



City Council Memorandum

To: Honorable Mayor and Members of the Fate City Council
Cc: Michael Kovacs, City Manager; Justin Weiss, Assistant City Manager; Victoria Raduechel, City Secretary; Samantha Harris, Deputy City Secretary; Spencer Foster, Assistant to the City Manager; Jon Thatcher, City Attorney
From: Ryan Wells, Director of Planning & Development Services
Date: 5 December 2022

Agenda Item: (This is an ordinance to abandon a portion of a public sanitary sewer easement in Edgewater Phase 2) Discuss, consider, and take any necessary action regarding an Ordinance to abandon a portion of a public sanitary sewer easement in Edgewater Phase 2.

Staff Recommendation: Approve

Options: Approve; Approve subject to conditions; Deny; or Table for further review.

Overview & Background: The Edgewater Phase 2 Final Plat was approved by the Fate Planning & Zoning Commission in December 2021. The public infrastructure is currently under construction for this phase. Prior to issuance of any building permits for Phase 2, the final plat must be recorded, and the existing sanitary sewer easement must be abandoned. A public sanitary sewer line will be constructed within rights-of-way or other easements within the development phase to provide service to the new residential units.

Supporting Documents (enclosed):

Exhibit 1. Ordinance # O-2022-XXX, approving the abandonment of an approximately 1.688-acre sanitary sewer easement associated with the Edgewater Phase 2 development

Exhibit 2. Select sheets from approved Edgewater Phase 2 final plat and civil plans

ORDINANCE NO. O-2022-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FATE, TEXAS, PROVIDING FOR THE ABANDONMENT OF AN APPROXIMATELY 1.688 ACRE SANITARY SEWER EASEMENT ASSOCIATED WITH THE EDGEWATER PHASE 2 DEVELOPMENT AND AS DESCRIBED AND DEPICTED IN THE EXHIBIT HERETO; PROVIDING FOR SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Fate (the “City”) has received a request from the developer of the Edgewater residential development to abandon a portion of a sanitary sewer easement associated with Edgewater Phase 2, such portion as described in **Exhibit A** attached hereto and incorporated herein; and

WHEREAS, the abandoned portion of the easement is no longer necessary to serve the public or the property; and

WHEREAS, the City Council of the City of Fate, Texas (the “City Council”) deems it advisable to abandon the sanitary sewer easement and is of the opinion that said land is not needed for public use and therefore constitutes a public charge without a corresponding public benefit, and that the same should be abandoned; and

WHEREAS, the City Council determines that the following action is beneficial to the public health, safety, and welfare and is in the best interests of the citizens of the City of Fate, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FATE, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Findings. The City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Fate, Texas and of the public health, safety, and welfare.

Section 3. Easement Abandoned. The sanitary sewer easement as described and depicted in **Exhibit A** shall be and is hereby abandoned.

Section 4. Reservations. The abandonment provided for herein is made and accepted subject to all present zoning and deed restrictions, if any of the latter exist, and all public easements and rights-of-way, whether apparent, non-apparent, aerial, surface, or underground.

Section 5. Extent of Abandonment. The abandonment provided for herein shall extend only to the public right, title, easement, and interest and shall be construed to extend only to that interest which the City may legally and lawfully abandon. This

abandonment does not affect any private right, title, easement, or interest that may exist.

Section 6. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 8. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, and sentences of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Section 9. Effective Date. This Ordinance shall become effective from and after its date of passage in accordance with law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FATE,
TEXAS on this 5th day of December 2022.**

APPROVED:

David Billings
Mayor

ATTEST:

Victoria Raduechel, TRMC
City Secretary

APPROVED AS TO FORM:

Jonathan Thatcher
City Attorney

EXHIBIT A

