

RESOLUTION NO. 49-1986

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 FOR THE CEDAR CREEK (1-20 TO BUCK CREEK) WIDENING PROJECT PHASE II, 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 channel improvements and widening of Cedar Creek from 1-20 to Buck Creek 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 amended Resolution No. 31-1986 of the City Council on July 10, 1986; 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, 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 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, 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 2: 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 Cedar Creek (1-20 to Buck Creek) Widening Project Phase II in the City of Abilene, Texas; and that public necessity and convenience require the condemnation of this property in order to acquire it for flood control purposes.

PART 3: That the City of Abilene Legal Department is hereby authorized and directed to institute proceedings in eminent domain against Raymond McNutt and wife, Claudia M. McNutt, 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:

1.893 acres of land located in Section 83, Block 14, T & P Railroad Company Lands, Taylor County, Texas. Said land is a part of that land conveyed to Raymond McNutt by Robert A. Rosinbaum and wife, Fanny Rosinbaum by deed dated March 15, 1960, as recorded in

Volume 707, Page 481 of the deed records of Taylor County, Texas and being more particularly described as follows:

BEGINNING at an iron stake and corner post located 409 feet North and 1298 feet East of the interior Southeast corner of said Section 83, all bearings are based on the Texas State Coordinate System, North Central Zone;

THENCE N 88° 30' W 150' along a fence line to an iron stake;

THENCE S 1° 27' W 491.0' to the center of Cedar Creek;

THENCE along the center of Cedar Creek as follows: S 52° 13' E 110.3', S 42° 28' E 88.1';

THENCE N 1° 27' E 619.7' along a fence line to the place of Beginning.

PART 4: That this resolution shall take effect immediately from and after its passage.

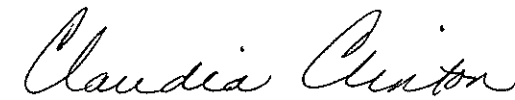
ADOPTED this 11th day of September, A.D., 1986.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY