

## **RESOLUTION NO. 2104**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, DECLARING THE NECESSITY TO ACQUIRE FEE SIMPLE TITLE TO CERTAIN REAL PROPERTY IN THE CITY OF TERRELL, TEXAS, NECESSARY FOR FY 2023 – 2024 UTILITY PROJECTS, AS APPROVED BY CITY COUNCIL TO SERVE FUTURE DEVELOPMENT AND GROWTH; DETERMINING THE PUBLIC NECESSITY FOR SUCH ACQUISITION; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS NECESSARY FOR DRAINAGE IMPROVEMENT, WATER AND SEWER IMPROVEMENTS AND ASSOCIATED CONSTRUCTION USES AND ACCESS; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED AND TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AND AUTHORIZING THE CITY ATTORNEY OR HER DESIGNEE TO INSTITUTE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE THE PROPERTY IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Terrell, Texas (“Council”), has determined that it is in the best interest of the citizens of the City of Terrell to acquire certain real property necessary for infrastructure projects, as approved by City Council; such Properties are necessary for public use by the City of Terrell for drainage improvements, water and sewer improvements in connection with approved projects and associated construction uses and access, and that there exists a public necessity to acquire the Properties, in fee simple title, for such projects; and

**WHEREAS**, City Council has taken necessary steps to consider and approve project design and funding for such infrastructure projects for expansion and capital projects and desires to acquire the Properties, as determined, for the aforementioned public uses in conjunction with approved utility projects; and

**WHEREAS**, the City Council approved a professional services agreement on August 10, 2021, for drainage improvements for Ninth St to Grace Ln, determined parcel acquisition and construction is funded through the Storm Water Utility Fund; and

**WHEREAS**, the City Council, approved design services on March 8, 2022, for Highway 205 utility relocation to include upsizing approximately 5,000 feet of sewer pipe, the extension of the existing 20” water main crossing Highway 205 to reach proposed TxDot ROW, and the relocation of sections of 12” water main near Colquitt Road; determined parcel acquisition and construction is funded through CO2023 A&B; and

**WHEREAS**, the City Council approved the Northspur Development Agreement, December 20, 2022 which allows for future water services to said area; construction costs are assigned to the Developer and determined parcel acquisition is funded through the Utility Capital Reserve; and

**WHEREAS**, the City Council approved design services for upgrade to Poetry Elevated Storage Tank Improvements on January 24, 2023; determined parcel acquisition and construction is funded through CO2023B; and

**WHEREAS**, the City Council approved design services for the Texas Department of Agriculture – Texas Community Development Block Grant Program Grant No. 21-0329 on August 1, 2023, for the water main extension at Poetry Road and State Highway 34; design services and construction will be partially funded by Grant No. 21-0329, parcel acquisition is funded through Utility Capital Reserve; and

**WHEREAS**, the City Council approved an agreement with the Terrell Economic Development Corporation on December 20, 2023 for the extension of the 24” water main extension at Las Lomas Parkway; construction will be funded by TEDC, parcel acquisition is funded through CO2023B; and

**WHEREAS**, the City Council approved the Arboretum Estates Development Agreement, July 28, 2023 which allows for future water and sewer services; construction costs are assigned to the Developer and determined parcel acquisition is funded through the Utility Capital Reserve; and

**WHEREAS**, HB1 and SB30 proved the State’s commitment to mental health services by providing funding for a new State Hospital facility in Terrell and the City of Terrell is proposing a new entrance to the this facility from State Highway 80; parcel acquisition is funded through the General Fund; and

**WHEREAS**, the City Council desires that the City Manager or his designee, take all necessary steps to acquire the needed property interests, including but not limited to the retention of appraisers, engineers, and other consultants and experts, and that the City Manager, or his designee, negotiate the purchase of the property interests and, if unsuccessful in purchasing the needed property interests, to institute eminent domain proceedings to acquire the Properties.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THAT:**

#### **SECTION I.**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Terrell, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

## **SECTION II.**

The City Council hereby finds and determines that a public use and necessity exists for the City of Terrell, Texas, for drainage improvements, water and sewer improvements, and associated construction uses and access as part of City Council approved utility projects, and to acquire the necessary property rights in the Properties deemed necessary for such public improvements, as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of land.

## **SECTION III.**

The City Attorney or her designee, is authorized and directed to negotiate for and to acquire the required property rights for the City of Terrell, Texas, and to acquire said rights in compliance with State and Federal law. The City Attorney or her designee, is specifically authorized and directed to do each and every act necessary to acquire the needed property rights including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that are deemed necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

## **SECTION IV.**

The City Manager or his designee, is appointed as negotiator for the acquisition of the needed property interests and, as such, the City Manager or his designee, is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. The City Manager or his designee is specifically authorized to establish the just compensation for the acquisition of the Properties. If the City Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the City Attorney or her designee is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed property interests, proceedings in eminent domain to acquire the above-referenced interests in the Properties.

**SECTION V.**

This Resolution shall become effective from and after its passage.

**PASSED AND APPROVED** this 24<sup>th</sup> day of October, 2023.

  
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E. Rick Carmona, Mayor

ATTEST:

  
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Dawn Steil, City Secretary

