

CITY OF WILLOW PARK

ORDINANCE NO. 541-05

AN ORDINANCE PROVIDING FOR AND CONSENTING TO THE EXERCISE OF EMINENT DOMAIN AS AUTHORIZED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS PURSUANT TO OF CHAPTERS 251, 273 and 402 TEX. LOCAL GOV' T CODE; PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF THAT CERTAIN REAL PROPERTY NOT LOCATED IN THE INCORPORATED AREA OR EXTRATERRITORIAL JURISDICTION OF ANY MUNICIPALITY, AND RELATED PERSONALTY, LEASES, PROPERTY AGREEMENTS TANGIBLES, EASEMENTS, AND ALL OTHER ANCILLARY INTERESTS OF SHERRY LEE WALTER AND WILLIAM G. MITCHELL ("OWNERS") "GENERALLY LOCATED OUT OF THE SAMUEL LEAK SURVEY ABSTRACT NO. 831 AND THE ROBERT CARSON SURVEY, ABSTRACT NO. 290, PARKER COUNTY, TEXAS," UTILIZED OR NECESSARY FOR THE PROVISION OF WATER AND WASTE WATER SERVICE WITHIN AREAS SERVED BY THE CITY OF WILLOW PARK' S MUNICIPALLY-OWNED PUBLIC WATER WORKS, SEWER SERVICE SYSTEMS, AND UTILITY SERVICE; FINDING THAT THE PUBLIC WELFARE AND CONVENIENCE REQUIRES THE TAKING AND ACQUIRING OF THE INTERESTS HEREIN DESCRIBED FOR UTILITY PURPOSES AND THE PROVISION OF WATER AND SEWER UTILITY SERVICES; PROVIDING FOR AN OFFER TO PURCHASE THE PROPERTY FROM THE OWNERS FOR JUST COMPENSATION AND IF SUCH OFFER IS REFUSED, AUTHORIZING ALL NECESSARY PROCEEDINGS IN CONDEMNATION TO ACQUIRE THE DESCRIBED PROPERTY FOR WATER AND SEWER UTILITY PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Willow Park, Tx. (City) is a municipal corporation organized under the laws of the State of Texas and Owners, individuals that own or claim interests in and to the real and personal property where the City needs to design, construct, operate and maintain portions of its water and sewer utility systems; and

WHEREAS, it is the intent of the City of Willow Park within the areas provided municipally-owned water and/or sewer utility services, inside the City and outside in neighboring regions of Parker County, to protect the health, safety and welfare and well being of its citizens and utility users; and

WHEREAS, it is hereby determined that in order to provide public utility services inside the City and outside in neighboring regions of Parker County that will meet current and long-term demands of the public in conformance with applicable state and federal statutes, regulations

permits and licenses, the City requires an adequate site for a wastewater treatment plant and such easements and right-of-way as may be needed for such purposes; and

WHEREAS, it is hereby determined that in order to provide public utility services inside the City and outside in neighboring regions of Parker County that will meet current and long-term demands of the public to protect and preserve private and state waters; and

WHEREAS, it is hereby determined that a public necessity and need exists and public convenience requires the acquisition of certain property, real and personal, for the purpose of providing a waterworks system including water supply sources, water sheds, water storage, drainage treatment, distribution transmission and emptying facilities, and all additional easements reasonably necessary to accomplish this purpose; a sewage system, including sewage collection,

drainage, treatment disposal and emptying facilities, and all additional easements reasonably necessary to accomplish this purpose, pursuant to §251.001(a)(1), §273.001(c) and §402.001, Local Government Code or other statutory authorization for City utility customers, inside and outside the City; and

WHEREAS, a public necessity exists and a public benefit will be conveyed to said users by the provision of water and sewer service through the acquisition by eminent domain to all the rights, title interests, in and to the property of Owners in Parker County, Texas, not located in the incorporated area or extraterritorial jurisdiction of any municipality as described on Exhibit "A" and depicted on Exhibit "B", attached hereto and incorporated herein for all purposes, and as may be amended after further investigation and surveying by agents of the City; and

WHEREAS, the City has heretofore conducted good faith negotiations with Owners and has made bona fide offer(s) to purchase said property for a fair market value determined by the City, which offer(s) was not accepted and rejected by Owners.

NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS:

SECTION 1. AUTHORIZATION

The Mayor, or his designees is hereby authorized and directed to implement the applicable provision of this Ordinance.

SECTION 2. PUBLIC NECESSITY

A public necessity exists, and public welfare and convenience requires and will benefit from, the acquisition by the City for public use all of the rights, titles and interests to the real and personal property of Owners identified in Exhibit "A", including with all easements of any kind on, below or across the adjacent property of Owners, necessary to design, construct, operate and maintain municipally-owned public waterworks and sewer systems on said property.

SECTION 3. FAIR MARKET VALUE

The City Administrator, or his designee, is hereby authorized to make an offer of just compensation for the property herein defined to the Owners of said property in an amount that is a fair market value determined by the City or agreed to by the parties; and since such offers have heretofore been made by the City to such Owner, as may be deemed necessary at law, all such actions and offers by or from the Mayor, the City Administrator or their designees, are hereby ratified and affirmed as lawful actions of the City.

SECTION 4. CONDEMNATION PROCEEDINGS

In the event the fair market value described in Section 3 herein is not accepted or refused by the Owners of the property, the City Attorney or counsel designated by the City Administrator, is hereby authorized and directed on behalf of the City to sue and to take whatever action may be necessary to acquire the property herein defined with all associated rights, titles and interests vesting in the City and acquire all other necessary, appropriative and ancillary rights, including but not limited to underground and surface water rights, necessary to the effective operation of the City's municipally-owned public waterworks and sewer systems.

SECTION 5. RECITALS

The City Council hereby finds and declares all precatory language herein to be true and correct and approves and adopts the same herein as part of this Ordinance.

SECTION 6. SEVERABILITY

If for any reason any section, paragraph, subdivision, clause, phrase sentence or provision of this Ordinance are determined to be invalid by a court of proper jurisdiction, this finding shall not affect any valid provisions of this Ordinance or any other Ordinance of the City of Willow Park related to this Ordinance and/or the subject matter thereof.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect from and after the date of its passage.

PASSED AND APPROVED this 29th day of September, 2005.

ATTEST:

/s/ Terry Skaggs
Mayor

/s/ Condit Scott
City Secretary/Clerk

APPROVED AS TO FORM:

/s/ Rider Scott by Richard Martin
City Attorney

The Willow Park City Council in acting on Ordinance No. 541-05, did on the 29th day of September, 2005 vote as follows:

	<u>FOR</u>	<u>AGAINST</u>
Terry Skaggs, Mayor	_____	_____
LaDonna Allen, Place 1	_____	_____
Rob Welch, Place 2	_____✓_____	_____
Brad Johnson, Place 3	_____✓_____	_____
Jason Ellerbusch, Place 4	_____✓_____	_____
Marvin Glasgow, Place 5	_____	_____

LEGAL DESCRIPTION

Of a certain 30.212 acres tract of land out of the SAMUEL LEAK SURVEY, ABSTRACT NO. 831, and the ROBERT CARSON SURVEY, ABSTRACT NO. 290, Parker County, Texas; being a portion of that certain 44.951 acres tract of land out of SAMUEL LEAK SURVEY, ABSTRACT NO. 831, and the ROBERT CARSON SURVEY, ABSTRACT NO. 290, Parker County, Texas, as surveyed by Tommie Hughes and Associates, P.C., January 14, 2003, job number 18,347, and being further described by metes and bounds as follows:

Beginning at a point in the north boundary line of said 44.951 acres tract of land, for the northeast and beginning corner of this tract. Whence the north east corner of said 44.951 acre tract of land is called to bear N 81°39'40" E 417.06 feet, S 55°45'41" E 18.67 feet, N 89°06'19" E 25.44 feet, N 89°26'25" E 151.15 feet, N 89°25'14" E 221.47 feet.

