

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2015-29

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, DECLARING A PUBLIC NEED, NECESSITY AND A PUBLIC USE; APPROVING, AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ACQUIRE ON BEHALF OF THE CITY OF WILLCOX THROUGH DONATION, OUTRIGHT PURCHASE OR UNDER THE POWER OF EMINENT DOMAIN FOR THE PUBLIC PURPOSES OF ALL, AN EASEMENT INTEREST IN CERTAIN DESCRIBED REAL PROPERTY IN THE COUNTY OF COCHISE, ARIZONA, IN ORDER FOR THE CITY TO CONTINUE TO PROVIDE WATER SERVICE PURSUANT TO ARIZONA REVISED STATUTES, SECTION 9-511 AND TO PROPERLY AND ADEQUATELY DELIVER POTABLE WATER TO THE INHABITANTS OF WILLCOX, AS A MATTER OF PUBLIC NEED AND NECESSITY; REFERENCING TITLE 12 OF STATE LAW CONCERNING THE EXERCISE OF EMINENT DOMAIN FOR PUBLIC PURPOSES AND DECLARING A MATTER OF PUBLIC NEED AND NECESSITY AND DECLARING AN EMERGENCY.

The above matter came before the City Council of the City of Willcox, Arizona at its November 5, 2015 meeting to authorize the taking by eminent domain a permanent easement upon a portion of the real property identified by Tax Parcel No. 201-34-002A.

WHEREAS, the City of Willcox is a municipal corporation and a political subdivision of the State of Arizona and is authorized by the Constitution of the State of Arizona to acquire property by eminent domain for public purposes pursuant to A.R.S. §§12-1111 and 12-1116; and,

WHEREAS, the City is empowered pursuant to A.R.S. §9-511 to engage in the business of operating public utility systems; and,

WHEREAS, the delivery of potable water to the City of Willcox and its surrounding area through the City's existing water system infrastructure, is a matter of public need and necessity; and,

WHEREAS, the Mayor and Council of the City of Willcox have determined that any interference with the delivery of potable water to the City of Willcox and its surrounding area through the City's existing water system infrastructure would cause immediate and irreparable harm to the City of Willcox, its residents and the surrounding area therefore, creating an emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1: AUTHORIZATION TO ACQUIRE

The City Attorney on behalf of the Mayor and City Council of Willcox, Arizona, is hereby authorized and directed to acquire and/or condemn a permanent easement upon the real property described in the attached Exhibit "A", pursuant to Title 12, Chapter 8, Article 2, Arizona Revised Statutes and to file on behalf of the City such litigation as is necessary to

consummate the acquisition of such easement interest under the power of eminent domain and to do all things necessary to accomplish this purpose, including but not limited to obtaining title reports, appraisals, surveys and other expert assistance for such purposes. The assessor's tax parcel identification number associated with the legal description in the attached Exhibit "A" is 201-34-002(A).

SECTION 2: EMINENT DOMAIN AUTHORITY PURSUANT TO TITLE 12 OF STATE LAW; AUTHORIZATION TO OBTAIN IMMEDIATE POSSESSION.

The City Attorney on behalf of the City of Willcox, Arizona is authorized to petition the Cochise County Superior Court to enter an order that the City of Willcox shall be allowed to take immediate possession and full use of all of the real property described in Exhibit "A" pursuant to Title 12, Chapter 8, Article 2, Section 12-1116 and to immediately determine the probable damages resulting from the City of Willcox being allowed to have immediate possession and control of the real property described in Exhibit "A" and to set the amount of a bond in a form to be approved by the Court or to deposit the equivalent amount of City funds budgeted and appropriated and to do all things necessary to accomplish this purpose.

SECTION 3: EFFECTIVE DATE AND DECLARATION OF EMERGENCY

The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, and as such, an Emergency is hereby declared to exist and this Resolution shall be in full force and effect from and after its passage by the Mayor and City Council.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, this 5th day of November, 2015.

APPROVED/EXECUTED:

/s/ Robert A. Irvin
ROBERT A. IRVIN, Mayor

ATTEST:

APPROVED AS TO FORM:

/s/ Virginia A. Mefford
VIRGINIA A. MEFFORD, City Clerk

/s/ Ann P. Roberts
ANN P. ROBERTS, City Attorney