

CITY OF WILLOW PARK

ORDINANCE NO. 546-05

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 OF SHERRY LEE WALTER AND WILLIAM G. MITCHELL ("OWNERS") GENERALLY LOCATED OUT OF THE SAMUEL LEAK SURVEY, ABSTRACT NO. 831, PARKER COUNTY, TEXAS, FOR THE PUBLIC USE AND PURPOSE OF PROVIDING WATER AND WASTE WATER SERVICE WITHIN AREAS SERVED BY THE CITY OF WILLOW PARK' S MUNICIPALLY-OWNED PUBLIC WATER WORKS, SEWER SERVICE SYSTEMS, OR UTILITY SERVICES; 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 THAT AN OFFER TO PURCHASE THAT CERTAIN PROPERTY FOR JUST COMPENSATION HAS BEEN 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 either within the areas provided municipally-owned water and/or sewer utility services, inside the City or outside the City 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 the City 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, ancillary equipment 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 the City 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, 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; 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 just compensation of 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, appropriate 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 15th day of November, 2005.

ATTEST:

/s/ Tony Skaggs
Mayor

/s/ Carlini
~~Assistant~~ Deputy City Secretary/Clerk

APPROVED AS TO FORM:

/s/ [Signature]
City Attorney

The Willow Park City Council in acting on Ordinance No. 546-05, did on the 15th day of November, 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	_____/_____ ✓	_____



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CITY OF WILLOW PARK	§	
THE STATE OF TEXAS	§	CERTIFICATION TO COPY
COUNTY OF PARKER	§	OF PUBLIC RECORD

CERTIFICATE OF CITY SECRETARY

I, the undersigned City Secretary for the City of Willow Park, Texas (the "City") DO HEREBY CERTIFY that according to the records of the City of which I am custodian, that:

The attached is a true and accurate copy of Ordinance 546-05 approved by the Willow Park City Council on November 15 2005.

In witness whereof, I have hereunto set my hand and affixed the official seal of said office this 16th day of November, 2005.

Carol Harris, Deputy City Secretary
City of Willow Park, Texas