

RESOLUTION NO. 12-89

A RESOLUTION OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING A FINAL OFFER FOR THE ACQUISITION OF FEE SIMPLE TITLE FOR THE CONSTRUCTION, ENLARGEMENT, AND MAINTENANCE OF A MUNICIPAL AIRPORT TOGETHER WITH SAFETY ZONES WITHIN THE CORPORATE LIMITS OF THE CITY OF MESQUITE, TEXAS, AS DESCRIBED HEREIN, AUTHORIZING THE ATTORNEY FOR THE CITY TO INSTITUTE CONDEMNATION PROCEEDINGS.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

**SECTION 1.** That the City Council of the City of Mesquite, Texas, has and does deem it necessary and expedient and has determined that a public necessity exists for the acquisition of Land in Fee Simple Title for the construction, reconstruction, enlargement and maintenance of a Municipal Airport and all lawful purposes incident thereto within the corporate limits of the City of Mesquite, and more particularly described in Exhibit "A" attached hereto, the record title owners or those claiming an interest to said land being REPUBLIC NATIONAL BANK OF DALLAS, TRUSTEE OF THE RICHARD ROBERT RUSSELL TRUST and LISA MICHELLE RUSSELL BEIARD, INDIVIDUALLY, subject to the terms of an unrecorded Joint Venture Agreement of Berry Road Joint Venture.:

**SECTION 2.** That the Mayor is hereby authorized to make a final offer for the acquisition of said property as follows:

\$1,270,000.00 to such owners. Said offer to be made as follows:

\$155,000.00 for the portion of said property consisting of 8.871 acres described in Exhibit "B", payable cash upon closing.

\$1,115,000.00 for the remaining 63.794 acres payable in and as evidenced by seven (7) separate promissory notes, payable, upon final determination of ownership, to the following named persons or entities, to wit:

- A. Note for \$111,500.00 payable to the said Eye Associates 401(K) Profit Sharing Plan and Trust FOB William L. Phelps.
- B. Note for \$125,437.50 payable to NCNB Texas National Bank, Trustee of the Lisa Russell Beiard Trust.
- C. Note for \$62,718.75 payable to NCNB Texas National Bank, Trustee of the Richard Robert Russell Trust.
- D. Note for \$188,156.25 payable to Barbara Chance Ewing.
- E. Note for \$188,156.25 payable to Don H. Cook.

00064

- F. Note for \$188,156.25 payable to Sammie R. Anderson, Trustee, Charles E. Schuerenberg Children's Trust No. II.
- G. Note for \$250,875.00 payable to Linda Sarris.

The principal of each of such notes above described shall be payable on or before May 1, 1992, with each of such notes to bear interest at the rate of 10 per cent per annum, with the interest to be due and payable quarterly as it accrues, and with each such note to contain the following provision, to wit:

"This note is of equal rank and dignity as six (6) other notes of even date herewith executed by the undersigned and as described in Deed of Trust of even date herewith securing this note, and should default be made in the payment of any of such other notes, this note shall be declared immediately due and payable at the option of the holder hereof."

The notes above described shall be secured by vendor's lien retained in Deed conveying such property, and shall be additionally secured by one Deed of Trust securing payment of all seven (7) notes, containing the same provisions as set forth in the State Bar of Texas Deed of Trust form, together with the following special clause, to wit:

"Notwithstanding anything that may hereinafter appear to the contrary, it is understood that each and every right and benefit hereinafter conferred generally upon the beneficiaries hereunder shall inure severally to the different holders of the notes secured hereby and may be severally exercised by coordinate and equal liens and that the foreclosure of the lien hereof at the instance of any holder of any portion of the indebtedness secured hereby shall inure to the benefit of the holders of all the indebtedness outstanding and that the exercise of the right to accelerate the maturity of any portion of said indebtedness by any holder thereof shall likewise be effective as to all of the indebtedness secured hereby."

The Mayor and City Secretary shall be and are hereby expressly authorized for and on behalf of the City of Mesquite, Texas, to execute and deliver such notes as above described, the Deed of Trust securing same, and such other closing documents as may be required.

Such offer shall be made by certified mail.

SECTION 3. If no response is made to the final offer within thirty (30) days, the Attorney for the City is hereby authorized to institute Eminent Domain proceedings to condemn said property for said use according to law and to obtain fee simple title to and upon said property for the purposes expressed herein.

00065

SECTION 4. Should any portion of the property described in Exhibit "A" attached hereto not be subject to legal condemnation by the City of Mesquite, such fact shall not prevent the City from condemning such land which is described in Exhibit "A" and is subject to legal condemnation by the City, and it is the intention of the City of Mesquite to condemn only such territory as may be legally condemned by it within the limits of the land described in Exhibit "A".


DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 17th day of April, 1989.

