



Life Connected.

**CITY COUNCIL SPECIAL MEETING  
CITY HALL CONFERENCE ROOM  
142 N. OHIO DRIVE  
TUESDAY, FEBRUARY 25, 2020  
5:30 PM**

**AGENDA**

**I. CALL TO ORDER:**

**II. ACTION:**

- A. Consider and act upon a resolution finding a public necessity exists to acquire a park and recreation area and authorizing the use of eminent domain to condemn real properties as portions of tracts of land generally described as being located in the Celina Original donation Block 59 Lot 12, Celina Original Donation Block 69 Lots 2E and 2F, Celina Original Donation Block 70 Lots 2 and 8, Celina Original Donation Block 71 Lots 6A, 5C 6C, and 7, J K Rice Survey Tract 21, 0.3298 acres generally located on the south side of Pecan (FM 455), west of Preston Road (SH 289), north of Ash Street, and east of Oklahoma (B 289). (Brawner)
- B. Consider and act upon acceptance of the 2018/2019 Fiscal Audit and presentation by BKD. (Toutounchian)

**III. ADJOURN:**

City Council Chambers is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf, or hearing impaired, or readers of large print, are requested to contact the City Secretary's Office at 972-382-2682, or fax 972-382-3736 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Chapter 551. "I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board at City Hall of the City of Celina, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: \_\_\_\_\_ at \_\_\_\_ p.m. and remained so posted continuously for at least 72 hours prior to the scheduled time of said meeting."

  
Vicki Tarrant, TRMC  
City Secretary, City of Celina, TX

\_\_\_\_\_  
Date Notice Removed



Life Connected.

**City Secretary**  
City of Celina, Texas

## Memorandum

**To:** Honorable Mayor Terry and the Celina City Council  
**From:** Vicki Tarrant, City Secretary  
**CC:** Kim Brawner, Director of Engineering  
**Date:** February 25, 2020  
**Re:** Resolution Authorizing the use of Eminent Domain to Condemn Right of way, drainage easements, slope easements and Temporary construction easements for constructing Choate Parkway.

### Action Requested:

Consider and act upon a resolution finding a public necessity exists to acquire a park and recreation area and authorizing the use of eminent domain to condemn real properties as portions of tracts of land generally described as being located in the Celina Original donation Block 59 Lot 12, Celina Original Donation Block 69 Lots 2E and 2F, Celina Original Donation Block 70 Lots 2 and 8, Celina Original Donation Block 71 Lots 6A, 5C 6C, and 7, J K Rice Survey Tract 21, 0.3298 acres generally located on the south side of Pecan (FM 455), west of Preston Road (SH 289), north of Ash Street, and east of Oklahoma (B 289). (Brawner)

### Background Information:

The City of Celina City Council has designated development of downtown as a primary goal. In addition, the City's Downtown Master Plan identify the City's Founders Park and large trees as an asset. Stakeholders identified green spaces (pocket parks, community garden, hiking, and trails) as a desired amenity for both as a gathering space and activities. Wider sidewalks, lighting, family-friendly, and programming were key elements of the community's desires. During the Downtown Master Plan development, the "Kids Design Studio" participants indicated a splash pad, interactive games, and dog park as fun spaces that should be added downtown.

Staff contracted with Norris Design Studios to develop a concept plan for a proposed linear park that would follow the existing Doe Branch Park. The study area was identified because FEMA has identified and area of floodway and flood zone. The City's building code restricts construction within this area to allow for no habitable construction. The City directed Norris Design to incorporate all the elements that were identified during community meetings and determined the amount of land needed to accomplish this goal.

The final layout of the proposed linear park

### Board Review/Citizen Input:

N/A

### Alternatives:

City Council could choose to not proceed with the proposed acquisition.

**Financial Considerations:**

Funding for the acquisition of the real property and easements will be paid form 2019 CO bonds.

**Legal Review:**

Legal counsel has reviewed the proposed resolution for compliance to state law.

**Supporting Documents:**

- Resolution
- List of Properties

**Staff Recommendation:**

Staff recommends approval of Resolution authorizing condemnation.

## RESOLUTION 2020-06R

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS FINDING THAT A PUBLIC NECESSITY EXISTS TO ACQUIRE PROPERTIES AS PORTIONS OF TRACTS OF LAND GENERALLY DESCRIBED AS BEING LOCATED IN THE CELINA ORIGINAL DONATION BLOCK 59 LOT 12, CELINA ORIGINAL DONATION BLOCK 69 LOTS 2E AND 2F, CELINA ORIGINAL DONATION BLOCK 70 LOTS 2 AND 8, CELINA ORIGINAL DONATION BLOCK 71 LOTS 6A, 5C 6C, AND 7, J K RICE SURVEY TRACT 21, 0.3298 ACRES, PROVIDING NOTICE OF AN OFFICIAL DETERMINATION TO ACQUIRE REAL PROPERTIES AUTHORIZING THE APPRAISAL REPORTS TO BE OBTAINED AND ACCEPTED AND AUTHORIZING BONA FIDE OFFERS OF JUST COMPENSATION TO BE MADE FOR THE REAL PROPERTIES; AUTHORIZING LEGAL COUNSEL TO INSTITUTE EMINENT DOMAIN PROCEEDINGS ON BEHALF OF THE CITY FOR THE ACQUISITION OF THE EASEMENTS ON SAID TRACTS; APPROPRIATING FUNDS FROM A LAWFUL SOURCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Celina, Texas (“City”), by authority of Chapter 251 of the Texas Local Government Code and by virtue of Section 2.02 of the City Charter as a home-rule municipality, is authorized to initiate eminent domain proceedings to acquire real properties for a public purpose in construct a public park; and

**WHEREAS**, the City Council of the City of Celina (“City Council”) has investigated and determined that, there is a public necessity for the acquisition, by eminent domain, of real properties on tracts of land located in the following surveys:

- Celina Old Donation Abs A0767
- J K Rice Survey, Abs A0767
- J K Rice Survey, Abs A0167

more specifically identified in Exhibit “A”, attached hereto and incorporated herein for all purposes (together the “Properties”) and it is the City’s intent to acquire the necessary properties for the purpose of, among other municipal purposes, including but not limited to the installation of a future Park and Recreation area; and

**WHEREAS**, the City Council has investigated and determined that the taking of said real property is necessary for public use; and

**WHEREAS**, it is necessary to establish procedures for determining the establishment and approval of just compensation for the Properties to be acquired by eminent domain as required by law; and

**WHEREAS**, the City Manager, or his designee, is required to make a bona fide offer, as defined by and in compliance with Chapter 21 of Texas Property Code, to acquire Properties for public use voluntarily from the owners prior to moving forward with acquisition by eminent domain; and

**WHEREAS**, the City Manager, or his designee, will seek a third-party appraisal and will make bona fide final offers based on the appraisals to the owner of the Property, which may or may not be accepted by the Property's owner(s); and

**WHEREAS**, the City, through its authorized representatives, will make final offers based on the appraisals to the owner of the Properties and may not agree upon the just compensation to be paid with the Property owner(s), and hereby authorizes and directs the law firm of Messer, Fort and McDonald ("Legal Counsel") to institute proceedings in eminent domain to acquire the Properties.

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

**SECTION 1:** The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

**SECTION 2:** The City Council hereby officially determines that there is a public necessity for and the public welfare and convenience will be served by, the acquisition, by eminent domain, of the Properties, and it is the City's intent to acquire the Property as more specifically described in and depicted on Exhibit "A", attached hereto, specifically for the municipal purpose of a future park and recreation area

**SECTION 3:** The City Council hereby authorizes the City Manager or his designee to obtain, review and accept a third party's appraisal report. In the event of failed attempts to negotiate with any owner(s) of a portion of the Properties after making a bona fide initial offer and, following receipt of the third party's appraisal, making a bona fide final offer, the City Council hereby authorizes the City Manager or designee to authorize and direct, on behalf of the City, Legal Counsel to commence condemnation proceedings under the Texas Property Code, and other applicable law, for the acquisition of the Properties by eminent domain.

**SECTION 4:** The City Manager, or his designee, is hereby authorized to execute all documents necessary to acquire the Properties, on behalf of the City, whether by purchase or eminent domain. The City Council hereby ratifies any documents executed, prior to the effective

date of this Resolution, by the City Manager which were necessary for the acquisition of the Property.

**SECTION 5:** The amount to be paid, if any, for acquiring the Property, will be appropriated from any lawful source.

**SECTION 6.** In the event that Special Commissioners appointed by the Court during condemnation proceedings return an award for just compensation to be paid by the City, Legal Counsel is hereby authorized to settle the lawsuit for that amount and the City's Finance Director is hereby authorized to issue a check from the appropriate fund in the amount of the Special Commissioners' award made payable to the owner or to the County Clerk of Collin County, to be deposited into the registry of the Court, to enable the City to take possession of the Property without further action of the City Council. If the City Manager believes such award should be appealed, the award may still be paid to take possession, but the City Manager shall put the question of whether to appeal on the next available City Council agenda for consideration. If there is no such City Council meeting before the deadline to appeal, the City Manager may direct Legal Counsel to file the appeal and then place on the next available City Council agenda to either pursue or withdraw the appeal.

**SECTION 7:** Should any section, subsection, sentence, clause or phrase of this Resolution be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Resolution shall remain in full force and effect. The City hereby declares that it would have passed this Resolution, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 8:** This Resolution shall take effect immediately upon its passage and execution in accordance with the provisions of the Charter of the City of Celina.

**PASSED AND APPROVED** this the 25<sup>th</sup> day of February, 2020 at a special meeting of the City Council of the City of Celina in which a quorum was present.

**CITY OF CELINA**

**BY:** \_\_\_\_\_  
Sean Terry, Mayor

**ATTEST:**

\_\_\_\_\_  
Vicki Faulkner, City Secretary

## Exhibit A

| <u>Property ID</u> | <u>Owner</u>                                             | <u>Legal Description</u>                               | <u>City</u> | <u>State</u> | <u>Zip Code</u> |
|--------------------|----------------------------------------------------------|--------------------------------------------------------|-------------|--------------|-----------------|
| 988505             | Craddock<br>Brooksie &<br>Desiray Francis &<br>Amy Wyatt | Celina Original<br>Donation<br>Block 59, Lot 12        | Celina      | TX           | 75009           |
| 988756             | R L Willard                                              | Celina Original<br>Donation<br>Block 69, Lot 2E        | Celina      | TX           | 75009           |
| 1846934            | Larry Grant                                              | Celina Original<br>Donation<br>Block 69, Lot 2F        | Celina      | TX           | 75009           |
| 988774             | Lillie Stevens                                           | Celina Original<br>Donation,<br>Block 70, Lot 2        | Celina      | TX           | 75009           |
| 988836             | Madrigal Marilu                                          | Celina Original<br>Donation<br>Block 70, Lot 8         | Celina      | TX           | 75009           |
| 988989             | Allan Williams                                           | Celina Original<br>Donation,<br>Block 71, Lot 6a       | Celina      | TX           | 75009           |
| 988970             | Rhyne Robert                                             | Celina Original<br>Donation<br>Block 71, Lot 5C 6C     | Celina      | TX           | 75009           |
| 989005             | Ashford Gus                                              | Celina Original<br>Donation<br>Block 71, Lot 7         | Celina      | TX           | 75009           |
| 2542480            | Lynn Jean Francis<br>– Estate of                         | Abs A0767 J K Rice<br>Survey, Tract 21,<br>.3298 Acres | Celina      | TX           | 75009           |