

ORDINANCE NO. 19-3379

AN ORDINANCE ORDERING THE CONDEMNATION OF CERTAIN INTERESTS IN REAL ESTATE FOR USE BY THE CITY OF ABILENE, KANSAS, IN CONSTRUCTION OF THE 8TH STREET IMPROVEMENT PROJECT PURSUANT TO CHAPTER 26 OF THE KANSAS STATUTES ANNOTATED, AND AMENDMENTS THERETO.

WHEREAS, the City of Abilene, Kansas (“City”) has by Resolution Number 081219-1 declared it necessary to appropriate private property in order to complete a road project, which is generally described as the extension of N.W. 8th Street from N. Washington Street to N. Van Buren Street, including associated drainage facilities and other public improvements (the “Project”); and

WHEREAS, in accordance with Resolution Number 081219-1, the City Engineer has caused a survey and legal description to be made of certain real estate to be acquired by the City for the purpose of constructing the Project, SO NOW, THEREFORE,

BE IT ORDAINED by the Governing Body of the City of Abilene, Kansas:

Section 1. That the Governing Body hereby reaffirms the prior orders and declarations of the necessity for acquisition of title to certain interests in real estate for the purpose of constructing the Project.

Section 2. That the interests in real estate required to be taken for such public use are described in surveys and legal descriptions prepared by the City Engineer and filed with the City Clerk pursuant to K.S.A 26-201.

Section 3. That the following described interests in real estate, together with all structures and improvements thereon (collectively, the “Real Estate”):

Right-of-Way:

A TRACT OF LAND LOCATED IN THE WEST HALF OF SECTION 17, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE 6TH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 17; THENCE ON AN ASSUMED BEARING OF N89°19'54"E ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 50.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF NORTH VAN BUREN STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE N00°40'39"W ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 60.00 FEET; THENCE S43°12'53"E A DISTANCE OF 25.11 FEET; THENCE N89°19'54"E, A DISTANCE OF 1271.95 FEET TO A POINT ON THE EAST LINE OF A TRACT OF LAND AS RECORDED IN DEED BOOK 229, PAGE 264 IN THE REGISTER OF DEEDS OFFICE, DICKINSON COUNTY, KANSAS; THENCE S00°37'40"E ALONG

SAID EAST LINE, A DISTANCE OF 41.50 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE S89°19'54"W ALONG SAID SOUTH LINE, A DISTANCE OF 6.00 FEET; THENCE S00°37'30"E ALONG SAID EAST LINE, A DISTANCE OF 30.00 FEET; THENCE S89°19'54"W A DISTANCE OF 839.00 FEET; THENCE N00°39'21"W A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE S89°19'54"W ALONG SAID SOUTH LINE, A DISTANCE OF 443.90 FEET TO THE POINT OF BEGINNING.

CONTAINS 78,818 SQUARE FEET, 1.81 ACRES, MORE OR LESS.

Temporary Construction Easement:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE 6TH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON AN ASSUMED BEARING OF N89°19'54"E ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 50.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF NORTH VAN BUREN STREET; THENCE N00°40'39"W ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N00°40'39"W ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 33.50 FEET; THENCE N89°19'54"E A DISTANCE OF 275.00 FEET; THENCE S00°40'39"E A DISTANCE OF 52.00 FEET; THENCE S89°19'54"W A DISTANCE OF 258.00 FEET; THENCE N43°15'14"W A DISTANCE OF 25.13 FEET TO THE POINT OF BEGINNING.

CONTAINS 14,143 SQUARE FEET, MORE OR LESS.

are hereby ordered condemned for the purpose set forth in Section 1 above.

Section 4. That the City's legal counsel is hereby directed to file a verified petition signed by the City Manager in the District Court of Dickinson County, Kansas, for the condemnation and acquisition of title to the Real Estate pursuant to Chapter 26 of the Kansas Statutes Annotated, and amendments thereto, and to do all that is necessary for the condemnation and acquisition of the Real Estate for the stated public purpose.

Section 5. For purposes of this ordinance and any corresponding petition, the terms "right-of-way" and "temporary construction easement" shall mean:

Right-of-way

“Right-of-way shall mean a perpetual form of fee title to real estate, subject only to reversion upon vacation of the public use, for the purposes of locating, constructing, excavating, and maintaining:

- a. Public means of transportation including roadways, streets, bridges, sidewalks, paths, crosswalks, and traffic control devices;
- b. Public drainage structures including, but not limited to, culverts, pipes, levees, and channels;
- c. Public landscaping and other aesthetic improvements; and
- d. Poles, wires, conduit, pipeline, and junction boxes for the purposes of conducting, transmitting, and distributing water, sewage, electricity, gas, and electronic communications by the City, its franchisees, and its licensees.

Temporary Construction Easement

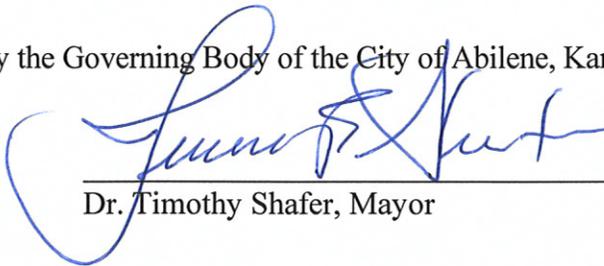
“Temporary Construction Easement” shall mean, subject to existing easements of record, an easement commencing on the date of taking and continuing through December 31, 2020, in, through, over, and across the described real estate for all rights of ingress and egress of the City, its employees, contractors, and franchisees, for the purposes of constructing, grading, improving, reconstructing and inspecting the Project in the manner called for in the project plans (which may result in a permanent grade change); and continuing from January 1, 2020 through December 31, 2020, during which additional period of time the City’s employees or contractors shall have the right to perform maintenance, repair, or landscape work on the Project. After completion of construction, the City shall restore the area of the Temporary Construction Easement by seeding or paving as set out in the project plans and specifications.

Section 6. A certified copy of this ordinance signed by the City Clerk for the City of Abilene, Kansas, shall be recorded in the Office of the Register of Deeds, Dickinson County, Kansas.

Section 7. This ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

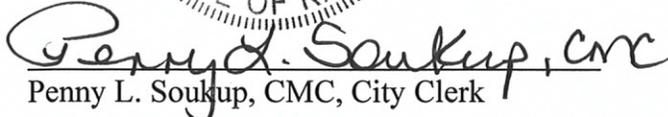
APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 3rd day of September, 2019:





Dr. Timothy Shafer, Mayor

ATTEST:



Penny L. Soukup, CMC, City Clerk