

COURT ORDER

16

ORDER NO. 94 1519DATE SEP 20 1994

STATE OF TEXAS §

§

COUNTY OF DALLAS §

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Dallas County, held on the 20th day of September, 1994, on motion made by Nancy E. Judy, Commissioner of District No. 2, and seconded by Jim Jackson, Commissioner of District No. 1, the following Order was adopted:

WHEREAS, in 1991, Dallas County received a donation of 15.537 acres of park land from the Baptist Foundation of Texas; and

WHEREAS, this acreage, which has since been named Grapevine Springs Park Preserve, is located within the City of Coppell; and

WHEREAS, the City of Coppell has agreed to maintain this Preserve, in accordance with the attached use agreement, for a period not to exceed ninety-nine years; and

WHEREAS, such an agreement is consistent with County Park & Open Space Policy.

NOW THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED that the Dallas County Commissioners Court approves the use agreement for Grapevine Springs Park Preserve with the City of Coppell and authorizes the County Judge to sign said use agreement.

DONE IN OPEN COURT this the 20th day of September, 1994.

Lee F. Jackson
County Judge

Jim Jackson
Commissioner Dist. #1

Nancy E. Judy
Commissioner Dist. #2

John Wiley Price
Commissioner Dist. #3

Chris V. Semos
Commissioner Dist. #4

Recommended by [Signature]
9-13

1494-07-26

OPEN SPACE USE AGREEMENT

THE STATE OF TEXAS §

COUNTY OF DALLAS §

WHEREAS, the City of Coppell and the County of Dallas desire to promote the preservation of open space areas and natural park lands for the use and benefit of the public and future generations; and

WHEREAS, the City of Coppell and the County of Dallas desire to allocate by mutual agreement the responsibilities for governmental functions and services which are or may become necessary for the best use of acquired open space areas in accordance with the Adopted Policy of the Dallas County Park and Open Space Program, and pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Government Code; Now Therefore,

W I T N E S S E T H :

This agreement, by and between the County of Dallas, Texas, acting by and through its Commissioners Court, hereinafter called "County", and the City of Coppell, Texas, hereinafter called "City", and in consideration of One Dollar (\$1.00), the receipt of which is hereby acknowledged, and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed, and hereinafter set forth, shall be as follows:

I.

City agrees to relinquish whatever legal right it may have to the property described below in Section III.

II.

County and City agree that the land for open space use will be acquired in fee simple by County and that the County will be responsible for all acquisition costs, if any occur.

III.

The County and City agree that the 15.537 acres of open space property, more fully described as Grapevine Springs Park Preserve, which is located at the end of Park Street, between Bethel Road and the STL&SW Railroad, west of Denton Tap Road, shall be administered by the City for a period of time not to exceed ninety-nine (99) years, beginning with the date of execution hereof, subject to the terms and conditions hereinafter set forth, and which shall be renewable by mutual consent of both parties. The official property description for this site is attached to this Use Agreement as Exhibit A.

IV.

The County and City agree that the City may seek to obtain the park from the County at a future date in accordance with existing state laws.

V.

The City agrees to operate this property as a public park that is open and readily accessible to all users regardless of residence.

VI.

The County agrees that the City may develop the property for public outdoor recreation provided such development is consistent with the park's historical integrity and the County's Park and Open Space policies and is approved by the County. Conversion of the property to any use other than for public outdoor recreation is not permissible.

VII.

The County will conduct a park dedication ceremony and will undertake the following reclamation activities:

Install two Dallas County Park signs; remove overgrown vegetation from the park's flumes and trails; remove vegetation that otherwise threatens the park's architectural structures; install handrails for three sets of rock steps; cap open wells; construct an erosion control improvement along the creek; add new surface material to the trails; and install cable-linked bollards on the island side that borders the erosion control improvement.

The County will also install two pedestrian foot bridges across Grapevine Creek. Initially, these two bridges will have widths of about 6.5 feet. However, should sufficient grant funds and donations be obtained, then one or more of these bridges, if the City so desires, will be replaced with a wider structure that will accommodate the City's mowing equipment.

The County will also seek to undertake any repair/restoration work to the park's walls, BBQ pits, flumes, and dam that may be needed once the overgrown vegetation has been removed. Such repair/restoration work, as well as the installed bridges and erosion control work, shall be consistent with a work schedule agreed upon by the County and City.

The County will also improve Park Street, which leads into the park, and construct an 8-space parking lot for the park on city right-of-way that directly abuts the park. The City will contribute \$1,500 towards the improvement of Park Street and shall review and approve the plans for the street improvements and the parking area.

The value of these aforementioned restoration/reclamation activities and improvements shall be at least \$100,000.

VIII.