  
George A. Venner, Sr., Mayor

ATTEST:

  
Lynn Prugel  
City Secretary

APPROVED:

  
B. J. Smith  
City Attorney

00066

EXHIBIT "A"

Being all that certain tract of land situated in Dallas County, Texas, out of the W. W. BRUTON SURVEY, Abstract No. 140, and being Tract 1 and part of Tract 2 allotted to Raymond Berry by partition suit described in judgment dated July 23, 1949, and being more particularly described as follows:

BEGINNING at a point for corner in the center line of Lawson Road as proposed by the County Engineers Office, said point being in the Northeast line of said Bruton Survey;

THENCE North 45 deg. 43 min. 55 sec. West along the Northeast line of said Bruton Survey, a distance of 1432.60 feet to a point for corner, said point being the West corner of a tract of land conveyed to the Veteran's Land Board of the State of Texas by Deed dated September 21, 1953, and recorded in Volume 3930, page 483 and 485, of the Deed Records of Dallas County, Texas;

THENCE North 4 deg. 39 min. 09 sec. West along the Southwest line of a tract of land conveyed to E. M. Fowler by Deed recorded in Volume 398, page 141, of the Deed Records of Dallas County, Texas, a distance of 1235.17 feet to a point for corner in the Southeast line of JOHN PIKE SURVEY, Abstract No. 1174;

THENCE South 64 deg. 13 min. West along the Southeast line of said Pike Survey, a distance of 654.25 feet to a point for corner in the Northeast line of Berry Road, said point being in a curve having a central angle of 2 deg. 19 min. 34 sec. and a radius of 3759.60 feet;

THENCE in a Southeasterly direction along the Northeast line of Berry Road and said curve to the right, an arc distance of 233.83 feet to the point of Tangent;

THENCE South 21 deg. 20 min. 30 sec. East along the Northeast line of Berry Road, a distance of 1194.78 feet to the beginning of a curve to the left having a central angle of 8 deg. 31 min. 22 sec. and a radius of 2834.62 feet;

THENCE along said curve, an arc distance of 421.65 feet to a point for corner said point being the West corner of a tract of land conveyed to James E. Enochs by Deed filed December 5, 1968, and recorded in the Deed Records of Dallas County, Texas;

THENCE North 45 deg. 00 min. East along the Northwest line of said Enochs tract, a distance of 701.58 feet to its North corner;

THENCE South 45 deg. 40 min. East along the Northeast line of said Enochs tract, a distance of 165 feet to its East corner;

THENCE South 45 deg. 47 min. 57 sec. East a distance of 780.70 feet to a point for corner in the center line of Lawson Road;

THENCE North 45 deg. 22 min. 15 sec. East along the centerline of Lawson Road, a distance of 910.96 feet to a point for angle;

THENCE North 31 deg. 35 min. 35 sec. East, a distance of 21.00 feet to the place of beginning, and containing 72.665 acres of land.

SIGNED FOR IDENTIFICATION:

*Raymond Berry*

*Raymond Berry*

74127 0280

WORLD PROPERTY

Legal Description

00067

## BOUNDARY SURVEY

BEING a tract of land out of 72.665 acres of land conveyed to Richard R. Russell by Raymond Berry and wife, Bessie Berry in deed recorded in Volume 74127, Page 0279, of the Deed Records of Dallas County, Texas; said 72.665 acres being a part of the W. W. Bruton Survey, Abstract No. 160 Dallas County, Texas;

BEGINNING at a  $\frac{3}{4}$ " iron rod set in the northeast line of said 72.665 acre tract and the northeast line of said Bruton Survey; and being South  $44^{\circ}45'21''$  East 478.11 feet from a 1" iron rod found for the north corner of said 72.665 acre tract; said northeast line also being the southwest line of the Benjamin Beckner Survey, Abstract No. 1617 and a southwest line of a 337.162 acre tract conveyed to Evelyn Fowler Scott, et al, in deed recorded in Volume 80169, Page 1647, of the Deed Records of Dallas County;

THENCE South  $44^{\circ}45'21''$  East with said northeast line 754.71 feet to a 1" iron rod set for the northwest corner of the 40.517 acre tract conveyed to Lanny Edwards in deed recorded in Volume 73087, Page 0299, Dallas County Deed Records; said corner also being the south corner of said Scott 337.162 acre tract;

THENCE South  $45^{\circ}50'07''$  East with said northeast line and southwest line of said Edwards 40.517 acre tract a distance of 410.34 feet to a  $\frac{3}{4}$ " iron rod set for the southeast corner of this tract;

THENCE North  $09^{\circ}40'00''$  West 953.06 feet to a  $\frac{3}{4}$ " iron rod set for the southwest corner of this tract;

THENCE North  $00^{\circ}51'52''$  East 826.15 feet to the Place of Beginning and containing 8.871 acres of land.

Said tract has located across it a 50 foot wide pipeline easement for a 30 inch diameter pipeline; said easement being conveyed to Lone Star Gas Co. by instrument dated July 18, 1960, and recorded in Volume 68168, Page 0874, Deed Records of Dallas County, Texas.

NOVEMBER 1960

