

RESOLUTION NO. 2024-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS FINDING THAT A PUBLIC NECESSITY EXISTS AND AUTHORIZING CONDEMNATION TO ACQUIRE FEE ACQUISITION OF PROPERTY ON ONE TRACT FOR MUNICIPAL PURPOSES TO ACQUIRE RIGHT OF WAY FOR KING'S GATE ROAD AND OTHER PUBLIC USES, WHICH TRACT IS GENERALLY DESCRIBED BEING LOCATED IN PARKER COUNTY, THE ISSAC O. HEADLEY SURVEY, ABSTRACT NO. 619, AND BEING PART OF LOT 1, BLOCK 1, TRINITY MEADOWS ADDITION, AN ADDITION OF THE CITY OF WILLOW PARK, PARKER COUNTY, TEXAS, BEING AN APPROXIMATE 0.0807 ACRE (3,514 SQ FT), PROPERTY ID# R000091194, GENERALLY LOCATED NORTHWEST FROM THE INTERSECTION OF KING'S GATE ROAD AND INTERSTATE HIGHWAY 20 FRONTAGE ROAD IN WILLOW PARK, TEXAS, AT 4200 E. INTERSTATE 20 SERVICE ROAD S, WILLOW PARK, TEXAS 76087, AND BEING MORE PARTICULARLY DESCRIBED HEREIN PROVIDING NOTICE OF AN OFFICIAL DETERMINATION TO ACQUIRE REAL PROPERTY FOR A 0.0807 ACRE FEE ACQUISITION FOR USE AS A RIGHT OF WAY; AUTHORIZING THE CITY MANAGER TO OBTAIN THE NECESSARY APPRAISAL REPORT(S) AND THE MAKING OF BONA FIDE OFFERS OF JUST COMPENSATION FOR THE PROPERTY; RATIFYING PRIOR DOCUMENTS MADE FOR ACQUISITION OF THE PROPERTY; AUTHORIZING LEGAL COUNSEL TO INSTITUTE EMINENT DOMAIN PROCEEDINGS ON BEHALF OF THE CITY FOR THE ACQUISITION OF THE PROPERTY IF NEGOTIATIONS ARE UNSUCCESSFUL; APPROPRIATING FUNDS FROM A LAWFUL SOURCE; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Willow Park, Texas ("City"), by authority of Chapter 251 of the Texas Local Government Code, Chapter 21 of the Texas Property Code, is authorized to initiate eminent domain proceedings to acquire real property for a public purpose in order to install public utilities, including but not limited to, public roadways and other right-of-way improvements, such appurtenant facilities as may be necessary, and other public uses for the construction of roadways at 4200 E. Interstate 20 Service Road S, Willow Park, Texas 76087 (the "Project"); and

WHEREAS, the City Council of the City of Willow Park ("City Council") has investigated and determined that there is a public need and necessity for the health, safety and welfare of the City and the public at large for the acquisition, by eminent domain, of the following 0.0807 acre fee acquisition located northwest of the intersection of King's Gate Road and Interstate Highway 20 Frontage Road in the Issac O. Headley Survey, Abstract No. 619, and being part of Lot 1, Block 1, Trinity Meadows Addition, an addition of the City of Willow Park, Parker County, Texas, more commonly known as 4200 E. Interstate 20 Service Road S, Willow Park, Texas 76087, property ID R000091194, more specifically identified in **Exhibit "A,"** attached hereto and incorporated herein for all purposes (the "Property"), and it is the City's intent to acquire the necessary Property for such public purpose stated herein; and

WHEREAS, the City Council has investigated and determined that the Project constitutes a public use for a public purpose and that the taking of said real property is necessary for public use; and

WHEREAS, the City Council finds that the description of the Property for acquisition under, over and across the tract of land by eminent domain for the Project complies with applicable law in that the same identifies the Property that will be used by the City for such public uses in a way that provides the property owner reasonable notice that the owner's property may be subject to condemnation proceedings during the planning or construction of the Project; and

WHEREAS, it is necessary to establish procedures for determining the establishment and approval of just compensation for the Property to be acquired by eminent domain as required by law; and

WHEREAS, the City Manager, or his designee, is required to make a bona fide offer, as defined by and in compliance with Chapter 21 of Texas Property Code, to acquire the Property for public use voluntarily from the owner(s) prior to moving forward with acquisition by eminent domain; and

WHEREAS, the City Manager, or his designee, will seek, if not already obtained, third-party appraisal(s), and the City Manager, law firm of Messer Fort, PLLC ("Legal Counsel") or their designee will make bona fide initial and final offer(s) based on the appraisal(s) to the owner(s) of the Property, which may or may not be accepted by the Property's owner(s); and

WHEREAS, if the owner(s) of the Property do(es) not agree upon the just compensation to be paid them for the Property herein described, the City Council hereby authorizes and directs Legal Counsel to institute proceedings in eminent domain to acquire the herein described Property for the purposes stated herein.