THENCE South 08 degrees 43 minutes 00 seconds East for a distance of 633.42 feet to a point in the north right of way line of a railroad, for the southeast corner of this tract;

THENCE South 81 degrees 17 minutes 00 seconds West for a distance of 1371.35 feet along the north right of way line of said railroad to a point, for a corner of this tract;

THENCE South 08 degrees 43 minutes 00 seconds East for a distance of 25.00 feet along the north right of way line of said railroad to a point, for a corner of this tract;

THENCE South 81 degrees 17 minutes 00 seconds West for a distance of 432.95 feet along the north right of way line of said railroad to a point, for the southwest corner of this tract;

THENCE North 08 degrees 43 minutes 00 seconds West for a distance of 371.39 feet to a point in a fence in the east right of way line of a county road, for a corner of this tract;

THENCE North 20 degrees 32 minutes 48 seconds East for a distance of 200.58 feet along east right of way line of said county road and a fence to a point, for a corner of this tract;

THENCE North 04 degrees 02 minutes 01 seconds East for a distance of 166.37 feet along along a fence on the east right of way line of said county road to a point, for a corner of this tract;

THENCE North 10 degrees 43 minutes 35 seconds West for a distance of 160.86 feet along a fence in the east right of way line of said county road to a point, for a corner of this tract;

THENCE North 22 degrees 57 minutes 44 seconds East for a distance of 49.39 feet along a fence in the east right of way line of said county road to a point at the intersection of the east right of way line of said county road and south right of way line of Underwood Road, for the northwest corner of this tract;

THENCE South 88 degrees 53 minutes 40 seconds East for a distance of 976.65 feet along a fence in the south right of way line of said Underwood Road to a point, for a corner of this tract;

THENCE South 67 degrees 25 minutes 02 seconds East for a distance of 22.65 feet along a fence in the south right of way line of said Underwood Road to a point, for a corner of this tract;

THENCE along a curve to the right having a radius of 524.93 feet and an arc length of 63.72 feet, being subtended by a chord of South 85 degrees 36 minutes 03 seconds East for a distance of 63.68 feet along a fence in the south right of way line of said Underwood Road to a point, for a corner of this tract;