Plans for the required erosion control improvement will be developed in consultation with the City and must be approved by the City before the construction of any such improvement can begin. The improvement itself must be designed to be consistent with the City's storm water management plan and criteria and be capable of handling ultimate development run-off, and the City shall formally certify that the improvement has been designed in accordance with these requirements and thus should not be responsible for exacerbating flooding downstream.

IX.

Once reclaimed, the City agrees to mow the area contained in the original six-acre WPA park (see Exhibit B) on a regular basis consistent with that of other developed parks within the City and to generally maintain this property, along with the other acreage that composes this entire park preserve, thus keeping it reasonable free of litter, dumped waste, overgrown vegetation, and other natural or man-made conditions that would diminish the natural qualities of the property, threaten its architectural features, or endanger the safety of the public.

The County, using its Community Service work crews, agrees to assist the City in mowing the park's island, which is approximately one acre in size, until one of the initial bridges can be replaced with a wider structure as discussed in Section VII. In providing this mowing assistance, the County shall mow the island twice a month during the months of April-September.

The City also agrees, once initial installation and/or restoration work has been completed, to maintain the park's structures, improvements, and facilities (i.e., flumes, parking lot, walls, bridges, dam, BBQ pits, etc.), as well as any other physical features that may be added by the City with the County's approval, at some later date. In the event of substantial damage caused by an act of God, the City may ask the County to consider funding some of the repair costs.

X.

The City and the County agree that all restoration, maintenance, installation, and construction work will be done utilizing material that is readily available, reasonable in price, and comparable in style with the park's original materials.

XI.

The City agrees to assist the County in its efforts to raise funds from governmental entities, private foundations, organizations, corporations, and individuals for any restoration work that may be needed. The County similarly agrees to assist the City in obtaining funding for any new capital improvements that the City may wish to construct, with the County's approval, at the site.

XII.

The City agrees to provide normal police and fire protection for the property at all times and shall take reasonable precautions to guard the property from abuse through vandalism or wanton destruction.

XIII.

The City agrees to pay for the performance of governmental functions or services in connection with the property, excluding emergency assistance from the County.

XIV.

The City and County shall perform and exercise all rights, duties, functions and services in compliance with all applicable Federal, State, and local laws and regulations.

XV.

If the City or County fails to fulfill any condition or term of this Agreement, then upon ninety (90) days written notice to the City or County, the City or County may take any corrective action reasonable or necessary to effect such conditions or terms; for which, the County or City shall bear all costs. Furthermore, the County may require the City to remove any or all improvements, fixtures, or other alterations to the property for which the City was responsible for constructing prior to date of termination, for which the City shall bear all costs.

XVI.

This agreement may be terminated by the mutual consent of both City and County. Upon termination, the County agrees to provide the City reasonable time to remove portable equipment or facilities, and the County agrees to purchase all duly authorized permanent improvements erected by the City on the property at a price that shall represent the original cost of such improvements minus depreciation.

XVII.

The City agrees to save, protect, defend, and hold harmless the County from any and all suits, claims, or causes of action which may arise out of or in any manner be connected with the operation of recreation or development programs or the negligence of City employees, agents, or servants, to the extent provided by law; provided, however, that this indemnity Agreement does not cover or include:

- (a) any liability or obligation of third parties based on any contract to which the County is not a party; and
- (b) any tort claim or liability for which the City would not be liable if the same were asserted directly against the City.

OPEN SPACE USE AGREEMENT

The County agrees to save, defend, protect, and hold harmless the City from any and all suits, claims, cause of actions, or public liability which may arise out of County operations of programs, to the extent provided by law; provided, however, that this indemnity Agreement does not cover or include:

- (a) any liability or obligation of third parties based on any contract to which the County is not a part; and
- (b) any tort claim or liability for which the County would not be liable if the same were asserted directly against the County.

Nothing herein shall be deemed in any manner to constitute a waiver of any immunity or affirmative defense which may be asserted by the County or the City pursuant to law. Nor shall this provision be in any manner construed to create a cause of action for the benefit of any person not a party to this Agreement, or to create any rights for the benefit of any person not a party to this Agreement not otherwise existing at law.

XVIII.

This Agreement shall not become effective until it has been approved by the City Council and the Commissioners Court and signed by both parties.

Signed and agreed by and between the County and City on this 26th day of July, 1994.

