

RESOLUTION NO. 26-1987

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF RIGHT-OF-WAY AND GIVING NOTICE OF AN OFFICIAL DETERMINATION TO ACQUIRE SAID RIGHT-OF-WAY FOR THE CEDAR CREEK (AMBLER AVENUE NORTH TO I-20) WIDENING PROJECT; ESTABLISHING PROCEDURES FOR THE ACQUISITION; AND APPROPRIATING FUNDS.

WHEREAS, on Thursday, January 27, 1983, the City Council of the City of Abilene set out limits and acquisition authorization for this section of Cedar Creek which is no longer valid due to alignment changes; and,

WHEREAS, it is necessary to establish procedures for determining the establishment and approval of just compensation for the fee simple title to each of the parcels to be acquired for such project; now, therefore,

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

PART 1: That this Resolution and its Exhibit "A" supercede Resolution No. 12-1983 and its Exhibit "A".

PART 2: That the City Council of the City of Abilene hereby officially determines that there is a public necessity for, and the public welfare and convenience will be served by, the acquisition of right-of-way property described in the attached Exhibit "A", said right-of-way giving the City of Abilene (1) the right to install or allow others to install any utilities within the boundaries of said right-of-way which the City may deem advisable, (2) the right to straighten, improve, and widen Cedar Creek within the boundaries of the right-of-way, and (3) the right to destroy, damage, or remove from within the boundaries of said right-of-way without the payment of any compensation whatsoever any and all trees, brush, undergrowth, trash,

dirt, debris, and any other obstruction, natural or man-made, including any building, structure, or fixture, on or over said right-of-way which in the City Engineer's sole determination may injure, obstruct, or interfere with the unrestricted flow of water across the property within the boundaries of the right-of-way or may injure, obstruct, or interfere with the installation of any utilities within the boundaries of the right-of-way. It is the City of Abilene's intention to acquire fee simple title to the real property as set out and described in Exhibit "A", attached hereto and made a part of this resolution for all purposes, as part of the Cedar Creek Widening Project in Abilene for the purposes of flood control by improving, straightening, and widening of Cedar Creek from Ambler Avenue North to Interstate Highway 20.

PART 3: That the City Manager is hereby authorized to contract, on behalf of the City of Abilene, with professional appraisers for appraisal services and with attorneys for preparation of title policies needed by the City from time to time in connection with the acquisition of the above-described channel right-of-way for the Cedar Creek Widening Project.

PART 4: That the City Land Manager, or other staff appraiser, is hereby authorized and directed to examine the independent appraisal reports as they are submitted to said City to determine whether said appraisal reports are supported by sufficient data. Based upon such examination of said appraisal reports, the Land Manager, or other staff appraiser, shall make a recommendation to the City Manager as to establishment and approval of the amount of the just compensation for said fee simple title to each parcel.

PART 5: After consideration of said recommendation, the

City Manager shall establish and approve the amount determined to be just compensation for acquisition of the above described fee simple title to the parcel.

PART 6: Upon establishment and approval by the City Manager of the amount of just compensation for the acquisition, the Land Manager is authorized to communicate a written offer to the owner of said parcel for acquisition of said fee simple title to said parcel at the full amount determined and established to be just compensation therefor, and to negotiate with said owner on behalf of the City of Abilene.

PART 7: That the City Manager be and is hereby authorized to execute all documents necessary to acquire each of the said fee simple titles to the parcels of land needed for said project, on behalf of the City of Abilene.

PART 8: That the amount of Eighty Thousand and no/100 (\$80,000.00) Dollars, be appropriated from the 1984 and 1986 Community Development Funds allocated for Cedar Creek Improvements for the acquisition of the channel right-of-way.

PART 9: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 28th day of May, A.D., 1987.

