

RESOLUTION NO. 936

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, DECLARING THE NECESSITY TO ACQUIRE FEE SIMPLE TITLE TO APPROXIMATELY 53.212 ACRES OF LAND OUT OF THE R. G. CARTWRIGHT SURVEY, A-76, KAUFMAN COUNTY, TEXAS, FOR REHABILITATION OF THE CEDAR CREEK SITE 87A MULTIPURPOSE STRUCTURE/NEW TERRELL LAKE PROJECT; DETERMINING THE PUBLIC NECESSITY FOR SUCH ACQUISITION; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS NECESSARY FOR THE REHABILITATION PROJECT AND ASSOCIATED CONSTRUCTION USES AND ACCESS; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED AND TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AND AUTHORIZING THE CITY ATTORNEY OR DESIGNEE TO INSTITUTE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE THE PROPERTY IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL.

WHEREAS, the City Council of the City of Terrell, Texas ("Council"), has determined that approximately 53.212 acres of land situated in the R. G. Cartwright Survey, A-76, Kaufman County, Texas ("Property"), a legal description of which is attached hereto, is necessary for use by the City of Terrell for rehabilitation and associated construction uses and access ("New Terrell Lake Project"), and that there exists a public necessity to acquire the Property, in fee simple title, for the New Terrell Lake Project; and

WHEREAS, the City Council desires to acquire the Property for the aforementioned public uses in conjunction with the New Terrell Lake Project because, in part, additional property is necessary for permanent access to New Terrell City Lake, operation and maintenance of the Dam and Pump Station and related safety concerns in accordance with the City Comprehensive Plan; and

WHEREAS, the City Council desires that the City Manager or his designee, take all necessary steps to acquire the needed property interests, including but not limited to the retention of appraisers, engineers and other consultants and experts, and that the City Manager or his designee, negotiate the purchase of the property interests and, if unsuccessful in purchasing the needed property interests, to institute eminent domain proceedings to acquire the Property.

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

SECTION I.

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Terrell, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION II.

The City Council hereby finds and determines that a public use and necessity exists for the City of Terrell, Texas, to rehabilitate the Cedar Creek Site 87A Multipurpose Structure/New Terrell Lake Project and associated construction uses and access as part of the New Terrell Lake Project, and to acquire the necessary property rights in the Property deemed necessary for permanent access to New Terrell City Lake, operation and maintenance of the Dam and Pump Station and related safety concerns in accordance with the City Comprehensive Plan, as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of land.

SECTION III.

The City Attorney or her designee, is authorized and directed to negotiate for and to acquire the required property rights for the City of Terrell, Texas, and to acquire said rights in compliance with State and Federal law. The City Attorney or her designee, is specifically authorized and directed to do each and every act necessary to acquire the needed property rights including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that deemed necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.


SECTION IV.

The City Manager or his designee, is appointed as negotiator for the acquisition of the needed property interests and, as such, the City Manager or his designee is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. The City Manager or his designee is specifically authorized to establish the just compensation for the acquisition of the Property. If the City Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the City Attorney or her designee is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed property interests, proceedings in eminent domain to acquire the above-stated interests in the Property.

SECTION V.

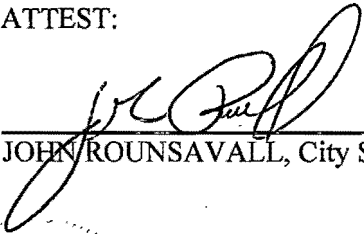
This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this 20th day of August, 2019.



E. RICK CARMONA, Mayor

ATTEST:



JOHN ROUNSAVALL, City Secretary

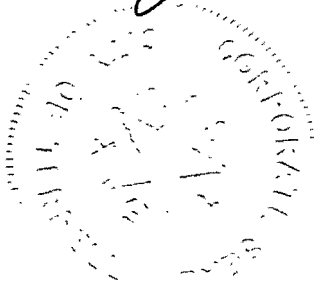


EXHIBIT "A"

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATED IN THE R. G. CARTWRIGHT SURVEY, ABSTRACT NO. 76, KAUFMAN COUNTY, TEXAS, BEING PART OF A TRACT OF LAND CONVEYED TO KATIE GRIFFIN RECORDED IN VOLUME 442, PAGE 53 DEED RECORDS, KAUFMAN COUNTY, TEXAS, AND PART OF BLOCK 14, PART OF AN UNIMPROVED 80 FOOT RIGHT-OF-WAY AND AN UNIMPROVED 50 FOR RIGHT-OF-WAY OF THE McCORKLES ADDITION, AN UNRECORDED ADDITION TO THE TOWN OF ELMO, AND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD FOUND FOR CORNER IN THE NORTH RIGHT-OF-WAY LINE OF TEXAS & PACIFIC RAILROAD, SAID POINT BEING THE SOUTHWEST CORNER OF BLOCK 10 OF THE ORIGINAL TOWN OF ELMO RECORDED IN VOLUME 9, PAGE 9, DEED RECORDS KAUFMAN COUNTY, TEXAS;

