

RESOLUTION NO. R-2011-18

A RESOLUTION FINDING A NECESSITY FOR THE ACQUISITION OF CERTAIN LAND FOR SANITARY SEWER EASEMENT PURPOSES; DECLARING SUCH ACQUISITION FOR A PUBLIC PURPOSE; AUTHORIZING CONDEMNATION FOR THE RIGHT-OF-WAY INTEREST IN SAID PROPERTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, engineering studies heretofore conducted have determined that acquisition of the hereinafter described property is necessary for the public purpose of locating, establishing, constructing, testing, inspecting, installing, operating, renewing, maintaining, repairing, replacing, altering, changing of the size of, reconstructing, restoring and possible future removal of a certain sanitary sewer line or lines and all necessary and convenient valves, connections, fittings, manholes, cleanouts and appurtenances, known as the Highway 69 / Interstate 20 Corridor Sanitary Sewerage System Improvements Project (the "Project"), to provide for sanitary sewer service to the City of Tyler, Texas; and

WHEREAS, the City Council has found that a public necessity requires such land acquisition; and

WHEREAS, the City Council has found and determined that the easement interest in and to the hereinafter described property is suitable for such purpose and that it is necessary to acquire same for locating, establishing, constructing, testing, inspecting, installing, operating, renewing, maintaining, repairing, replacing, altering, changing of the size of, reconstructing, restoring and possible future removal of a certain sanitary sewer line or lines and all necessary and convenient valves, connections, fittings, manholes, cleanouts and appurtenances on said property; and

WHEREAS, the City of Tyler, through its duly authorized representatives, has negotiated with the owners of such land and has been unable to agree with such owners as to the fair cash market value thereof:

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

PART 1: The City of Tyler has offered Billy Raibon and Robert Raibon, landowners, a final offer in writing of \$132.50 each (\$265.00 total), a reasonable sum of money to compensate them for the value of the easement and damages, if any, to the remainder of this property, the offer of which is hereby confirmed.

PART 2: That acquisition of an easement interest in and to the following described property, is hereby found to be necessary for the public purpose of locating, establishing, constructing, testing, inspecting, installing, operating, renewing, maintaining, repairing, replacing, altering, changing of the size of, reconstructing, restoring and possible future removal of a certain sanitary sewer line or lines and all necessary and convenient valves, connections, fittings, manholes, cleanouts and appurtenances:

10 acres of land, more or less, in the G.A. Bass Survey, Abstract No. 66, Smith County, Texas and being the same land described in a Warranty Deed from Ruth Crawford to Arnett Raibon and wife, Everline Raibon, dated October 31, 1953 and recorded in Volume 757, Page 103 of the Deed Records of Smith County, Texas.

PART 3: That it is hereby determined that the City of Tyler has in fact transmitted bona fide offers to the property owners, in accordance with the laws of the State of Texas, for the property described herein, and the owners of the property and the City of Tyler have been unable to agree and cannot agree upon the value of the land or the damages, if any, to be paid and further settlement negotiations have become futile and impossible. A true and complete copy of the Right-of-Way Agreement offered by the City of Tyler as its last and final offer is attached hereto as Exhibit "A". The final monetary offer of the City of Tyler is hereby confirmed and approved.

PART 4: That the City Attorney of the City of Tyler, or an attorney authorized by him be and is hereby authorized and directed to file and cause to be filed against the owner, proceedings in eminent domain to acquire the easement interest in and to the above described property and to conduct all parts of the condemnation in accordance with the laws and procedures of the State of Texas.

PART 5: That this Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED this 11th day of May, A.D. 2011.



BARBARA BASS, MAYOR

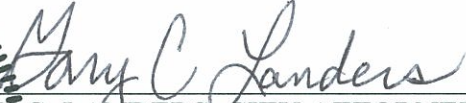
ATTEST:

APPROVED:



CASSANDRA BRAGER,
CITY CLERK





GARY C. LANDERS, CITY ATTORNEY

Exhibit "A" To Resolution R-2011-18
Page 1 of 14



Larry R. Dixon, CPL
President

Mailing address: P.O. Box 6602
Tyler, Tx 75711
903-579-9300 (office)

Physical address: 12559 CR 192
Tyler, Tx 75703
903-579-9399 (fax)

Certified Mail # 7009 1410 0000 7441 1221

May 2, 2011

Billy Raibon, Sr.
2322 Red Maple Road
Big Sandy, Texas 75755

Re: City of Tyler
Sanitary Water/Sewer pipeline
G.A. Bass Survey, A-66
Smith County, Texas

Dear Mr. Raibon:

This letter is to confirm negotiations between, Dixon Services, Inc. as Right-of-Way Agent, and you individually and as Independent Administrator of the Estate of Arnett Raibon for the acquisition by The City of Tyler, Texas of the permanent right-of-way easement and temporary workspace for the expansion of the installation of a sanitary water/sewer pipeline across property owned by you and the other heirs of Arnett and Everline Raibon in a 10 acre tract of land in the G.A. Bass Survey, A-66, Smith County, Texas.