ATTEST:

Patricia Hancock
City Secretary

Dale Ferguson
Mayor

APPROVED:

Claudia Clinton
City Attorney

EXHIBIT "A"

PARCEL NO. 1 - ANNA S. HERMANN ESTATE

Two tracts of land located in Fractional Section No. 23, B.A.L., Taylor County, Texas. Said land is a part of that land conveyed to Henry Herman from Catherine R. Davis by Deed dated January 1, 1929, as recorded in Volume 219, Page 182, and also being a part of that land conveyed to Henry Herman, Ernest J. Herman, and George L. Herman by Emmet Whatley, et ux, and Robert W. Maxwell, Jr., by Deed dated January 26, 1945, as recorded in Volume 331, Page 550, both in the Deed Records of Taylor County, Texas, and being more particularly described as follows:

Tract No. 1

Beginning at a 3/8" X 10" nail located in a fence line representing the north line of Fractional Section No. 23, B.A.L., and being located 1792.7 feet
S 88° 59' E, of the northwest corner of said Section No. 23, B.A.L.;

Note: All bearings are grid north as based on the State Plane Coordinate System, North Central Zone;
Thence S 88° 59' E, 46.52 feet along said fence line representing the north line of said survey to a corner post;

Thence S 8° 13' 21" E, 290.24 feet along a fence line to a corner post;

Thence S 58° 04' W, 143.58 feet along a fence line to a corner post;

Thence S 48° 46' W, 114.20 feet along a fence line to a corner post;

Thence S 42° 06' W, 101.13 feet along a fence line to a found 1/2" galvanized pipe;

Thence S 43° 09' W, 170.80 feet along a fence line to a found 1/2" galvanized pipe;

Thence S 26° 05' W, 118.60 feet along a fence line to a point in Cedar Creek;

Thence along the meanders of Cedar Creek as follows:

S 66° 30' W, 193.67 feet; S 65° 06' 31" W, 137.80 feet;

S 50° 34' W, 58.26 feet; S 21° 30' W, 35.47 feet;

S 5° 07' W, 67.27 feet; S 13° 25' E, 90.47 feet;

S 26° 34' E, 20.75 feet to the east line of a proposed creek channel;

Thence S 3° 52' E, 193.76 feet to a railroad spike located on the P.C. of a curve to the right;

Thence along said curve to the right 515.70 feet to a point in Cedar Creek. Said curve has a radius of 505 feet and a chord which bears S 25° 23' 27" W, 493.58 feet;

Thence up the meanders of Cedar Creek as follows;

- S 66° 57' W, 32.87 feet; S 82° 55' W, 19.60 feet;
- S 70° 15' W, 54.74 feet; S 40° 01' W, 100.29 feet;
- S 24° 07' W, 51.01 feet; S 7° 41' W, 33.52 feet;
- S 14° 17' W, 39.72 feet; S 1° 07' W, 50 feet;
- S 10° 28' E, 38.40 feet; S 8° 28' E, 24.80 feet;
- S 17° 08' E, 50.49 feet; S 26° 14' E, 50 feet;
- S 33° 27' E, 64.7 feet; N 81° 23' E, 21.39 feet;
- S 58° 45' E, 90.9 feet; S 29° 15' E, 22.1 feet;

S 1° 35' W, 207.5 feet along the west line of county right of way referenced in Volume 179, Page 552, dated January 4, 1927, of the Deed Records of Taylor County, Texas, to the north right-of-way line of Ambler Avenue.

Thence N 88° 48' W, 94.1 feet along the north right-of-way line of Ambler Avenue to a railroad spike located on a curve to the left;

Thence along said curve to the left 169.14 feet to a railroad spike located on a P.R.C. Said curve has a radius of 325 feet and a chord which bears N 37° 45' W, 167.23 feet;

Thence along a curve to the right 494.95 feet to a railroad spike. Said curve has a radius of 411 feet and a chord which bears N 18° 10' W, 465.58 feet;

Thence N 16° 20' E, 55 feet to a railroad spike located on the P.C. of a curve to the right.

