VILLAGE OF VOLENTE

RESOLUTION NO. 2012-R-01

A RESOLUTION OF THE VILLAGE OF VOLENTE, TEXAS, APPROVING THE RELOCATION OF FIVE UTILITY POLES AND RELATED EQUIPMENT BY THE PEDERNALES ELECTRIC COOPERATIVE TO THE SOUTHERN RIGHT OF WAY OF MARY STREET, IMMEDIATELY NEXT TO THE PRIVATE PROPERTY LINES, LOCATED AT RAY VISTA AND MARY STREET AND EXTENDING WEST NINE HUNDRED FEET ALONG MARY STREET AND ENDING AT DODD STREET; OBLIGATING THE VILLAGE OF VOLENTE TO PAY FOR THE RELOCATION OF THE UTILITY POLES IN THE UNLIKELY EVENT THE VILLAGE OF VOLENTE NEEDS THIS PORTION OF THE RIGHT OF WAY FOR THE FUTURE WIDENING OF MARY STREET; PROVIDING FOR FINDINGS OF FACT, AN EFFECTIVE DATE, SEVERABILITY, AND COMPLIANCE WITH PUBLIC NOTICE AND OPEN MEETINGS REQUIREMENTS.

WHEREAS, the Village of Volente ("Volente") was incorporated pursuant to the laws of the State of Texas as a Type B General-Law Municipality following an election held on February 1, 2003; and

WHEREAS, after incorporation, the Village Council of Volente ("Council") accepted for maintenance and improvement various streets and roads within Volente, including portions of Mary Street; and

WHEREAS, the Council approved the plat for the Isle Estates subdivision and accepted the dedication of additional right-of-way for Mary Street as set forth on the plat of the subdivision; and

WHEREAS, the Owners of the lots on the south side of Mary Street have requested the Pedernales Electric Cooperative ("PEC"), in connection with the upgrade of utility lines located on these utility poles, to relocate the utility poles located on their private property to a portion of the Mary Street right-of-way along the south side of the existing pavement; and

WHEREAS, the Franchise Agreement between the PEC and Volente provides that the PEC can locate utility lines within Volente's rights of way; and

WHEREAS, Volente has concluded it is highly unlikely that it will ever need the portion of the Mary Street right-of-way for the paved portion of Mary Street; and,

WHEREAS, the PEC at its cost is willing to relocate these utility poles if Volente will agree to pay for the relocation of the utility poles in the event Volente ever needs this portion of the right-of-way for Mary Street pavement;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS:

Section 1. Findings

The recitals above made in the Preamble are hereby deemed to be the Factual Findings of the Village Council, and are hereby incorporated within this Resolution.

Section 2. Relocation of Utility Poles

a. In connection with the upgrade of utility lines located on five utility poles on private property on the southern side of Mary Street, the PEC is authorized at its cost to relocate the utility poles to a portion of the 1 Mary Street right-of-way on the south side of the pavement.

b. In the unlikely event Volente needs to have these poles relocated in connection with the widening of Mary Street, Volente will agree to pay for the relocation of the utility poles.

Section 3. Severability.

If any portion of this Resolution or the application of this Resolution to any person or set of circumstances is held to be invalid or unenforceable for any reason, then that holding shall not be construed to affect the validity of any other portion of this Resolution, and all other portions shall remain in full force and effect. All provisions of this Resolution are declared severable for that purpose.

Section 4. Effective Date.

This Ordinance shall take effect immediately upon its approval by the Village Council at a special council meeting held on April 12, 2012.

Section 5. Public Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this, the 17 day of April, 2012, by a vote of the Volente Village Council of 4 in favor to 0 opposed with 0 abstentions.

Justine Blackmore-Hlista, Mayor

Attest:

Joan Jackson, City Secretary