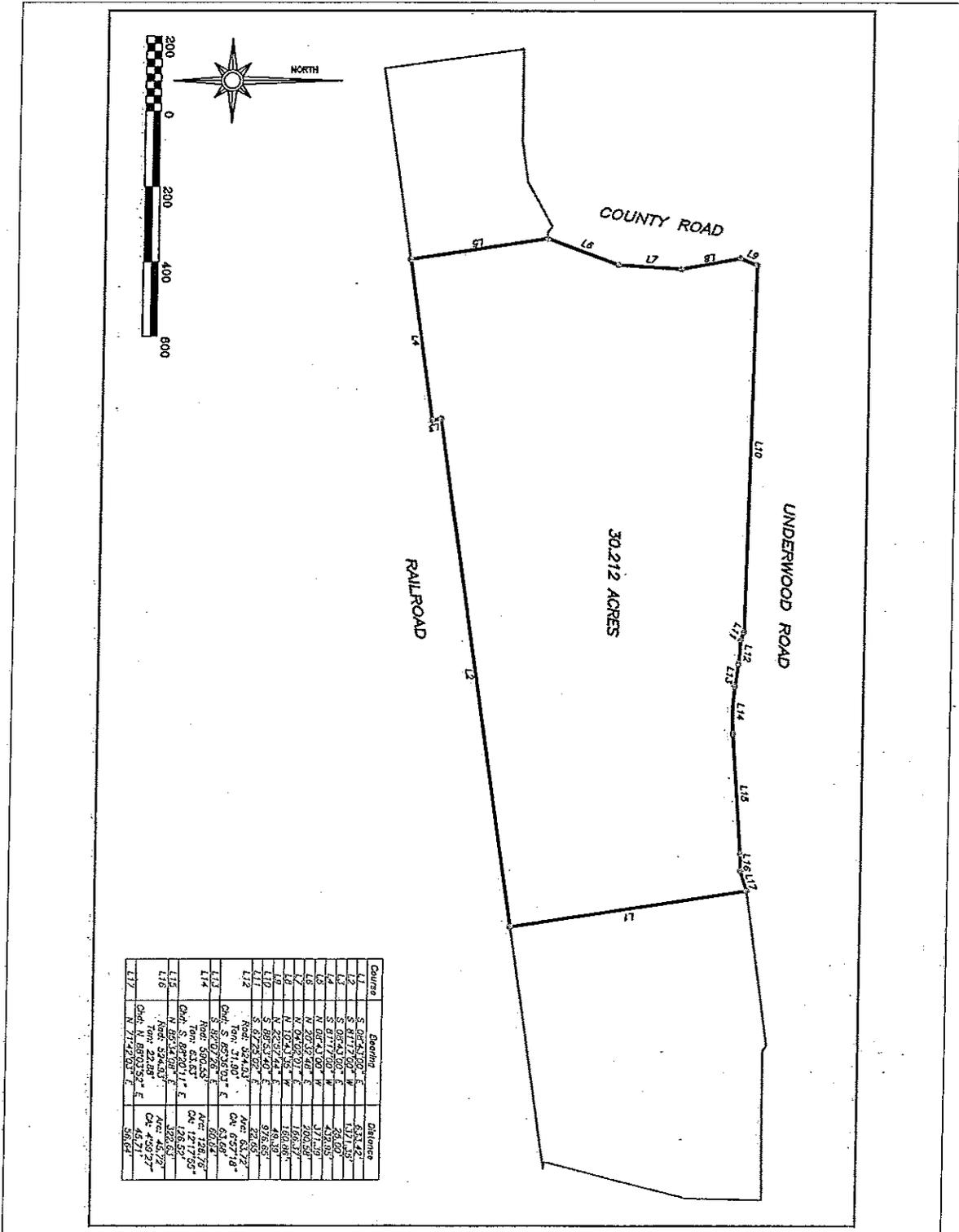
THENCE South 82 degrees 07 minutes 26 seconds East for a distance of 60.64 feet along a fence and the south right of way of said Underwood Road to a point, for a corner of this tract;

THENCE along a curve to the left having a radius of 590.55 feet and an arc length of 126.76 feet, being subtended by a chord of South 88 degrees 20 minutes 11 seconds East for a distance of 126.52 feet along a fence and the south right of way of said Underwood Road to a point, for a corner of this tract;

THENCE North 85 degrees 34 minutes 08 seconds East for a distance of 322.63 feet along a fence and the south right of way of said Underwood Road to a point, for a corner of this tract;

THENCE along a curve to the right having a radius of 524.93 feet and an arc length of 45.72 feet, being subtended by a chord of North 88 degrees 03 minutes 52 seconds East for a distance of 45.71 feet along a fence and the south right of way of said Underwood Road to a point, for a corner of this tract;

THENCE North 71 degrees 42 minutes 03 seconds East for a distance of 56.64 feet along a fence and the south right of way of said Underwood Road to the POINT OF BEGINNING.



Course	Bearing	Distance
L1	S. 08° 42' 00" E	653.42'
L2	S. 81° 17' 00" W	1371.53'
L3	S. 81° 17' 00" E	208.00'
L4	S. 81° 17' 00" W	428.00'
L5	N. 60° 43' 00" W	3171.50'
L6	N. 20° 15' 00" E	200.58'
L7	N. 04° 00' 00" E	100.37'
L8	N. 10° 00' 00" W	100.00'
L9	S. 89° 55' 40" E	970.85'
L10	S. 87° 25' 00" E	22.65'
L11	N. 04° 00' 00" E	63.72'
L12	N. 04° 00' 00" E	63.72'
L13	Opp. from L1, 00° 00' 00" E	63.72'
L14	Opp. from L1, 00° 00' 00" E	63.72'
L15	Opp. from L1, 00° 00' 00" E	63.72'
L16	Opp. from L1, 00° 00' 00" E	63.72'
L17	Opp. from L1, 00° 00' 00" E	63.72'

EXHIBIT B

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