

**RESOLUTION NO. R-2024-39**

**A RESOLUTION FINDING A NECESSITY FOR THE ACQUISITION OF CERTAIN LAND FOR ADDITION OF A SANITARY SEWER LINE; UPGRADING A SANITARY SEWER LINE; DECLARING SUCH ACQUISITION FOR A PUBLIC PURPOSE; AUTHORIZING CONDEMNATION FOR THE RIGHT-OF-WAY INTEREST IN SAID PROPERTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, engineering studies heretofore conducted have determined that acquisition of the hereinafter described property is necessary for the public use of establishing, constructing, testing, inspecting, installing, operating, renewing, maintaining, repairing, replacing, altering, changing the size of, reconstructing, restoring and possible future removal of a certain sanitary sewer line or lines and all necessary and convenient valves, connections, fittings, manholes, cleanouts and appurtenances, located in Tyler, Texas, known as the Heritage Property Development, LLC (Tolbert) Project (the "Project"), and to add a sewer line and upgrade the current sewer line for the City of Tyler, Texas; and

**WHEREAS**, the City Council has found that a public necessity requires such land acquisition; and

**WHEREAS**, the City Council has found and determined that the easement interest in and to the hereinafter described property is suitable for such purpose and that it is necessary to acquire same for establishing, constructing, testing, inspecting, installing, operating, renewing, maintaining, repairing, replacing, altering, changing of the size of, reconstructing, restoring and possible future removal of a certain sanitary sewer line or lines and all necessary and convenient valves, connections, fittings, manholes, cleanouts and appurtenances on and around said property; and

**WHEREAS**, the City of Tyler, through its duly authorized representatives, has negotiated with the owner(s) of such land and has been unable to agree with such owner(s) as to the fair cash market value thereof:

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

**PART 1:** The City of Tyler has determined that \$7,760.00 constitutes a reasonable sum of money to compensate Heritage Property Development, LLC for the value of the easement and damages, if any, to the remainder of this property, and has transmitted a final offer in writing, which is hereby confirmed.

**PART 2:** That acquisition of an easement interest in and to the following described property is hereby found to be necessary for the public use of establishing, constructing, testing, inspecting, installing, operating, renewing, maintaining, repairing, replacing, altering, changing of the size of, reconstructing, restoring and possible future removal of a certain sanitary sewer line or lines and all necessary and convenient valves, connections, fittings, manholes, cleanouts and appurtenances on said property, and maintaining the City of Tyler sewer system as follows and as shown in further detail on the map(s) attached hereto in Exhibit "A":

Being Lot 13-A, 14, 15, 16-A, New City Block 160, City of Tyler, Smith County, Texas, and being the same land described in a Special Warranty Deed from Monica M. Cannon to Heritage Property Development, LLC dated January 10, 2022, and recorded in Instrument No. 202201001770 of the Official Records of Smith County, Texas. Said Lot 13-A, 14, 15, 16-A,

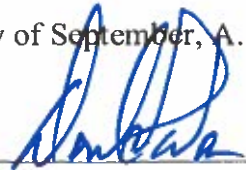
New City Block 160 tract being more particularly described by metes and bounds in Exhibit "A."

**PART 3:** That it is hereby determined that the City of Tyler has in fact transmitted bona fide offers to the property owner, in accordance with the laws of the State of Texas, for the property described herein, and the owner of the property, but the City of Tyler have been unable to agree and cannot agree upon the value of the land or the damages, if any, to be paid and further settlement negotiations have become futile and impossible. A true and complete copy of the Right-of-Way Agreement offered by the City of Tyler as its last and final offer is attached hereto as Exhibit "A." The final monetary offer of the City of Tyler is hereby confirmed and approved.

**PART 4:** That the City Attorney of the City of Tyler, or an attorney authorized by him be and is hereby authorized and directed to file and cause to be filed against the property owner(s) proceedings in eminent domain to acquire the easement interest in and to the above-described property and to conduct all parts of the condemnation in accordance with the laws and procedures of the State of Texas.

**PART 5:** That this Resolution shall take effect immediately upon its adoption.


**PASSED AND APPROVED** this 11<sup>th</sup> day of September, A.D. 2024.

  
DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK

APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY

