

ORDINANCE NO. 2005- 14

**An ordinance declaring a public necessity for the acquisition of a 210.90 acre tract of land in the Polito Castillo Grant, Abstract 17 and the Desiderio Garcia Survey, Abstract 38, as more particularly described in Exhibit "A" of this ordinance for the public purpose of expanding Victoria's landfill, authorizing all appropriate action of the City of Victoria in the institution and prosecution of condemnation proceedings to acquire this needed property, authorizing the City Manager to execute offers and contracts for the purchase of property interests from the owners thereof, authorizing the acceptance of deeds and other instruments, authorizing the joinder of all persons with rights in the aforementioned property, authorizing all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, test, specify, define and secure the necessary property rights, declaring the sections of the ordinance to be severable one from the other in the event any section of this ordinance is determined to be invalid, and declaring an effective date.**

The City Council of the City of Victoria finds that the acquisition of the property described in Exhibit "A" of this ordinance is necessary and desirable for the public purpose of expanding Victoria's landfill, and has previously budgeted funds to be expended for these purposes, an adequate part of which remains on hand for such purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA:

1.

Public necessity requires that the City acquire the property described in Exhibit "A", which is located in the City of Victoria, Victoria County, Texas, for the public purpose of drainage of expanding Victoria's landfill. Public necessity also requires the City to acquire any other necessary rights of ingress and egress over and across this property, either through purchase or by the process of eminent domain, and to take all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, test, specify, define, and secure the necessary property rights. This property to be acquired pursuant to this ordinance is, without restriction to the aforementioned property, to be utilized for public purpose of expanding Victoria's landfill.

2.

The City, acting by and through its retained attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary proceedings to condemn the property interests described in Section 1 of this ordinance, to acquire such interests in land as the City is unable to acquire through negotiation by reason of its inability to agree with the owners of the land as to the value of such interest in land, and to take any other legal action necessary or incidental to such acquisitions or eminent domain proceedings to survey, specify, define, and secure the necessary property rights.

3.

The City Manager is authorized to execute offers and contracts, in a form to be approved by the City Attorney, for the purchase of the aforementioned property and easements related thereto from the owners of the aforementioned property in amounts not to exceed a total of \$132,800. All necessary parties and lienholders may be joined in the aforementioned transactions. Deeds and other instruments conveying interests in this property may be accepted by the City Manager in a form to be approved by the City Attorney. All acts and proceedings done or initiated by the employees, agents, and attorneys of the City for the acquisition of such property interest rights are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the owners from whom such rights have been or are being purchased or acquired. Public necessity further permits the City to acquire other rights in the property described in Exhibit "A" for the aforementioned purposes, as specified by the City Manager, including, but not limited to the fee and other lesser rights in the aforementioned property. The authority granted in this ordinance to the City officers, agents, and attorneys is hereby extended to any rights in the property described in the Exhibit "A" as such rights are defined by the City Manager.

4.

If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof, or provisions or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this ordinance are declared to be severable for that purpose.

5.

This ordinance shall be effective on final passage and approval.

PASSED FIRST READING, this the 2nd day of August, 2005.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

PASSED SECOND READING, this the 9th day of August, 2005.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

PASSED THIRD READING, this the 9th day of August, 2005.


AYES: 6

NAYS: 0


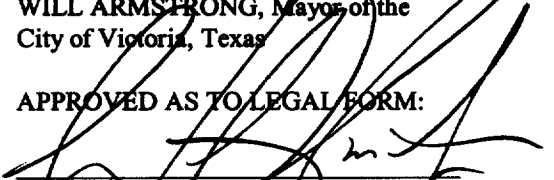
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 9th day of August, 2005.

ATTEST:

  
SCARLET SWOBODA, City Secretary  
Distribution: Legal Department  
City Manager



  
WILL ARMSTRONG, Mayor of the  
City of Victoria, Texas  
APPROVED AS TO LEGAL FORM:  
  
DAVID ATMAR SMITH, City Attorney  
Copies Sent: August 10, 2005

**210.90 ACRES****THE STATE OF TEXAS)  
THE COUNTY OF VICTORIA)**

**BEING** a 210.90 acre tract of land situated partially in the Polito Castillo Grant, Abstract 17, and partially in the Desiderio Garcia Survey, Abstract 38, Victoria County, Texas, and being comprised that certain 104.34 acre tract of land described as Tract I and the undivided one-half interest in that certain 2.22 acre tract of land described as Tract II as conveyed from Elmer Gene Adamek and Mary Ann Adamek to Brian Gene Adamek according to Instrument No. 200307222 of the Official Records, along with another 104.34 acre tract of land described as Tract One and the one-half interest in that same 2.22 acre tract of land as conveyed to Elaine M. Adamek according to instrument recorded in Volume 1197, Page 748 of the Deed Records of Victoria County, Texas, said 210.90 acre tract of land being more fully described by metes and bounds as follows:

**BEGINNING** at a 3/8 iron rod protruding approximately 10 inches above the remainder of a concrete monument at a fence corner, same being the east corner of the said 2.22 acre tract and the south corner of a 116.48 acre tract of land as conveyed to the Teresa Fromme Estate according to instrument recorded in Volume 236, Page 471 of the Deed Records of said County, same being in the recognized northwesterly line of said Polito Castillo Grant at the common corner of the Desiderio Garcia Survey, Abstract 38 and the S.A. & M.G. RR Survey No. 3, Abstract 388;

