

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, DECLARING THE AUTHORITY OF THE CITY TO INITIATE, COMPLETE, AND ACQUIRE THROUGH CONDEMNATION CERTAIN PROPERTY INTERESTS IN CERTAIN REAL PROPERTIES LOCATED IN THE CITY LIMITS AND THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF BRYAN, BRAZOS COUNTY, TEXAS FOR THE PUBLIC PURPOSE AND USE OF ENLARGING, CONSTRUCTING OR IMPROVING THE CITY’S SANITARY SEWER SYSTEM THROUGH THE LOCATION, CONSTRUCTION, AND OPERATION OF INFRASTRUCTURE NECESSARY FOR SUCH SANITARY SEWER SYSTEM, AUTHORIZING THE CITY ATTORNEY OR HIS DESIGNEE TO INSTITUTE AND PROSECUTE TO CONCLUSION AN EMINENT DOMAIN PROCEEDING; RATIFICATION OF ALL PRIOR CITY ACTS AND RESOLUTIONS; THE ESTABLISHMENT OF AN EFFECTIVE DATE, AND FINDING COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT.

WHEREAS, the City of Bryan, Texas (“City”) is a home rule municipality duly incorporated and chartered under the constitution and laws of Texas, which owns, operates, constructs, repairs, and maintains a sanitary sewer system as a means of removing, transporting and treating wastewater for the public and the City (“sanitary sewer system”); and

WHEREAS, the City Council of the City of Bryan, Texas hereby determines and declares that providing, enlarging, constructing and improving the City’s sanitary sewer system through the location, construction, operation, and maintenance of infrastructure necessary for such system is a benefit to the public; and

WHEREAS, a public necessity exists to acquire easements on the property described in **Exhibit A** (“subject property”) which is incorporated herein and made a part hereof, for the public purpose of improving, enlarging, and maintaining the City’s sanitary sewer system, and

WHEREAS, the City intends and seeks to acquire the easements on the subject through purchase or condemnation and authorizes City officers, officials, staff, representatives, and contractors to locate, construct, operate, and maintain sanitary sewer infrastructure and related improvements on, in, above, under, across, through, and below the surface of the subject property; and

WHEREAS, §251.001(a)(1) of the Texas Local Government Code authorizes municipalities to exercise the right of eminent domain for public purposes; and

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

1.

The singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, where necessary for a correct meaning of this document.

2.

All prior acts of the City, including the acts of its elected and appointed officials, officers, employees, agents, representatives, or attorneys, regarding the sanitary sewer project, the subject property, and the subject property interests are hereby authorized, ratified, approved, confirmed, and validated, including but not limited to all offers to purchase, purchases, acquisitions, offers, acceptances, or declinations, negotiations, and all other land acquisition activities regarding the sanitary sewer project.

3.

All statements made in the caption, preamble, and preliminary recitals of, and all documents referenced or attached to this document are true, correct, and incorporated by reference.

4.

The City Council finds and determines that best interests and needs of the public, including the health, safety, and welfare of the public, pursuant to the sanitary sewer project described herein, require that the sanitary sewer system of the City be enlarged and improved by the City's acquisition, through purchase or condemnation, of the subject property and property interests described herein.

5.

The City Council finds and determines that a public necessity exists to achieve the public purpose and use as a sanitary sewer easement for the City of Bryan, Texas, to acquire, through donation, purchase, or condemnation, easements as described herein over, on, under, and through the tracts of land located in Brazos County, Texas, as shown in **Exhibit A** ("subject property")

6.

In furtherance of the sanitary sewer project, the City's representatives, being its elected and appointed officials, officers, employees, agents, and attorneys are hereby authorized to engage in the following conduct regarding the subject property and property interests:

- (a) to lay-out and map the exact location of the land needed regarding the subject property and property interests;
- (b) to hire, engage, or direct such City staff, engineers, surveyors, appraisers, title companies, architects, attorneys, or other persons or entities needed to obtain or complete: the mapping or design of the necessary infrastructure, facilities, or improvements regarding the subject property or property interests; the establishment and acquisition of the necessary title to the property or property interests, including the initiation and completion of all administrative and adjudicative phases of condemnation proceedings; and the construction, operation, inspection, removal, and maintenance of the necessary infrastructure, equipment, facilities, or improvements on the subject property;
- (c) to enter upon the property with the consent of the property owner or through a court order, for the purpose of: surveying and establishing title; determining reasonable, adequate, and just compensation; conducting tests; or negotiating with the owner for the purchase for the City of all necessary title regarding the subject property and property interests;
- (d) to determine reasonable, adequate, and just compensation for the subject property and property interests, and to negotiate with the property owner for the purpose of acquiring same for the City;
- (e) to take such action as necessary to acquire by donation or purchase or alternatively to initiate and complete all administrative and adjudicative phases of condemnation proceedings against the property owners in order to acquire through condemnation all required title regarding the subject property and property interests; and

- (f) to initiate and complete all other actions deemed necessary and appropriate to obtain the accomplishment of the public purposes and uses described herein.

7.

The City Attorney of the City of Bryan, Texas, or his designee, if necessary, are hereby authorized and directed to institute and prosecute to conclusion proceedings in eminent domain on behalf of and in the name of the City of Bryan, against the owners of the land described in **Exhibit A**, and against all other interested owners, lienholders and other holders or claimants of an interest in the said land in order to acquire the easement for said municipal purposes.

8.

THIS resolution shall be effective immediately upon its passage and adoption.

9.

This resolution was passed and approved at a public meeting in compliance with the Texas Open Meetings Act.

AOPOTED BY VOTE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, this
_____ day of _____, 2024

ATTEST:

CITY OF BRYAN

Mary Lynne Stratta, City Secretary

Bobby Gutierrez, Mayor

APPROVED AS TO FORM:

Thomas A. Leeper, City Attorney

Exhibit A

1. Hicks Willis B & Billie O; Hicks Willis B & Billie O Family Trust
Being that property conveyed by general warranty deed on April 9, 1966 as recorded in Volume 254, Page 682 of the Official Public Records of Brazos County, Texas (“OPRBCT”)
2. Alfred and Currie Smith
Being that property conveyed by warranty deed dated June 21, 2017 as recorded in Volume 14097, Page 45 OPRBCT
3. Boriskie Phil Anthony Trustee of the PAB56 Trust
Being that property conveyed by warranty deed dated September 15, 2021 as recorded in Volume 17396, Page 198 OPRBCT
4. Boriskie Eugene A Revocable Trust
Being that property conveyed by warranty deed dated August 17, 2017 as recorded in Volume 14207, Page 50 OPRBCT
5. Steve Opersteny
Being that property conveyed by warranty deed dated March 15, 2004, as recorded in Volume 5921, Page 58 OPRBCT
6. FR & YR LTD
Being that property conveyed by correction deed dated February 20, 1995 as recorded in Volume 2300, Page 294 OPRBCT
7. Greer Damien P
Being that property conveyed by distribution deed dated December 22, 2022 as recorded in Volume 18473, Page 228 OPRBCT
8. McDonald Darryl E Jr. & Karen L
Being all that property purchased by warranty deed on October 10, 2008 as recorded in Volume 8833, Page 273 OPRBCT
9. Williams-Vaugh Aneesah K.
Being that property inherited by Aneesha K. Williams-Vaughn in the Will probated and recorded in 180936 of the Probate Records of Brazos County, Texas