Thence along said curve to the right 363.37 feet to a railroad spike located on a P.R.C. Said curve has a radius of 507.8 feet and a chord which bears N 36° 50' E, 355.67 feet;

Thence along a curve to the left 325.77 feet to a railroad spike. Said curve has a radius of 305 feet and a chord which bears N 26° 44' E, 310.50 feet;

Thence N 3° 51' 53" W, 213 feet to a railroad spike located on the P.C. of a curve to the right;

Thence along said curve to the right 564.21 feet to a railroad spike. Said curve has a radius of 520 feet and a chord which bears N 27° 13' E, 536.94 feet;

Thence N 58° 18' 07" E, 662.58 feet to a railroad spike located on the P.C. of a curve to the left;

Thence along said curve to the left 174.97 feet. Said curve has a radius of 175 feet and a chord which bears N 29° 39' 34" E, 167.77 feet to a railroad spike;

Thence N 1° 01' E, 112.65 feet to a railroad spike located on the P.C. of a curve to the left;

Thence along said curve to the left 34.50 feet to the Place of Beginning and containing 11.910 acres. Said curve has a radius of 455 feet and a chord which bears N 1° 09' 29" W, 34.49 feet.

Tract No. 2

Beginning at a railroad spike located on the P.C. of a curve to the right. Said point is also located 1349.4 feet south and 1112.7 feet east of the northwest corner of said Survey No. 23, B.A.L. and being more particularly described as follows:

Thence along said curve to the right 515.7 feet to a point in the center of Cedar Creek. Said curve has a radius of 505 feet and a chord which bears S 25° 23' 27" W, 493.58 feet;

Thence along the meanders of Cedar Creek as follows;

N 89° 08' E, 184.33 feet; N 70° 59' E, 217.89 feet;

N 35° 45' E, 193.44 feet; N 25° 34' E, 127.48 feet;

N 37° 23' W, 133.41 feet; N 84° 40' W, 107.47 feet;

N 35° 57' W, 98.81 feet; N 54° 02' W, 126.02 feet;

N 26° 34' W, 26.21 feet;

Thence S 3° 52' E, 193.76 feet to the Place of Beginning and containing 3.535 acres.

PARCEL NO. 2 - BURNICE JUNE MCCOMAS

0.249 acre of land out of Section Number 23, Blind Asylum Land, Taylor County, Texas. Said land is a part of that 2.43 acre tract of land conveyed to F. G. McComas, Sr., from B. F. Cox, Sr., and wife, Mary E. Cox, by Deed dated August 31, 1955, as recorded in Volume 508, Page 201 of the Deed Records of Taylor County, Texas, and being more particularly described as follows:

Beginning at a found 1/2" iron pipe located at the northwest corner of said 2.43 acre tract of land. Said point bears south 518.7 feet and east 1579.8 feet from the northwest corner of said Section Number 23, Blind Asylum Land. Note: All bearings are based on grid north as based on the State Plane Coordinate System, North Central Zone;

Thence S 43° 09' W, 170.8 feet along a fence line to a found 1/2" iron pipe;

Thence S 26° 05' W, 39.8 feet along a fence line to a set 3/8" X 10" nail;

Thence N 58° 18' E, 299.1 feet to the north line of said 2.43 acre tract;

Thence N 88° 30' W, 120.2 feet along said north line of said 2.43 acre tract to the Place of Beginning.

PARCEL NO. 3 - DONALD L. HORTON

1.063 acres of land located in Section 84, Block 14, T&P Railroad Company, Survey, also known as M. Martin Survey 84, Abilene, Taylor County, Texas. Said land is a part of that land under contract to Donald L. Horton from the Veterans Land Board of Texas by a contract sale and purchase as recorded in Volume 1113, Page 589 of the Deed Records of Taylor County, Texas, and being more particularly described as follows;

Note: All bearings are grid north based on the State Plane Coordinate System, North Central Zone.

Beginning at a set 3/8" x 10" nail in a fence line representing the south line of said Section 84, being the grantor's south property line, and also being located 1792.7 feet S 88° 59' E of the southwest corner of said Section 84;

Thence S 88° 59' E, 131.67 feet along said fence line to the center of Cedar Creek;

Thence down the center line of Cedar Creek as follows;

N 2° 00' 54" E, 149.74 feet;

N 64° 44' 49" W, 117.20 feet;

N 23° 34' 59" W, 175.29 feet to the north line of grantor's property;

Thence N 88° 59' W, 117.09 feet along the grantor's north property line to a set 3/8" x 10" nail located on a curve to the left;

Thence along said curve to the left 72.18 feet to the P.T. Said curve has a radius of 430 feet and a chord which bears S 28° 26' 12" E, 72.10 feet;

Thence S 33° 15' 04" E, 88 feet to the P.C. of a curve to the right;

Thence along said curve to the right 237.61 feet to the Place of Beginning. Said curve has a radius of 455 feet and a chord which bears S 18° 17' 17" E, 234.92 feet.