**THENCE**, North 56 deg. 01' 43" East, with the common line of said 116.48 acre tract, passing at 122.67 feet a 5/8 inch diameter steel rebar marking the north corner of the Brian Gene Adamek 104.34 acre tract, same being the west corner of the Elaine M. Adamek 104.34 acre tract, passing at approximately 1781 feet the center of an existing drainage ditch, passing at 2828.2 feet an 8-inch corner post, and continuing for an overall distance of 2838.18 feet to a 5/8 inch iron rod marking the north corner of the herein described tract and said Elaine M. Adamek 104.34 acre tract, same being in the center of an existing gravel-dirt road and further being an exterior corner of the that certain 309 acre tract as conveyed to Florence Levi May according to instrument recorded in Volume 170, Page 581 of the Deed Records of said County;

**THENCE**, South 33 deg. 52' 02" East, with the common line of said May 309 acre tract, passing at approximately 1304 feet the south corner of said 309 acre tract, same being the west corner of that certain 315.3 acre tract of land as conveyed to J. C. Ermis according to instrument recorded in Volume 822, Page 262 of the Deed Records of said County, and continuing for an overall distance of 1680.56 feet to a 5/8 inch diameter iron rod marking the east corner of herein described tract, same being in the northwesterly line of that certain 100 acre tract of land as conveyed to Ivan Koehn according to instrument recorded in Volume 896, Page 150 of the Deed Records of said County, said iron rod bears North 58 deg. 58' 47" East, 17.58 feet from a railroad tie and bears South 48 deg. 27' 23" West, 16.86 feet from another railroad tie;

**THENCE**, South 56 deg. 03' 19" West, with the common line of said Koehn 100 acre tract, passing at approximately 443 feet the center of an existing drainage ditch, passing at approximately 2593 feet the west corner of said Koehn 100 acre tract, same being the north corner of that certain 100 acre tract of land as conveyed to Robt. T. Herrin according to instrument recorded in Volume 213, Page 481 of the Deed Records of said County, and continuing for an overall distance of 2695.45 feet to a 5/8 inch diameter iron rod marking the south corner of said Elaine M. Adamek 104.34 acre tract and the east corner of said Brian Gene Adamek 104.34 acre tract;

Exhibit "A"

**THENCE**, South 56 deg. 03' 18" West, continuing with the common line of said Herrin 100 acre tract, passing at 2456.01 feet, a 1/2 inch diameter iron pipe marking the west corner of the said Herrin 100 acre tract, same being the north corner of that certain 60 acre tract of land as conveyed to Ernest J. Spiegelhauer, et al according to instrument recorded in Volume 209, Page 572 of the Deed Records of said County and continuing the same course with the common line of said 60 acre tract for an overall distance of 2699.66 feet to a 5/8 inch diameter steel rebar marking the south corner of the herein described tract, same being the east corner of that certain 226.84 acre tract of land as conveyed to J. L. Shelton according to instrument recorded in Volume 218, Page 156 of the Deed Records of said County;

**THENCE**, North 35 deg. 14' 19" West, with the common line of said 226.84 acre tract, passing at 1071.20 feet a 1-1/2 inch angle iron (bent) and continuing for an overall distance of 1675.59 feet to a 5/8 inch diameter iron rod marking the west corner of the herein described tract, said rebar bears South 41 deg. 34' 47" East, a distance of 1.88 feet from a 1 inch diameter iron pipe, said iron rod marking the north corner of said 226.84 acre tract and an angle point in that certain 159.83 acre tract of land as conveyed to the City of Victoria according to instrument recorded in Volume 1179, Page 526 of the Deed Records of said County;

**THENCE**, North 55 deg. 57' 54" East, a distance of 2537.12 feet to a 5/8 inch diameter steel rebar found marking the east corner of said 159.83 acre tract, same being the south corner of the said 2.22 acre tract;

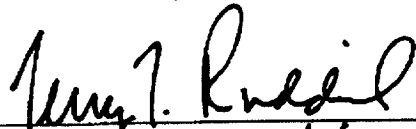
**THENCE**, North 33 deg. 45' 52" West, with the common line of said 159.83 acre tract, a distance of 1613.65 feet to a 5/8 inch diameter steel rebar marking the west corner of the said 2.22 acre tract, same being the north corner of said 159.83 acre tract of land and being in the southeast right-of-way line of Farm to Market Highway No. 1686;

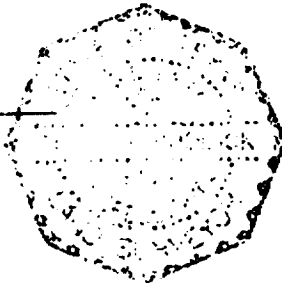
**THENCE**, North 54 deg. 57' 00" East, along said right-of-way line, a distance of 58.06 feet to a 5/8 inch diameter steel rebar marking a corner is said 116.48 acre tract and an angle point in the herein described tract;

**THENCE**, North 77 deg. 58' 56" East, with the common line of said 116.48 acre tract, a distance of 2.12 feet to a 1 1/2 inch diameter iron pipe marking the north corner of the said 2.22 acre described tract, same being an interior corner of the said 116.48 acre tract;

**THENCE**, South 33 deg. 45' 51" East, with the common line of said 116.48 acre tract, a distance of 1613.88 feet to the **POINT OF BEGINNING**, CONTAINING within these metes and bounds a 210.90 acre tract of land, more or less.

The foregoing legal description is based on bearings of record recorded in Volume 1197, Page 748, Deed Records and Instrument No. 200307222 of the Official Records of Victoria County, Texas, no survey was made on the ground and no points were staked.

  
Urban Surveying, Inc.  
By: Terry T. Ruddick 6/3/05  
Registered Professional Land Surveyor  
Texas No. 4943



S14493

Exhibit "A"