

CITY OF SEGUIN

RESOLUTION NO. \_\_\_\_\_

STATE OF TEXAS

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS, IN CONNECTION WITH THE CONSTRUCTION OF THE PECAN ORCHARD LIFT STATION; AUTHORIZING ALL APPROPRIATE ACTION BY THE CITY MANAGER, STAFF, ATTORNEYS, AND CONSULTANTS, IN THE INSTITUTION AND PROSECUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE FEE SIMPLE TITLE AND A TEMPORARY CONSTRUCTION EASEMENT FROM LANDS HELD BY DANIEL J. AND PATRICIA L. SCHACHT, MORE PARTICULARLY DESCRIBED AS A PARCEL OF LAND COMPRISING 0.250 ACRES, MORE OR LESS, AND 0.165 ACRES, MORE OR LESS, BEING OUT OF THE E. GORTARI LEAGUE SURVEY, ABSTRACT 23, IN THE CITY OF SEGUIN, GUADALUPE COUNTY, TEXAS, AND AFFIRMING ALL ACTS AND RATIFYING ALL ACTIONS PREVIOUSLY TAKEN OR INITIATED BY EMPLOYEES, AGENTS, AND ATTORNEYS OF THE CITY TO ACQUIRE SUCH PROPERTY INTEREST; DECLARING EACH SECTION OF THE RESOLUTION TO BE SEVERABLE ONE FROM THE OTHER IN THE EVENT ANY SECTION OF THIS RESOLUTION IS DETERMINED TO BE INVALID; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, based upon the recommendation of its staff, and after public hearing this Council finds that public use and necessity require acquisition of the hereinafter described land rights needed for public benefit associated with the construction of the Pecan Orchard Lift Station that will be place on line in order to decommission the old Clear Springs Wastewater Treatment Plant that lies within the floodplain; and

**WHEREAS**, in order to construct the lift station the City is required to obtain fee title, along with a temporary construction easement, in property owned and claimed by Daniel J. and Patricia L. Schacht, and any other persons owning or claiming an interest in 0.250 acres, more or less, and 0.165, acres more or less, parcels of land being out of the E. Gortari League Survey, Abstract 23, located in Seguin, Guadalupe County, Texas as more particularly described on the attached Exhibits "A" and "B" which are incorporated herein by reference ("the property"); and

**WHEREAS**, the City has previously made an offer based on a written appraisal by an independent fee appraiser, a copy of which has been delivered to the Owner, for the fair cash market value of the property, and has negotiated in good faith, but has been unable to acquire said tract by negotiation and purchase, and further negotiation have become futile.

**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 fee simple title to the 0.250 acre parcel of land, and a temporary construction easement to a 0.165 acre parcel of land being out of the E. Gortari League Survey Abstract 23, Seguin, Guadalupe County, Texas, respectively

described in Exhibits “A” and “B” attached hereto and incorporated herein by reference for the purpose of constructing the Pecan Orchard Lift Station as part of the City’s sanitary sewer system. It is a public necessity that the City acquire said property 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 proceedings.

SECTION 2. The owners and claimants of the property described herein are and any other persons owning or claiming an interest.

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 permanent and temporary 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 5<sup>th</sup> day of September 2017.

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DON KEIL  
Mayor

ATTEST:

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Naomi Manski  
City Secretary