ATTEST:

Lucinda Khan
City Secretary, *ACTING*

La Monte
Mayor

APPROVED AS TO FORM:

Peter J. Smith
City Attorney

ATTEST:

Paula A. Stephens
Commissioners Court Clerk

X Reyer 9/20/94
County Judge

APPROVED AS TO FORM:

J.W. D'...
Assistant District Attorney

EXHIBIT A

TRACT 1

BEING a 6.296 acre tract of land out of the J. A. Simmons Survey, Abstract NO. 1296 in the City of Coppell in Dallas County, Texas and being more particularly described as follows:

COMMENCING at a found 1/2 inch iron rod at the intersection of the south line of Bethel Road (50' R.O.W.) and the east line of Park Road (50' R.O.W.);

THENCE South 02 degrees 27 minutes 30 seconds West along said east line of Park Road for 546.07 feet to a found 7/8 inch iron pipe being the POINT OF BEGINNING;

THENCE South 29 degrees 26 minutes 52 seconds East leaving the said east line of Park Road for 325.67 feet to a point for corner;

THENCE South 44 degrees 28 minutes 08 seconds East for 313.99 feet to a point for corner;

THENCE South 39 degrees 59 minutes 55 seconds West for 230.41 feet to a point for corner;

THENCE North 89 degrees 28 minutes 08 seconds West for 463.05 feet to a point for corner;

THENCE North 00 degrees 31 minutes 52 seconds East for 431.01 feet to a point for corner;

THENCE North 30 degrees 31 minutes 52 seconds East for 290.10 feet to a point for corner in the south line of said Park Road;

THENCE South 89 degrees 17 minutes 30 seconds East along said south line of Park Road for 79.71 feet to the POINT OF BEGINNING and CONTAINING 274,260 square feet or 6.296 acres of land, more or less.

TRACT 2

BEING a 6.829 acre tract of land out of the J. A. Simmons Survey, Abstract No. 1296 in the City of Coppell in Dallas County, Texas and being more particularly described as follows:

COMMENCING at a found 1/2 inch iron rod at the intersection of the south line of Bethel Road (50 foot R.O.W.) and the east line of Park Road (50' R.O.W.);

THENCE South 02 degrees 27 minutes 30 seconds West along the said east line of Park Road for 546.07 feet to a found 7/8 inch iron pipe;

THENCE South 29 degrees 26 minutes 52 seconds East leaving the said east line of Park Road for 325.67 feet to the POINT OF BEGINNING;

THENCE North 39 degrees 59 minutes 55 seconds East for 178.63 feet to a point for corner;

THENCE North 24 degrees 02 minutes 50 seconds East for 75.00 feet to a point for corner;

THENCE North 39 degrees 59 minutes 55 seconds East for 446.02 feet to a point for corner;

THENCE South 87 degrees 20 minutes 24 seconds East for 311.11 feet to a point for corner;

THENCE North 20 degrees 53 minutes 37 seconds East for 244.96 feet to a point for corner;

THENCE South 88 degrees 42 minutes 24 seconds East for 238.84 feet to a point for corner;

THENCE South 20 degrees 53 minutes 37 seconds West for 456.12 feet to a point for corner;

THENCE North 84 degrees 12 minutes 02 seconds West for 441.33 feet to a point for corner;

THENCE South 24 degrees 02 minutes 50 seconds West for 345.95 feet to a point for corner;

THENCE South 18 degrees 17 minutes 10 seconds East for 117.82 feet to a point for corner;

THENCE South 39 degrees 59 minutes 55 seconds West for 222.93 feet to a point for corner;

THENCE North 44 degrees 28 minutes 08 seconds West for 313.99 feet to the POINT OF BEGINNING and CONTAINING 297,495 square feet or 6.829 acres of land, more or less.

TRACT 3

BEING a 2.412 acre tract of land out of the J. A. Simmons Survey, Abstract No. 1296 in the City of Coppell in Dallas County, Texas and being more particularly described as follows:

COMMENCING at a found 1/2 inch iron rod at the intersection of the south line of Bethel Road (50' R.O.W.) and the east line of Park Road (50' R.O.W.);

THENCE South 02 degrees 27 minutes 30 seconds West along said east line of Park Road for 546.07 feet to a found 7/8 inch iron pipe;

THENCE South 29 degrees 26 minutes 52 seconds East leaving the said east line of Park Road for 325.67 feet to a point;

THENCE South 44 degrees 28 minutes 08 seconds East for 313.99 feet to a point;

THENCE South 39 degrees 59 minutes 55 seconds West for 207.32 feet to the POINT OF BEGINNING;

THENCE South 31 degrees 16 minutes 25 seconds East for 440.81 feet to a point for corner in the north line of the Cottonbelt Railroad (100' R.O.W.);

THENCE South 87 degrees 24 minutes 00 seconds West along said north line for 284.94 feet to a point for corner;

THENCE North 31 degrees 16 minutes 25 seconds West leaving said north line for 320.48 feet to a point for corner;

THENCE North 07 degrees 06 minutes 00 seconds West for 100.89 feet to a point for corner;

THENCE South 89 degrees 28 minutes 08 seconds East for 219.82 feet to a point for corner;

THENCE North 39 degrees 59 minutes 55 seconds East for 23.09 feet to the POINT OF BEGINNING and CONTAINING 105,046 square feet or 2.412 acres of land, more or less.

