

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DECLARING THE NECESSITY TO ACQUIRE BY CONDEMNATION THE FEE SIMPLE TITLE TO CERTAIN DESCRIBED PROPERTY TOGETHER WITH NON-EXCLUSIVE RECIPROCAL SUBSURFACE EASEMENTS AND ALL OIL, GAS AND OTHER MINERAL RIGHTS FROM THE SURFACE TO A DEPTH OF 200 FEET SUBSURFACE INCLUDING THE RIGHT OF OIL, GAS AND OTHER MINERAL EXPLORATION FROM THE SURFACE OF THE PROPERTY AND ORDERING THE CONDEMNATION OF SAID PROPERTY TO PROCEED.

WHEREAS, the City Council of the City of College Station has heretofore determined to acquire the fee simple interests, certain mineral interests, and non-exclusive reciprocal subsurface easements in the property described on Exhibit "A" attached hereto (the "Property") for the location, construction and operation of a solid waste landfill facility in Grimes County; and

WHEREAS, independent professional appraisal reports of the Property have been submitted to the City, and the City Manager has accordingly established and approved a certain amount determined to be just compensation for the Property, pursuant to the authority granted him by Resolution of the City Council on April 12, 2001; and

WHEREAS, an official written offer based upon the amount determined to be just compensation has been transmitted to the owners of the Property and those certain tracts or parcels of the Property contained therein and described in Exhibit "B" attached hereto, and further negotiations for settlement have been futile and impossible because: (1) the owner of the Property is unable to convey fee simple title to the Property free and clear of liens, encumbrances or claims of adverse possession or title conflicts; (2) the City has been unable, after exercising good faith efforts, to identify or locate the Property owners; or, (3) the parties have been unable to agree on the amount of just compensation.

WHEREAS, the City of College Station has complied with all prerequisites of the laws of the State of Texas to acquire the unencumbered fee simple title including all oil, gas, and other minerals from the surface to a depth of 200 feet subsurface, the rights of oil, gas and other mineral exploration from the surface of the Property, and non-exclusive reciprocal subsurface easements to the Property described in the attached Exhibits A and B; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the official offers by the City of College Station for the fee simple interest in the Property, described in the attached Exhibits A and B is hereby confirmed.

PART 2: That it is hereby determined that the City of College Station has in fact transmitted bona fide offers to the Property owners and/or mineral interest owners that it has been able to locate, in accord with the laws of the State of Texas, for the Property described in the attached Exhibits A and B. The Property owners and mineral interest owners and the City of College Station cannot agree on the just compensation because either: (1) the owner of the Property is unable to convey fee simple title to the Property free and clear of liens and encumbrances or claims of adverse possession; (2) the City has been unable, after exercising due diligence, to identify or locate the Property owners; (3) the parties have been unable to agree on the amount of just compensation. For the foregoing reasons any further negotiations would be futile.

PART 3: That public necessity requires the acquisition of the unencumbered fee simple title to the Property described in the attached Exhibits A and B, together with non-exclusive reciprocal subsurface easements and all oil, gas, and other minerals from the surface to a depth of 200 feet subsurface including the right of oil, gas and other mineral exploration from the surface of the Property, for a solid waste landfill in the Grimes County, Texas; and that public necessity and convenience require the condemnation of this property in order to acquire it for such purpose.

PART 4: That the City Attorney is hereby authorized and directed to institute proceedings in eminent domain against the owners of the Property, and against all other owners, lienholders, mineral interest and other holders of an interest in the Property, in order to acquire the unencumbered fee simple interest, non-exclusive reciprocal subsurface easements, together with all oil, gas, and other minerals from the surface to a depth of 200 feet subsurface and the right of oil, gas and other mineral exploration from the surface of the Property , in and to the Property lying and being situated in the Grimes County, Texas and described in Exhibits A and B attached hereto and incorporated herewith.

PART 5: That the City Attorney is hereby authorized to deposit the Award of the Commissioners from aforesaid proceedings into the registry of the Grimes County Court.

PART 6: That this resolution shall take effect immediately from and after its passage.

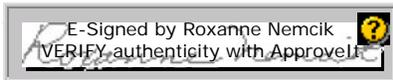
PASSED and APPROVED this _____ day of _____, 2005.

ATTEST:

APPROVED

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor



City Attorney