

RESOLUTION NO. 2023-16

*Cottonwood Creek West Tributary Wastewater Line
Parcel 11 (Benny Paul Mark Gundy)*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANOR TEXAS FINDING PUBLIC CONVENIENCE AND NECESSITY AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, FOR ACQUISITION OF A PERMANENT WASTEWATER LINE EASEMENT OVER A 11,133 SQUARE FOOT PARCEL OF LAND AND A TEMPORARY CONSTRUCTION EASEMENT OVER A 12,170 SQUARE FOOT PARCEL OF LAND, BOTH PARCELS BEING OUT OF AND A PART OF A CALLED 19.000 ACRE TRACT OF LAND SITUATED IN TRAVIS COUNTY, TEXAS, DESCRIBED IN A WARRANTY DEED TO BENNY PAUL MARK GUNDY, RECORDED IN DOCUMENT NO. 2009017772 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.), AND ESTABLISHING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, in order to promote public health, safety, and welfare, the City of Manor, Texas (“City”) hereby finds that public convenience and necessity require acquisition of a permanent wastewater line easement on, over, across, under and through that certain 11,133 square foot parcel of land situated in Travis County, Texas that is described with particularity in **Exhibit “A,”** attached and incorporated herein by reference as if fully set out, and referred to hereafter as the “Permanent Easement,” for the public purpose and the public use of excavating for, placing, laying, constructing, installing, operating, maintaining, replacing, relocating, upgrading, removing, and repairing underground wastewater lines, facilities, connections therewith, manholes, vents, and all necessary appurtenances thereto (all uses being referred to hereafter as the “Project”) and further for the use of any and all excavated materials from the Permanent Easement for the City’s use during the Project; and

WHEREAS, in order to promote public health, safety and welfare, the City hereby also finds that public convenience and necessity require acquisition of a temporary construction easement on, over, across, under and through that certain 12,170 square foot parcel in Travis County, Texas that abuts the Permanent Easement to the west and is described graphically as “25’ TEMPORARY CONSTRUCTION EASEMENT” on sheets 4-5 of **Exhibit “A,”** and referred to hereafter as the “TCE,” for the public purpose and the public use of construction access, temporary spoil storage, equipment storage, equipment staging, and any other purpose necessary to effectuate construction of the Project; and further for the use of any and all excavated materials from the TCE for the City’s use during the Project; and

WHEREAS, in order to effectuate the Project, it will be necessary and convenient that agents, representatives, or employees of the City lay out the Project and acquire the necessary interests in land for the purpose of construction, reconstruction, operation and maintenance of the Project; and the necessary rights of way upon, over, under and across the Permanent Easement and TCE for the purposes of construction, reconstruction, operation, and maintenance of public wastewater line infrastructure improvements and appurtenances thereto, and for the use of any excavated materials from the Permanent Easement and TCE for use in the Project; and

WHEREAS, it may be necessary to hire engineers, surveyors, appraisers, attorneys, title companies, architects, or other persons or companies to effect the laying out, establishment, and acquisition of the Permanent Easement and TCE and for construction of the Project; and

WHEREAS, in order to acquire the Permanent Easement and TCE it will be or has been necessary for the City's agents, representatives, or employees to enter upon the Permanent Easement and TCE for the purpose of surveying and establishing said land titles and to determine adequate compensation for said land, to conduct tests, and to negotiate with the owners thereof for the purchase of the land titles and easements; and,

WHEREAS, it was necessary to set out procedures for the establishment and approval of just compensation for each of the parcels to be acquired for the Project;

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

1. That in order to promote the public health, safety, and welfare, public convenience and necessity requires the acquisition of a permanent wastewater line easement over, across, under and through that certain 11,133 square foot tract of land situated in Travis County, Texas as specifically described by metes and bounds and accompanying plat in **Exhibit "A,"** for the public purpose and the public use of excavating for, placing, laying, constructing, installing, operating, maintaining, replacing, relocating, upgrading, removing, and repairing underground wastewater lines, facilities, connections therewith, manholes, vents, and all necessary appurtenances thereto.
2. That in order to promote the public health, safety, and welfare, public convenience and necessity requires the acquisition of a temporary construction easement over, across, under and through that certain 12,170 square foot tract of land situated in Travis County, Texas abutting the Permanent Easement to the west and identified graphically as "25' TEMPORARY CONSTRUCTION EASEMENT" on sheets 4-5 of **Exhibit "A,"** for the public purpose and the public use of construction access, temporary spoil storage, equipment storage, equipment staging, and any other use necessary to effectuate construction of the Project.

3. That in order to promote the public health, safety, and welfare, public convenience and necessity further requires the City's acquisition and use of any and all earthen materials that may be excavated from the Permanent Easement and/or the TCE for any purposes related to the Project.
4. That the City's agents, representatives, or employees are hereby authorized to:
 - a. Lay out the exact location of the land area needed for the Permanent Easement, TCE, or other properties;
 - b. Hire such engineers, surveyors, appraisers, title companies, architects, and other persons or companies needed to effect the laying out of the facilities, the establishment and acquisition of the required right of way, and the construction of the public utility infrastructure improvements and appurtenances;
 - c. Enter upon any property necessary for the purpose of surveying and establishing the title, to determine adequate compensation for the right of way, and to conduct tests;
 - d. Negotiate with the owners of any such properties for the purchase thereof;
 - e. To purchase any necessary easements and right of way on, over, under and across the Permanent Easement and TCE and to execute all documents necessary to acquire such rights of way, all subject to express approval of the specific, negotiated terms by the City Council;
 - f. Initiate eminent domain proceedings against the owner(s) of the Permanent Easement and TCE for the necessary land interest(s) in same in the event the owner(s) fail to accept a bona fide offer to purchase the Permanent Easement and TCE; and
 - g. Take whatever further actions deemed appropriate to economically effect the establishment of the Project and appurtenances thereto.
5. That all previous acts and proceedings done or initiated by the City's agents, representatives, or employees for the establishment of the Project, including the negotiation for and/or acquisition of any necessary property rights in the Permanent Easement and TCE are hereby authorized, ratified, approved, confirmed, and validated. This resolution shall take effect immediately from and after its passage.
7. The Mayor is hereby authorized to sign this resolution and the City Secretary to attest thereto on behalf of the City of Manor, Texas.

8. This resolution shall be effective immediately upon adoption.

RESOLVED by the City Council of the City of Manor, Texas this 3rd day of
May 2023.

THE CITY OF MANOR, TEXAS

ATTEST:

By: _____
Dr. Christopher Harvey, Mayor

Lluvia T. Almaraz, City Secretary

APPROVED AS TO FORM:

Paige Saenz, City Attorney