of such resolutions, except in those instances where provisions of said resolutions are in direct conflict with the provisions of this resolution; and

WHEREAS, it is necessary to establish procedures for determining establishment and approval of just compensation for the Property to be acquired by eminent domain as prescribed by law; and

WHEREAS, the City Manager or her designee, is required to make a bona fide offer, as defined by and in compliance with Chapter 21 of the Texas Property Code, to acquire for street systems, including drainage and water works, on the Property for use voluntarily from the owner(s) prior to moving forward with acquisition by eminent domain, which will or already have been performed; and

WHEREAS, the City Manager, or her designee, will seek, if not already obtained, third party appraisal(s), and the City Manager, the law firm of Messer, Fort, PLLC ("Legal Counsel"), or their designee will make bona fide initial offer(s) and final offer(s) based on the appraisal to the owner of the property, which may or may not be accepted by the Property's owner(s) if not already performed; and

WHEREAS, if the owner(s) of the Property does not agree upon the just compensation to be paid them for the property herein described, the City Council hereby authorizes, reauthorizes, affirms, and ratifies Legal Counsel in instituting proceedings in an eminent domain to acquire the Property for such public uses stated herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS:

SECTION 1. The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2. The City Council hereby officially determines, affirms, and/or reaffirms that there is a public use and necessity for acquiring the Property; the public welfare and convenience will be served by the acquisition, by eminent domain, of the Property for the public street and drainage systems; it is the City's intent to acquire the Property for public use and purposes on the Property as more specifically described in and depicted on Exhibit "A", attached hereto, specifically for the municipal purposes including streets and drainage systems; and the use of eminent domain is hereby authorized to obtain the Property.

SECTION 3: The City Council hereby authorizes and/or re-authorizes the City Manager or her designee obtaining, reviewing and accepting a third party's appraisal report(s) and updated report(s), if not acquired already, and if already obtained those actions are ratified. The City Manager, Legal Counsel or their designee is authorized and/or re-authorized to make bona fide initial and/or final offers based on the appraisal(s) to the owner(s) of the Property, and if such actions have already been completed those actions are so ratified. In the event of failed attempts to negotiate with any owner(s) of a portion of the Property after making a bona fide initial offer(s) and making bona fide final offer(s), the City Council hereby authorizes and/or reauthorizes the City Manager or her designee to authorize and direct, on behalf of the City, Legal Counsel to commence and conduct all parts of the condemnation proceedings under the Texas Property Code, and other applicable law, for the acquisition of the Property for municipal purposes and other public uses on the Property by eminent domain, and if already performed those actions are ratified. Legal Counsel, or designee, is authorized and/or re-authorized and directed to negotiate for and to acquire the Property for the City, and to acquire said rights in compliance with State and Federal law, and if already performed those actions are ratified. Moreover, Legal Counsel, or designee, is specifically authorized and/or re-authorized and directed to do each and every act necessary to acquire the Property, including but not limited to, the authority to negotiate, give notices to, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser(s) of the interests to be acquired, as well as any other experts or consultants deemed necessary for the acquisition process and, if necessary, to institute and complete court proceedings in eminent domain, and if already performed those actions are ratified.

SECTION 4: The City Manager, or her designee, is hereby authorized and/or reauthorized to execute all documents necessary to acquire the Property, on behalf of the City, whether by purchase or eminent domain, and if already performed those actions are ratified. The City Council hereby ratifies any and all negotiations, offer letters and all documents executed prior to the effective date of this Resolution, by the City Manager, or her designee, which were necessary for the acquisition of the Property.

SECTION 5: It is the intent of the City Council that this Resolution authorizes the condemnation of the Property required for this project, more specifically described in and depicted on Exhibit "A", for the purposes herein stated. If it is determined that there are any errors in the descriptions contained herein or if later surveys contain more accurately revised descriptions (which may include less or slightly more acreage), the City Manager, Legal Counsel or their designee is authorized to have such errors corrected or revisions made and to acquire such property rights without the necessity of obtaining a new City Council resolution authorizing condemnation of the corrected or revised property.

SECTION 6: The amount to be paid, if any, for acquiring the Property, will be appropriated from any lawful source.

SECTION 7. In the event that Special Commissioners appointed by the Court in each case during condemnation proceedings return an award for just compensation to be paid by the City, Legal Counsel is hereby authorized to settle the lawsuit for that amount. The City's Finance Director is hereby authorized to issue a check in each case from the appropriate fund in the amount of the Special Commissioners' award made payable to the owner(s) or to the County Clerk of Bexar County, to be deposited into the registry of the Court, to enable the City to take possession of the Property without further action of the City Council. If the City Manager believes such award(s) should be appealed, the award(s) may still be paid to take possession, but the City Manager shall put the question of whether to appeal on the next available city council agenda for consideration. If there is no such city council meeting before the deadline to appeal, the City Manager may direct Legal Counsel to file the appeal(s) and then place on the next available City Council agenda to either pursue or withdraw the appeal(s).

SECTION 8: Should any section, subsection, sentence, clause or phrase of this Resolution be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Resolution shall remain in full force and effect. The City hereby declares that it would have passed this Resolution, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 9: This Resolution shall take effect immediately upon its passage and execution.

PASSED AND APPROVED by record vote this the 19th day of June, 2025, at a regular meeting of the City Council of the City of Leon Valley in which a quorum was present with the following vote:

Danielle Bolton, Place 1	Aye	Nay
Betty Heyl, Place 2	Aye	Nay
Philip Campos, Place 3	Aye	Nay
Rey Orozco, Place 4	Aye	Nay
Beth Mursch, Place 5	Aye	Nay
Chris Riley, Mayor (in event of a tie)	Aye	Nay

APPROVED

CHRIS RILEY
MAYOR

Attest:

SAUNDRA PASSAILAIGUE, TRMC
City Secretary

Approved as to Form:

ARTURO D. 'ART' RODRIGUEZ,
City Attorney