Pursuant to our previous telephone conversations and our inability to reach an acceptable agreement for the purchase of a Right-of-Way Agreement, the City of Tyler hired a real estate appraiser to appraise the subject property that will be affected by the said sanitary water/sewer pipeline. The total distance of the proposed pipeline across the subject tract is 290 feet. The Right of Way Agreement will be for a thirty (30) foot wide permanent easement and an additional twenty (20) foot wide temporary construction easement to be used during construction of the line. Mr. Jim Justice of Real Estate Appraisal Services has appraised the subject property and has determined the appraised value of the 0.20 acre permanent easement to be \$400.00 and the appraised value of the 0.13 acre temporary easement to be \$130.00 for a total of \$530.00 for the entire area that will be used for permanent and temporary easement across the subject property.

Based on research from the Official Public Records of Smith County, Texas, the Probate Records of Smith County, Texas and the District Court Records of Smith County, Texas it appears that the estates of Arnett Raibon and Everline Raibon have been passed on to their heirs. According to these records, it appears that you individually own a one-fourth interest in the said 10 acre tract and that you are the Independent Administrator of the Arnett Raibon, Estate. Therefore, your portion of the \$530.00 total consideration would be \$132.50.

Exhibit "A" To Resolution R-2011-18
Page 2 of 14

● Page 2

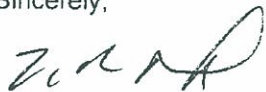
May 2, 2011

Your careful consideration of this final offer will be sincerely appreciated. Additional copies of the original Right of Way Agreement and a copy for your records are enclosed for your review. Upon execution of the original Right of Way Agreement in the presence of a Notary Public we can meet you to exchange that document for a check in the amount of \$132.50.

If you have not accepted this final offer within seven (7) days from the date you receive this letter, condemnation proceedings will be initiated to acquire the necessary permanent right-of-way and temporary workspace.

You may call this office to communicate your acceptance within the allotted time. Thank you for your concern and cooperation in this matter. I look forward to hearing from you soon and completing this process so the City can focus on beginning construction of the new sanitary water/sewer pipeline.

Sincerely,



Larry R. Dixon

Exhibit "A" To Resolution R-2011-18
Page 3 of 14



Larry R. Dixon, CPL
President

Mailing address:	Physical address:
P.O. Box 6602	12559 CR 192
Tyler, Tx 75711	Tyler, Tx 75703
903-579-9300 (office)	903-579-9399 (fax)

Certified Mail #7009 1410 0000 7441 1214

May 2, 2011

Robert Raibon, Sr.
15191 County Road 45
Tyler, Texas 75704

Re: City of Tyler
Sanitary Water/Sewer pipeline
G.A. Bass Survey, A-66
Smith County, Texas

Dear Mr. Raibon:

This letter is to confirm negotiations between, Dixon Services, Inc. as Right-of-Way Agent, and you for the acquisition by The City of Tyler, Texas of the permanent right-of-way easement and temporary workspace for the expansion of the installation of a sanitary water/sewer pipeline across property owned by you and the other heirs of Arnett and Everline Raibon in a 10 acre tract of land in the G.A. Bass Survey, A-66, Smith County, Texas.

Pursuant to our previous telephone conversations and our inability to reach an acceptable agreement for the purchase of a Right-of-Way Agreement, the City of Tyler hired a real estate appraiser to appraise the subject property that will be affected by the said sanitary water/sewer pipeline. The total distance of the proposed pipeline across the subject tract is 290 feet. The Right of Way Agreement will be for a thirty (30) foot wide permanent easement and an additional twenty (20) foot wide temporary construction easement to be used during construction of the line. Mr. Jim Justice of Real Estate Appraisal Services has appraised the subject property and has determined the appraised value of the 0.20 acre permanent easement to be \$400.00 and the appraised value of the 0.13 acre temporary easement to be \$130.00 for a total of \$530.00 for the entire area that will be used for permanent and temporary easement across the subject property.

Based on research from the Official Public Records of Smith County, Texas, the Probate Records of Smith County, Texas and the District Court Records of Smith County, Texas it appears that the estates of Arnett Raibon and Everline Raibon have been passed on to their heirs. According to these records, it appears that you individually own a one-fourth interest in the said 10 acre tract. Therefore, your portion of the \$530.00 total consideration would be \$132.50.

Your careful consideration of this final offer will be sincerely appreciated. Additional copies of the original Right of Way Agreement and a copy for your records are enclosed for your review. Upon execution of the original Right of Way

Exhibit "A" To Resolution R-2011-18
Page 4 of 14

● Page 2

May 2, 2011

Your careful consideration of this final offer will be sincerely appreciated. Additional copies of the original Right of Way Agreement and a copy for your records are enclosed for your review. Upon execution of the original Right of Way Agreement in the presence of a Notary Public we can meet you to exchange that document for a check in the amount of \$132.50.

If you have not accepted this final offer within seven (7) days from the date you receive this letter, condemnation proceedings will be initiated to acquire the necessary permanent right-of-way and temporary workspace.

You may call this office to communicate your acceptance within the allotted time. Thank you for your concern and cooperation in this matter. I look forward to hearing from you soon and completing this process so the City can focus on beginning construction of the new sanitary water/sewer pipeline.

Sincerely,



Larry R. Dixon