

**RESOLUTION NO. R-2020-84**

**A RESOLUTION FINDING A NECESSITY FOR THE ACQUISITION OF CERTAIN LAND FOR MOORE STREET IMPROVEMENT PURPOSES; DECLARING SUCH ACQUISITION FOR A PUBLIC USE; AUTHORIZING CONDEMNATION FOR THE RIGHT-OF-WAY INTEREST IN SAID PROPERTY; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, engineering studies heretofore conducted have determined that acquisition of the hereinafter described property is necessary for the public use of constructing a sidewalk and curb and gutter project, known as the TJ Austin Sidewalk Improvements Project (the "Project") to provide sidewalks and curb and gutter to the citizens of City of Tyler, Texas; and,

**WHEREAS**, the City Council has found that a public necessity requires such land acquisition; and,

**WHEREAS**, the City Council has found and determined that the easement interest in and to the hereinafter described property is suitable for such purpose and that it is necessary to acquire same for constructing the new sidewalk and curb and gutter; and,

**WHEREAS**, the City of Tyler, through its duly authorized representatives, has negotiated with the owners of such land and has been unable to agree with such owners as to the fair cash market value thereof;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That the City of Tyler has offered Betty Coleman, landowner, a final offer in writing of four hundred ninety-seven and zero dollars (\$497.00), a reasonable sum of money to compensate for the value of the easement and damages, if any, to the remainder of this property, the offer of which is hereby confirmed.

**PART 2:** That acquisition of an easement interest in and to the following described property is hereby found to be necessary for the public use of constructing a sidewalk, curb and gutter:

**Being a 0.028 of an acre road, utility, and drainage easement tract of land situated in the James McKnight Survey, Abstract 689, and being a part of Lot 13, New City Block 449□C, of the Galloway Addition, as shown on plat recorded in Volume 101, Page 9 of the Deed Records of Smith County, Texas, also being a part of that certain tract of land described in a deed from Edith Bolton et vir, et al to Surella Crowder and Luella McNary, as recorded in Volume 621, Page 403 of the Deed Records of Smith County, Texas, also being a part of Tax Lot 23**

**PART 3:** That it is hereby determined that the City of Tyler has in fact transmitted bona fide offers to the property owners, in accordance with the laws of the State of Texas, for the property described herein, and the owners of the property and the City of Tyler have been unable to agree and cannot agree upon the value of the land or the damages. A true and complete copy of the Right-of-Way Agreement offered by the City of Tyler as its last and final offer is attached

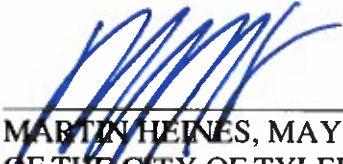
hereto as "Attachment 1" titled *Road, Utility, and Drainage Easement Agreement*. The final monetary offer of the City of Tyler is hereby confirmed and approved.

**PART 4:** That the City Attorney of the City of Tyler, or her designee, be and is hereby authorized and directed to file and cause to be filed against the owner, proceedings in eminent domain to acquire the easement interest in and to the above described property and to conduct all parts of the condemnation in accordance with the laws and procedures of the State of Texas.

**PART 5:** That the first record vote taken by the Tyler City Council to approve this Resolution applies to all units of property to be condemned.

**PART 6:** That this Resolution shall take effect immediately upon its adoption.


**PASSED AND APPROVED** this 23<sup>rd</sup> day of September, A.D. 2020.

  
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MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
\_\_\_\_\_  
CASSANDRA BRAGER, CITY CLERK



APPROVED:  
  
\_\_\_\_\_  
DEBORAH G. PULLUM,  
CITY ATTORNEY