

RESOLUTION NO. 65-1984

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS DECLARING THE NECESSITY FOR ACQUIRING BY CONDEMNATION THE FEE SIMPLE TITLE TO CERTAIN DESCRIBED PROPERTY FOR RIGHT-OF-WAY PURPOSES OF THE F.M. 3438 PROJECT, AND ORDERING THE CONDEMNATION OF SAID PROPERTY TO PROCEED.

WHEREAS, the City Council of the City of Abilene has heretofore determined to acquire the right-of-way necessary for highway construction of FM 3438 in Abilene, Texas; and,

WHEREAS, an independent professional appraisal report of the subject property has been submitted to the City, and the City Manager has accordingly established and approved a certain amount determined to be just compensation for that parcel, pursuant to the authority granted him by resolution of the City Council on January 26, 1984 and amended March 8, 1984; and,

WHEREAS, an official written offer based upon the amount determined to be just compensation has been transmitted to the owners of the property described herein, and the owners have been unable to agree with the City of Abilene upon the property's fair cash market value and further negotiations for settlement have become futile and impossible; and,

WHEREAS, the City of Abilene has complied with all prerequisites of the law, the Federal Aid Highway Program Manual and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (and the revisions of same), and condemnation has become necessary in order to acquire the unencumbered fee simple title, save and except oil, gas and sulphur rights with no right of exploration, to the property described below; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the official offer by the City of Abilene for the land described below, in the amount of Two Thousand Two Hundred and no/100 (\$2,200.00) DOLLARS is hereby confirmed.

PART 2: That it is hereby determined that the City of Abilene has in fact transmitted a bona fide offer to the property owners, in

accord with the laws of the State of Texas and the Federal Aid Highway Program Manual and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (and revision of same), for the property described below, and the owners of that property and the City of Abilene have been unable to agree and cannot agree upon the value of the land or the damages to be paid and further settlement negotiations have become futile and impossible.

PART 3: That public necessity requires the acquisition of the unencumbered fee simple title to the property described below, save and except oil, gas, and sulphur rights with no right of exploration, for right-of-way purposes of the F.M. 3438 Project in the City of Abilene, 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 of Abilene Legal Department is hereby authorized and directed to institute proceedings in eminent domain against Lance Trigg, Jr. and wife, Martha J. Trigg, owners of the property described herein, and against all other interested owners, lienholders and other holders of an interest in the property, in order to acquire the unencumbered fee simple interest, save and except oil, gas, and sulphur rights with no right of exploration, in and to the following described property lying and being situated in the City of Abilene, Taylor County, Texas, to-wit:

0.375 acre of land, more or less, same being out of and a part of that certain 5.67 acre tract out of Block A of the C. B. Allen Subdivision in the Alexander Thompson Survey No. 37 in Taylor County, Texas; which said tract was conveyed to Lance Trigg, Jr. and wife, Martha J. Trigg by Deed dated October 25, 1976 of Record in Volume 1044 Page 267, Deed Records of Taylor County, Texas; said 0.375 acre of land, more or less, is more particularly described as follows:

Begin at a point in the north boundary line of said tract, said point being North 88° 05.65' West a distance of 374.14 feet from the northeast corner of said Block A, said point also being 263.30 feet east of and measured at right angles to centerline chaining station 28+99.31 of proposed F.M. 3438 and also being 40 feet south of and measured at right angles to centerline chaining station 7+32.08 of Hartford Street.

1. Thence South 58° 52.76' West a distance of 186.41 feet to a point 97.45 feet east of and measured at right angles to centerline chaining station 29+84.39 of the proposed location of said highway;

2. Thence South 2° 02.40' West along the east right of way line of said proposed highway a distance of 346.95 feet to a point in the south boundary line of said tract and in the north boundary line of that certain tract conveyed to Letha Baker, et al, by affidavit dated November 12, 1973 of record in Volume 971, Page 565, Deed Records of Taylor County, Texas, said point being North 88° 05.65' West a

distance of 530.05 feet from the southeast corner of said Block A, C. B. Allen Subdivision, said point located 61.16 feet east of and measured at right angles to centerline chaining station 33+29.44 of said highway;

3. Thence North  $88^{\circ} 5.65'$  West along the south boundary line of said tract and the north boundary line of said Letha Baker, et al, tract a distance of 18.85 feet to a point for the southwest corner of said tract and the northwest corner of said Baker tract, said point located 42.32 feet east of and measured at right angles to centerline chaining station 33+28.96 of said highway;

4. Thence North  $2^{\circ} 02.96'$  East along the east boundary line of said Burr and Caswell Survey No. 1 (A-458) and the west boundary line of said Alexander Thompson Survey No. 37 and along the west boundary line of said tract a distance of 450.00 feet to a point 89.46 feet east of and measured at right angles to centerline chaining station 28+81.44 of the proposed location of said highway;

5. Thence South  $88^{\circ} 05.65'$  East along the north boundary line of said tract a distance of 174.76 feet to the point of beginning.

PART 5: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 13 day of September, A.D. 1984.

ATTEST:

Patricia Patton  
CITY SECRETARY

David L. Fullerman  
MAYOR

APPROVED:

Cathy Meyer  
CITY ATTORNEY