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

SECTION 1: The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2: The City Council hereby officially determines that there is a public use and necessity for acquiring the Property; the public welfare and convenience will be served by the acquisition, by eminent domain, of the Property; it is the City's intent to acquire the Property for right-of-way, roadway, and other public uses and purposes on the Property, as detailed above and as more specifically described in and depicted on **Exhibits "A,"** attached hereto and made a part hereof for all purposes as if set forth verbatim, specifically for the municipal purposes in order to install roadway or other right-of-way improvements and such appurtenant facilities as may be necessary to construct same, as well as other public uses; and the use of eminent domain is hereby authorized to obtain the Property in fee in, under, over, through, across and along the tract for such purposes, as allowed by law, together with all necessary appurtenances, additions, and improvements on, over, under and through those certain lots, tract, or parcel of land.

SECTION 3: The City Council hereby authorizes the City Manager or his designee to obtain, review and accept a third party's appraisal report(s) and updated report(s), if not acquired already, and if already obtained those actions are ratified. The City Manager, Legal Counsel or their designee is authorized to make bona fide initial and final offers based on the appraisal(s) to the owner(s) of the Property, and if such actions have already been completed those actions are so ratified. In the event of failed attempts to negotiate with any owner(s) of the Property after making bona fide initial offer(s) and making bona fide final offer(s), the City Council hereby authorizes the City Manager or designee to authorize and direct, on behalf of the City, Legal Counsel to commence and conduct all parts of the condemnation proceedings under the Texas Property Code, and other applicable law, for the acquisition of the Property for municipal purposes and other public uses on the Property by eminent domain. Legal Counsel, or designee, is authorized and directed to negotiate for and to acquire the Property for the City, and to acquire said rights in compliance with State and Federal law. Moreover, Legal Counsel, or designee, is specifically authorized and directed to do each and every act necessary to acquire the needed Property including but not limited to, the authority to negotiate, give notices to, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser(s) of the interests to be acquired, as well as any other experts or consultants deemed necessary for the acquisition process and, if necessary, to institute and complete court proceedings in eminent domain. In the event additional persons are subsequently determined to have an interest in the Property, Legal Counsel is authorized and directed to join said persons as defendants in the suit or action.

SECTION 4: The City Manager, or his designee, is hereby authorized to execute all documents necessary to acquire the Property, on behalf of the City, whether by purchase or eminent domain. The City Council hereby ratifies any and all negotiations, offer letters and all documents executed prior to the effective date of this Resolution, by the City Manager, or his designee, or Legal Counsel which were necessary for the acquisition of the Property.

SECTION 5: It is the intent of the City Council that this Resolution authorizes the condemnation of the Property required for this Project, more specifically described in and depicted on **Exhibit "A,"** for the purposes herein stated. If it is determined that there are any errors in the descriptions contained herein or if later surveys contain more accurate revised descriptions (which may include less or slightly more acreage) or the Project requires less property rights, the City Manager, Legal Counsel or their designee is authorized to have such errors corrected or revisions made and to acquire such property rights without the necessity of obtaining new City Council resolution authorizing condemnation of the corrected or revised property.

SECTION 6: The amount to be paid, if any, for acquiring the Property, will be appropriated from any lawful source.

SECTION 7. In the event that Special Commissioners appointed by the Court during condemnation proceedings return an award for just compensation to be paid by the City, Legal Counsel is hereby authorized to settle the lawsuit for that amount. The City's Finance Director is hereby authorized to issue a check from the appropriate fund in the amount of the Special Commissioners' award made payable to the owner(s) or to the County Clerk of Parker County, to be deposited into the registry of the Court, to enable the City to take possession of the Property without further action of the City Council. If the City Manager believes such award should be appealed, the award may still be paid to take possession, but the City Manager shall put the question of whether to appeal on the next available city council agenda for consideration. If there is no such city council meeting before the deadline to appeal, the City Manager may direct Legal Counsel to file the appeal and then place on the next available city council agenda to either pursue or withdraw the appeal.

SECTION 8: Should any section, subsection, sentence, clause or phrase of this Resolution be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Resolution shall remain in full force and effect. The City hereby declares that it would have passed this Resolution, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 9: This Resolution shall take effect immediately upon its passage and execution and compliance with any other requirements for effectiveness that may be required by law.

PASSED AND APPROVED by roll call vote on this the 24th day of September 2024 at a regular meeting of the City Council of the City of Willow Park in which a quorum was present.

Doyle Moss, Mayor

ATTEST:

Crystal R. Dozier, City Secretary

APPROVED AS TO FORM:

Pat Chesser, City Attorney

EXHIBIT "A"
Legal Description of the 0.0807 acre fee acquisition (3,514 Square Feet)