

STATE OF TEXAS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS, IN CONNECTION WITH THE WALNUT BRANCH PHASE III WASTEWATER LINE PROJECT; AUTHORIZING ALL APPROPRIATE ACTION BY THE CITY MANAGER, STAFF, ATTORNEYS, AND CONSULTANTS, IN THE NEGOTIATION, PURCHASE, AND THE INSTITUTION AND PROSECUTION OF CONDEMNATION PROCEEDINGS THROUGH THE USE OF EMINENT DOMAIN TO ACQUIRE A FEE SIMPLE INTEREST IN A PARCEL OF LAND BEING A 0.1205 ACRE APPARENTLY OWNED BY BANK OF AMERICA, N.A. AS SUCCESSOR IN INTEREST FOR NBC BANK, SEGUIN, SAID PARCEL LOCATED WITHIN THE CITY OF SEGUIN, GUADALUPE COUNTY, TEXAS; DECLARING EACH SECTION OF THE RESOLUTION TO BE SEVERABLE ONE FROM THE OTHER IN THE EVENT ANY SECTION IS DETERMINED TO BE INVALID; AND DECLARING AN EFFECTIVE DATE

RECITALS:

WHEREAS, in January 2019, City Council approved engineering and other professional services for the third phase of the Walnut Branch Sanitary Sewer Line (the Project”) wherein Council found that the Project served a public purpose and easements necessary for the project would be obtained; and

WHEREAS, to complete the Project, the City needs to purchase one parcel of land from Bank of America, N.A. as successor of interest for NBC Bank – Seguin:

A 0.1205 acre, more or less, parcel of land being Lot 2 in Block 5 of the Apache Addition, City of Seguin, Guadalupe County, Texas according to the map or plat thereof recorded in Volume 1, Page 116 of the Plat Records of Guadalupe County, Texas.

WHEREAS, the parcel of land, which borders the Hike and Bike Trail, is not accessible by a public road and is burdened by a drainage easement in favor of the U.S. Corps of Engineers that was obtained by the City during the Corp project; and

WHEREAS, the City already owns the other lots in the area bounded by the Hike and Bike Trail, as shown on Exhibit “1”; and

WHEREAS, City Staff has been working with Bank of America, the purported owner; however, given the history of the parcel and the Bank’s lack of involvement in obtaining the parcel, the Bank is not willing to give any more than a quit claim deed to the property, and that document has not been forthcoming. At this point in time the negotiations have failed to result in an Agreement; hence the City must proceed to condemnation in order for the project to proceed.

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

SECTION 1. Public use and necessity require the City to acquire a fee simple interest in a 0.125 acre, more or less, parcel of land being Lot 2 in Block 5 of the Apache Addition and as more fully described in the attached Exhibit “1”. It is a public necessity that the City acquire said property either through the process of eminent domain and that the City take all other lawful action necessary and incidental to such purchase or eminent domain proceedings.

SECTION 2. The owner and claimant of the property described herein is Bank of America, N.A. as successor in interest to NBC Bank - Seguin.

SECTION 3. The City Council directs and authorizes the City Manager, staff, agents, and retained attorneys to institute and prosecute to conclusion all necessary proceedings to condemn the right of way and

permanent utility easements to the property and to take any other legal action necessary and incidental to such acquisition and eminent domain proceedings to survey, both lineal and archaeological, and to appraise, define, specify, and secure such property interests.

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

SECTION 5. If any provisions, sections, subsections, sentences, clauses, or phrase of this resolution, or the application of same to any set of circumstances or person 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 that no portion hereof shall become inoperative by reason of any unconstitutionality or invalidity of any other portions hereof, and all provisions of this resolution are declared to be severable for that purpose.

SECTION 6. This resolution shall be in full force and effect immediately upon its passage.

PASSED AND APPROVED this 6th day of June 2023.

DONNA DODGEN
Mayor

ATTEST:

Naomi Manski
City Secretary