THENCE NORTH 81 DEGREES 36 MINUTES 00 SECONDS WEST ALONG THE NORTH LINE OF SAID TEXAS & PACIFIC R.R. A DISTANCE OF 384.99 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, THE EAST CORNER OF A TRACT OF LAND CONVEYED TO BETTY PRATT BROWN RECORDED IN VOLUME 1022, PAGE 98 OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS;

THENCE NORTH 45 DEGREES 32 MINUTES 00 SECONDS WEST ALONG THE NORTHEAST LINE OF SAID BROWN TRACT A DISTANCE OF 384.42 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER, THE WEST CORNER OF HEREIN DESCRIBED TRACT AND THE SOUTH CORNER OF TERRELL CITY LAKE TRACT;

THENCE NORTH 59 DEGREES 03 MINUTES 43 SECONDS EAST ALONG THE SOUTHEAST LINE OF SAID CITY OF TERRELL TRACT A DISTANCE OF 1209.37 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR ANGLE POINT;

THENCE NORTH 16 DEGREES 59 MINUTES 19 SECONDS EAST ALONG SAID LINE A DISTANCE OF 660.35 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER, THE MOST NORTHERLY NORTHWEST CORNER OF HEREIN DESCRIBED TRACT AND THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO RANDAL AND MARGARET MOODY RECORDED IN VOLUME 3754, PAGE 61 REAL PROPERTY RECORDS, KAUFMAN COUNTY, TEXAS;

THENCE SOUTH 65 DEGREES 43 MINUTES 27 SECONDS EAST ALONG THE SOUTH LINE OF SAID MOODY TRACT A DISTANCE OF 654.00 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, IN THE WEST LINE OF COUNTY ROAD 390 A VARIABLE WIDTH RIGHT-OF-WAY, SAID POINT BEING THE NORTHEAST CORNER OF HEREIN DESCRIBED TRACT AND THE SOUTHEAST CORNER OF SAID MOODY TRACT;

THENCE SOUTH 01 DEGREES 12 MINUTES 34 SECONDS WEST ALONG THE WEST LINE OF SAID COUNTY ROAD 390 A DISTANCE OF 120.93 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, AN INNER KELL CORNER OF HEREIN DESCRIBED TRACT;

THENCE SOUTH 81 DEGREES 30 MINUTES 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID COUNTY ROAD 390 A DISTANCE OF 376.53 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, THE NORTHWEST CORNER OF SAID BLOCK 14 OF SAID McCORKLES ADDITION;

THENCE SOUTH 08 DEGREES 30 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID BLOCK 14 A DISTANCE OF 116.17 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO J. H. GRIFFIN RECORDED IN VOLUME 210, PAGE 605 DEED RECORDS, KAUFMAN COUNTY, TEXAS;

THENCE SOUTH 81 DEGREES 30 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID GRIFFIN TRACT A DISTANCE OF 259.80 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER IN THE WEST LINE OF COUNTY ROAD 352, AN 80 FOOT RIGHT-OF-WAY, SAID POINT BEING THE NORTHEAST CORNER OF SAID GRIFFIN TRACT;

THENCE SOUTH 08 DEGREES 30 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID COUNTY ROAD 352 A DISTANCE OF 282.33 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, THE NORTHEAST CORNER OF BLOCK 7 OF SAID McCORKLE'S UNRECORDED ADDITION;

THENCE NORTH 81 DEGREES 30 MINUTES 00 SECONDS WEST ALONG THE NORTH LINE OF SAID BLOCK 7 A DISTANCE OF 336.80 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER IN THE WEST LINE OF AN UNIMPROVED 80 FOOT RIGHT-OF-WAY OF SAID McCORKLE'S ADDITION;

THENCE SOUTH 08 DEGREES 30 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID RIGHT-OF-WAY A DISTANCE OF 336.80 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, THE SOUTHEAST CORNER OF HEREIN DESCRIBED TRACT, SAID POINT BEING THE NORTHEAST CORNER OF BLOCK 8 OF SAID ORIGINAL TOWN OF ELMO PLAT;

THENCE NORTH 81 DEGREES 30 MINUTES 00 SECONDS WEST ALONG THE NORTH LINE OF SAID BLOCKS 8, 9 AND 18 OF THE ORIGINAL TOWN OF ELMO, A DISTANCE OF 918.88 FEET TO A 1/2 INCH IRON ROD SET WITH YELLOW CAP STAMPED BG&A RPLS 5569 FOR CORNER, THE NORTHWEST CORNER OF BLOCK 18;

THENCE SOUTH 08 DEGREES 30 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID BLOCK 18 A DISTANCE OF 259.80 FEET TO THE PLACE OF BEGINNING AND CONTAINING 2,317,915.32 SQUARE FEET OR 53.212 ACRES OF LAND.