PARCEL NO. 4 - LYNN BERKLEY YANTIS

0.748 acre of land located in Section 84, Block 14, T&P Railroad Company Survey, also known as M. Martin Survey #84, Abilene, Taylor County, Texas. Said land is a part of that land under contract to Lynn Berkley Yantis from the Veterans Land Board of Texas by contract of sale and purchase as recorded in Volume 1113, Page 579 of the Deed Records of Taylor County, Texas, and being more particularly described as follows:

Note: All bearings are grid north based on the State Plane Coordinate System, North Central Zone;

Beginning at a point in the center line of Cedar Creek from which the southwest corner of said Section 84 bears N 88° 59' W, 1747.1 feet and S 1° 01' W, 358.6 feet. Said point also being the southeast corner of grantor's property;

Thence N 88° 59' W, 117.10 feet along the grantor's south property line to a set 3/8" x 10" nail located on a curve to the right;

Thence along said curve to the right 340.95 feet to a set railroad spike located on a P.C.C. Said curve has a radius of 430 feet and a chord which bears N 0° 55' 04" W, 332.09 feet;

Thence along a curve to the right 60.99 feet to a 3/8" x 10" nail set on the grantor's north property line. Said curve has a radius of 1080 feet and a chord which bears N 23° 25' 20" E, 60.98 feet;

Thence S 88° 59' E, 86.15 feet along the grantor's north property line to the center of Cedar Creek;

Thence along the meanders of Cedar Creek as follows;

S 20° 09' 55" W, 254.82 feet;

S 33° 46' 15" E, 179.66 feet to the Place of Beginning.

PARCEL NO. 5 - ROBINSON, HANNA, MOORE & HOLLOWAY, INC.

5.350 acres of land located in Section 84, Block 14, T & P Railroad Company Survey, being also known as M. Martin Survey #84, Abilene, Taylor County, Texas. Said land is a part of that land conveyed to Robinson, Hanna, Moore & Holloway, Inc. from Sam Moore by Deed as recorded in Volume 1153, Page 117 of the Deed Records of Taylor County, Texas, and being more particularly described as follows:

Note: all bearings are based on grid north as related to the State Plane Coordinate System, North Central Zone.

BEGINNING at a point in the center of Cedar Creek located on the south line of said M. Martin Survey #84 from which the southwest corner of said M. Martin Survey #84 bears N 89° 18' 43" W, 1924.6 feet;

THENCE down the center of Cedar Creek as follows:

N 2° 00' 54" E, 138.7 feet;

N 64° 44' 49" W, 117.20 feet;

N 23° 34' 59" W, 175.29 feet;

N 33° 46' 15" W, 179.66 feet;

N 20° 09' 55" E, 254.82 feet;

N 36° 42' 40" E, 317.93 feet;

N 18° 21' 26" E, 143.22 feet;

N 64° 54' 38" E, 191.02 feet;

N 45° 28' 30" E, 248.46 feet;

N 40° 02' 12" E, 450.25 feet to the south right-of-way line of Interstate Highway 20;

THENCE S 50° 40' 58" E, 102.09 feet along the south right-of-way of Interstate Highway 20 to a set 3/8" x 10" nail;

THENCE S 34° 47' 44" W, 212.63 feet to a set railroad spike located on the PC of a curve to the right;

THENCE along said curve to the right 360.28 feet to a set railroad spike. Said curve has a radius of 1243 feet and a chord which bears S 43° 05' 57" W, 359.02 feet;

THENCE S 51° 24' W, 182.18 feet to a set railroad spike located on the PC of a curve to the left;

THENCE along said curve to the left, 151.39 feet to a set railroad spike. Said curve has a radius of 630 feet and a chord which bears S 44° 31' 06" W, 151.03 feet;

THENCE S 37° 38' W, 235 feet to a set railroad spike located on the PC of a curve to the left;

