

STATE OF TEXAS

RESOLUTION AUTHORIZING CERTAIN ACTIONS INCLUDING PROCEEDINGS IN EMINENT DOMAIN IN CONNECTION WITH THE ACQUISITION OF PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FROM JOSE SAMUEL A. ABRUE-SANCHEZ AND WILLIAM AND PATRICIA FUNDERBURG IN CONNECTION WITH THE FM 758 SANITARY SEWER EXTENSION PROJECT; RATIFYING ALL ACTIONS TAKEN TO DATE TOWARDS SUCH ACQUISITION OF LAND; DECLARING EACH SECTION OF THIS RESOLUTION TO BE SEVERABLE ONE FROM THE OTHER IN EVENT THAT ANY SECTION IS DETERMINED TO BE INVALID; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City Council has previously approved funding and agreements for the construction of the FM 758 Sanitary Sewer Extension Project (the “Project”); and

WHEREAS, the Project requires that the City obtain permanent easements and temporary construction easements in, on, under, and across, and adjacent to the Project for the location of the sanitary sewer line. The affected properties are shown, respectively, on the attached Exhibits “A,” and “B,” for the Project which are incorporated fully in this Resolution by reference; and

WHEREAS, duly approved offers based on written appraisals by an independent real estate appraiser for the fair cash market value of each of the easements and any temporary construction easements to be bought or acquired out of the following tracts, to wit:

For Mr. Jose Samuel A. Abreu-Sanchez a 0.0054 acre, more or less, permanent easement and a 30 foot (0.0108 acre) temporary easement lying adjacent to the easement out of land situated in the Margarita Cherino Survey, No. 20 Abstract 10, and being out of a 0.637 acre tract of land conveyed to Mr. Abreu-Sanchez and recorded in Document 2015009784 of the Official Records of Guadalupe County, Texas

For Mr. William T. Funderburg and Patricia A. Funderberg a 0.4934 acre, more or less permanent easement and a 30 foot (0.9868 acre) temporary construction easement lying adjacent to the permanent easement out four adjacent tracts of land being situated in the Humphreys Branch Survey, No 17, Abstract 6, City of Seguin, Guadalupe County, Texas, more particularly described as a 5.73 acre tract described in Document Number 2015001341, a 14.85 acre tract of land described in Volume 2414, Page 715, an 8.609 acre tract of land described in Volume 1041, Page 81, and a called 0.246 acre tract of land all as recorded in the Official Public Records of Guadalupe County, Texas.

and more fully described in the attached Exhibits “A,” and “B” have been transmitted to the owners thereof, along with a copy of the appraisal report as to each parcel, and the owners have been unable to agree with the City of Seguin as to the fair cash market value of each described tract, and further negotiations have become futile.

NOW THEREFORE BE IT RESOLVED by the City Council of Seguin, Texas:

PART 1: Public necessity requires that the City of Seguin purchase permanent and temporary easements in, on, under, and across, and adjacent to the Project for the construction and maintenance of a sanitary sewer system, in the City of Seguin, Guadalupe County, Texas, to wit:

For Mr. Jose Samuel A. Abreu-Sanchez a 0.0054 acre, more or less, permanent easement and a 30 foot (0.0108 acre) temporary easement lying adjacent to the easement out of land situated in the Margarita Cherino Survey, No. 20 Abstract 10, and being out of a 0.637 acre tract of land conveyed to Mr. Abreu-Sanchez and recorded in Document 2015009784 of the Official Records of Guadalupe County, Texas

For Mr. William T. Funderburg and Patricia A. Funderberg a 0.4934 acre, more or less permanent easement and a 30 foot (0.9868 acre) temporary construction easement lying adjacent to the permanent easement out four adjacent tracts of land being situated in the Humphreys Branch Survey, No 17, Abstract 6, City of Seguin, Guadalupe County, Texas, more particularly described as a 5.73 acre tract described in Document Number 2015001341, a 14.85 acre tract of land described in Volume 2414, Page 715, an 8.609 acre tract of land described in Volume 1041, Page 81, and a called 0.246 acre tract of land all as recorded in the Official Public Records of Guadalupe County, Texas.

Both more fully described in Exhibits “A,” and “B” respectively attached hereto and made a part hereof for all purposes, for the public purpose of providing a sanitary sewer line to serve new housing developments for the citizens of the City by acquiring the permanent easements. Public necessity also requires that the City acquire said easements either through purchase or by the process of eminent domain and that the City take all other lawful action necessary and incidental to such purchase or eminent domain proceeding.

PART 2: It is hereby determined that the City of Seguin has in fact transmitted bona fide offers and copies of the real estate appraisals in support thereof to each of the owners of the property interests sought to be acquired and as required by law, but the City of Seguin and the owners of such property interests have been unable to agree and cannot agree upon the value of such property interests or the damages to be paid, and further settlement negotiations have become futile.

PART 3: The City Council hereby directs and authorizes the City Manager, staff, agents, and retained attorneys to institute and prosecute to conclusion all necessary proceedings to condemn the property interests described above herein and to acquire all such interests that the City of Seguin is unable to acquire through negotiation by reason of its inability to agree with the owner thereof as to the damages to the landowner, and to take any other legal action necessary and incidental to such purchases or eminent domain proceedings.

PART 4: All acts and proceedings done or initiated by the employees, agents, and attorneys of the City of Seguin for the acquisition of such property are hereby authorized, ratified, approved, confirmed, and validated and declared to be valid in all respects as of the respective dates thereof with and in regard to the grantors from whom such rights have been or are being acquired.

PART 5: If any provisions, sections, subsections, sentences, clauses or phrase of this Resolution, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Resolution shall not be affected thereby, it being the intent of the City Council of the City of Seguin, Texas in adopting this Resolution that no portion thereof, or provisions or regulation contained herein shall become inoperative

or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Resolution are declared to be severable for that purpose.

PART 6: The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

PART 7: All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters ordained herein.

PART 8: This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

PART 9: It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

PART 10: This Resolution shall be in force and effect from and after its final passage and it is so resolved.

ADOPTED on this 17th day of March, 2020.

DON KEIL, Mayor

ATTEST:

NAOMI MANSKI, City Secretary