

CITY OF SEGUIN**RESOLUTION NO:****STATE OF TEXAS**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS AUTHORIZING THE NEGOTIATION AND PURCHASE INCLUDING THE USE OF EMINENT DOMAIN PROCEEDINGS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS IN CONNECTION WITH A WATER PIPELINE TO BE CONSTRUCTED PARALLEL TO THE EXISTING PIPELINE OWNED AND OPERATED BY THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION; 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 of Seguin, Texas (the “City”) has previously found and determined that public necessity requires the City to acquire certain water pipeline easements and temporary construction easements in connection therewith in Guadalupe County from a proposed well field in Guadalupe County and parallel to existing water transmission pipelines constructed in 2002 and 2003 and expanded in 2011 and 2012, for the public purpose of construction, operation, and maintenance of a water pipeline system to be constructed for public water supply for the Cities of Schertz and Seguin and customers of Schertz/Seguin Local Government Corporation in a Project called the Schertz/Seguin Local Government Corporation Secondary Pipeline Project, and that the City of Seguin, acquire the rights of ingress and egress over and across such lands and adjacent lands by purchase or eminent domain proceedings pursuant to its power of eminent domain as outlined in Section 251.001 and 402.011 of the Texas Local Government Code, as amended, and other pertinent statutory authority; and

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

<u>Parcel Number</u>	<u>Landowner</u>	<u>County</u>	<u>Survey</u>	<u>Abstract</u>	<u>Acres Owned</u>
GU(II) 007	Edward Woehler Jr.	Guadalupe	G.W. Davis H.M. Swift	104 288	103.897
GU(II) 009A	Edward A. Woehler Jr.	Guadalupe	G.W. Davis J.D. Brown	104 62	99.5
GU(II) 009B	Edward A. Woehler Jr.	Guadalupe	G.W. Davis J.D. Brown	104 62	99.5
GU(II) 010	Alice Lawson	Guadalupe	J.D. Brown	62 Lot 28, Block 2	Muehlsville Addition

GU(II) 011	Dayle Dyess, Susan C. Dyess, Danna D. Dyess, Denae D. Buzbee, Matthew J. Engbrock	Guadalupe	J.D. Brown	62 Lot 22, Block 2	Muehlsville Addition
GU(II) 019	Millennium Interests, LTD	Guadalupe	J.D. Brown	62	Remainder of 42.317 acres
GU(II) 026.A	David Glenn Schumann & Candyce Jean Schumann	Guadalupe	Peter D. Smith	298	40.56
GU(II) 026.B	David Glenn Schumann & Candyce Jean Schumann	Guadalupe	Peter D. Smith	298	49.457
GU(II) 032	Sharlene Buch Martin	Guadalupe	Jacob Darst	113	76.776
GU(II) 036	Glenn Jeffrey Kutz	Guadalupe	Jacob Darst	113	Remainder of 36.943 acres
GU(II) 038	Fred Michael Kutz	Guadalupe	Jacob Darst	113	36.96
GU(II) 042	Alton W. Dreyer Unified Credit Trust, Gayle Lynn Stroh & Susan Kay Dreyer Ziperman Co-Trustees	Guadalupe	James Rowden William Bracken	281 52	Tract II - approx. 207 acres
GU(II) 046	Engel Farms, LLC	Guadalupe	James Rowden Claiborne Rector	281 270	90.515

and more fully described in Exhibits “A” through “X”, and hereinafter called the Properties, have been transmitted to each of the owners thereof, along with a copy of the appraisal 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; and

WHEREAS, it is necessary for the City to acquire the above described Properties in order to complete the Project; and

WHEREAS, the City Council further finds that a public necessity exists and that acquiring the Properties is necessary to accomplish the above described public purpose and public use.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SEGUIN, TEXAS THAT:

SECTION 1: Public necessity requires that the City of Seguin acquire certain water pipeline easements and temporary construction easements in connection therewith, over, across, upon and under certain privately owned real properties in Guadalupe County, Texas, to wit:

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more fully described in Exhibits “A” through “X” attached hereto and made a part hereof for all purposes, from said Landowners or other persons who are determined to be the owners of the Properties, for the public purpose of constructing, operating, maintaining, repairing, relocating, replacing and removing a water pipeline system to be constructed, in a Project called the Schertz/Seguin Local Government Corporation Secondary Pipeline Project. Public necessity also requires that the City of Seguin acquire the rights of ingress and egress over and across such lands either through purchase or by the process of eminent domain and that the City of Seguin take all other lawful action necessary and incidental to such purchases or eminent domain proceedings.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 5: If any provisions, sections, subsections, sentences, clauses or phrases 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.

SECTION 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.

SECTION 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.

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

SECTION 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, and that the vote authorizing the adoption of this Resolution and the use of eminent domain power as specified herein was taken in a public meeting by record vote and was made in or substantially similar to the following form: “I move that the City of Seguin, Texas, authorize the use of the power of eminent domain to acquire certain water pipeline easements and temporary construction easements in connection therewith, over, across, upon and under certain privately owned real properties in Guadalupe County, Texas, to wit:

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

PASSED AND APPROVED on this 5th day of February, 2019.

DON KEIL, Mayor
City of Seguin, Texas

ATTEST:

NAOMI MANSKI, City Secretary
City of Seguin, Texas