THENCE along said curve to the left, 243.22 feet to a railroad spike located on a PCC. Said curve has a radius of 880 feet and a chord which bears S 29° 42' 57" W, 242.45 feet;

THENCE along a curve to the left, 220.98 feet to a set railroad spike. Said curve has a radius of 230 feet and a chord which bears S 5° 43' 33" E, 212.58 feet;

THENCE S 33° 15' E, 88 feet to a set railroad spike located on the PC of a curve to the right;

THENCE along said curve to the right, 346.44 feet to a set 3/8" x 10" nail located on the south line of said Section 84. Said curve has a radius of 655 feet and a chord which bears S 18° 05' 42" E, 342.42 feet;

THENCE N 88° 45' 36" W, 67.87 feet along the south line of said Section 84 to the Place of Beginning.

PARCEL NO. 6 – MARION JEFFERSON GOODIN, JR.

0.632 acre of land located in Section 84, Block 14, T&P Railroad Company Survey, also known as M. Martin Survey #84, Abilene, Taylor County, Texas. Said land is a part of that land under contract to Marion Jefferson Goodin, Jr. by the Veterans Land Board of Texas, by contract of sale and purchase as recorded in Volume 1272, Page 137 of the Deed Records of Taylor County, Texas, and being more particularly described as follows:

Note: All bearings are grid north based on the State Plane Coordinate System, North Central Zone.

Beginning at a point in the center of Cedar Creek from which the southwest corner of said Section #84 bears N 88° 59' W, 1728.2 feet and S 1° 01' W, 745.5 feet. Said point is also the southeast corner of the grantor's property;

Thence N 88° 59' W, 86.15 feet along the grantor's south property line to a set 3/8" x 10" nail located on a curve to the right;

Thence along said curve to the right 237.51 feet to a set railroad spike being the P.T. of said curve having a radius of 1080 feet and a chord which bears N 31° 19' 56" E, 237.03 feet;

Thence N 37° 38' 03" E 66.76 feet to a set 3/8" x 10" nail located on the north line of the grantor's property;

Thence S 88° 59' E 112.18 feet along grantor's north line to the center of Cedar Creek;

Thence S 36° 42' 40" W, 317.93 feet along the center of Cedar Creek to the Place of Beginning.

PARCEL NO. 7 – RAP ENTERPRISES, INC.

1.941 acres of land located in Section 84, Block 14, T&P Railroad Company Survey, being also known as M. Martin Survey #84, Abilene, Taylor County, Texas. Said land is also a part of that land conveyed to Robert Preston from Harold Elledge, Trustee, by Deed as recorded in Volume 1098, Page 670 of the Deed Records of Taylor County, Texas, and being more particularly described as follows:

Note: All bearings are grid north based on the State Plane Coordinate System, North Central Zone;

Beginning at a point in the center of Cedar Creek from which the southwest corner of said Section #84 bears N 88° 59' W, 1913.7 feet and S 1° 01' W, 1003.7 feet. Said point is also the southeast corner of the grantor's property;

Thence N 88° 59' W, 112.18 feet along the grantor's south property line to a set 3/8" x 10" nail;

Thence N 37° 38' 03" E, 168.24 feet to a set railroad spike located on the P.C. of a curve to the right;

Thence along said curve to the right 199.45 feet to a set railroad spike. Said curve has a radius of 830 feet and a chord which bears N 44° 31' 06" E, 198.97 feet;

Thence N 51° 24' 09" E, 182.18 feet to a set railroad spike located on the P.C. of a curve to the left;

Thence along said curve to the left 302.31 feet to a set railroad spike. Said curve has a radius of 1043 feet and a chord which bears N 43° 05' 57" E, 301.25 feet;

Thence N 34° 47' 48" E, 228.45 feet to a set 3/8" x 10" nail located on the south right-of-way of Interstate Highway 20;

Thence S 50° 40' 58" E, 98.53 feet along the south right-of-way of said Interstate Highway 20 to the center of Cedar Creek;

Thence along the center of Cedar Creek as follows;

S 40° 02' 13" W, 450.25 feet;

S 45° 28' 30" W, 248.46 feet;

S 64° 54' 38" W, 191.02 feet;

S 18° 21' 26" W, 143.22 feet to the Place of Beginning.