

RESOLUTION NO. 2015-119

A RESOLUTION OF THE CITY OF BOERNE, TEXAS, AUTHORIZING THE ACQUISITION IN FEE SIMPLE OF A TRACT OF LAND GENERALLY DEPICTED IN EXHIBIT "A," WHICH IS ATTACHED HERETO AND IS INCORPORATED HEREIN FOR ALL PURPOSES, AS PART OF THE MAIN STREET / HERFF ROAD TO CHRISTUS PARKWAY CONNECTOR PROJECT. SUCH ACQUISITION IS NECESSARY TO ADVANCE AND ACHIEVE THE PUBLIC PURPOSE OF INTERCONNECTIVITY FOR ACCESS TO AND FROM THE IH 10 FRONTAGE ROAD, IH 10 WEST AND EAST, MAIN STREET AND HERFF ROAD, AND BY PROVIDING FOR SAFE AND EFFICIENT MOBILITY FOR THE PUBLIC, EMERGENCY VEHICLES, LAW ENFORCEMENT VEHICLES, AND CITY SUPPORT PERSONNEL AND IS IN THE BEST INTEREST OF THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC. THIS RESOLUTION AUTHORIZES THE INSTITUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE THE NECESSARY LAND RIGHTS TO THE EXTENT NEGOTIATIONS ARE UNSUCCESSFUL.

WHEREAS, the City of Boerne, Texas ("City") has determined that approximately THIRTEEN THOUSAND (13,000) square feet of privately-owned real property must be acquired in fee simple interest for the construction of the Main Street / Herff Road To Christus Parkway Connector Project (the "Project"); and

WHEREAS, the acquisition of such property is necessary in order to complete the Project, to advance and achieve the public use of interconnectivity of the City by accessing Interstate Highway 10 frontage for the public, emergency vehicles, law enforcement vehicles, and city support personnel. Such Project may include but is not limited to, bike lanes, curbs, sidewalks, driveway approaches, traffic-signal improvements, and drainage improvements; and

WHEREAS, the Project is in the best interest of the health, safety, and welfare of the public;

WHEREAS, the City has been unable to acquire said land by negotiation and/or further negotiations may become futile, and therefore, the City may be compelled to exercise its power of eminent domain; and

WHEREAS, relating to the acquisition of such land, it may be necessary for the City or one of its agents or contractors to enter upon the property to investigate and survey the needed land so that they may be defined and described with specificity for inclusion in any deed, or, if necessary, as part of any filings to institute proceedings in eminent domain to acquire the necessary land.

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

SECTION 1.

The above caption and recitals are incorporated herein for all purposes.

SECTION 2.

The City Council declares a public use and necessity for the City of Boerne to acquire fee simple interest of approximately THIRTEEN THOUSAND (13,000) square feet of privately owned real property as part of the Main Street / Herff Road To Christus Parkway Connector Project. The Project acquisition is generally depicted in Exhibit "A," which is attached hereto and is incorporated herein for all purposes (the "Approved Route").

SECTION 3.

The City Council declares that the acquisition of such property is necessary in order to complete the Project, which has the public use of interconnectivity of the City by accessing Interstate Highway 10 frontage for the public, emergency vehicles, law enforcement vehicles, and city support personnel.

The City Council authorizes the utilization of the power of eminent domain to acquire the necessary land located in the City of Boerne, to the extent that the City is unable to acquire said land by negotiation and/or further negotiations with the landowner become futile.

SECTION 4.

The City Council authorizes its authorized officers or their designees and retained attorneys, to create, execute, and deliver such further documents, instruments, certificates, opinions, consents, pleadings, and other papers, for and on behalf of the City, and to do and cause to be done such further acts and things as may be necessary, appropriate, or advisable in order to effect the intent of this Resolution, including, but not limited to (a) filing temporary injunctions or other causes of action necessary to obtain access to the property impacted by the Approved Route; (b) performing lineal surveys for metes and bounds purposes and conducting archaeological, species and environmental walk-throughs, inspections and/or testing (including obtaining water and soil samples, if necessary), as required by applicable state and federal laws (collectively the "Preliminary Surveys"), appraising, designing, planning, obtaining title information, and specifying the preparation, location, and routing or re-rerouting of the Project should such become necessary for any reason; (c) entering into good-faith negotiations with the landowner to make bona fide offer to the property; (d) appraising the property; (e) causing eminent domain proceedings to be filed should good-faith negotiations fail; and (f) obtaining, or causing to be applied for and obtained, surety bonds as may be necessary or desirable in connection with any eminent domain proceedings hereinabove authorized or any injunctive proceedings necessary or in connection with or as a precedent to any such eminent domain proceedings. Such documents, instruments, certificates, opinions, consents, pleadings, and other papers, and any amendments, supplements, or modifications thereto shall be in such form and contain such terms and conditions, whether material or non-material, as such officers, or any of them, shall deem necessary, appropriate, or advisable, and all that such officers, their designees, employees, and retained attorneys have done or may do under or by reason of this and the foregoing resolutions are hereby approved, confirmed, and ratified. The City Council finds that it is in the best interest to obtain the fee simple interest from whomever

holds legal and equitable title as identified according to the procedure adopted through this Resolution and if necessary, the Director of Finance is directed to disburse funds in accordance herewith.

SECTION 5.

The determination of necessity to exercise the power of eminent domain in this matter is made according to reason and judgment with due regard and consideration of the relevant facts, circumstances, and alternatives, and the knowledge of which exist at this time. Therefore, the City, acting by and through its contractual eminent domain attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary proceedings in eminent domain to condemn the land described herein and to acquire such interest in land in the event the City is unable to acquire such through negotiation, and to take any other legal action necessary or incidental to such acquisition or eminent domain proceeding to investigate, survey, specify, define, and secure the necessary property right.

All acts and proceedings done or initiated by the employees, agents, and attorneys of the City for the acquisition of such land are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the grantors from whom such land is being purchased or acquired.

SECTION 6.

Severability: If any provision, section, subsection, sentence, clause, or phrase of this Order, or the application of the 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 Order shall not be affected thereby, it being the intent of the City Council in adopting this Order that no portion hereof, or provisions, or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Order are declared to be severable for that purpose.

SECTION 7.

This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this the _____ day of _____, 2015.

Michael D. Schultz, Mayor

ATTEST:

Lori Carroll, TRMC
City Secretary

Herff Road Extension to Christus Site

