

November 11, 2020

WHEREAS, the City of Dallas owns land in Dallas known as Pegasus Plaza located at 1500 Main Street and Belo Garden, located at 1014 Main Street both parks located in downtown Dallas, which have been maintained by the City as parkland; and

WHEREAS, Dallas Area Rapid Transit (DART) has identified Pegasus Plaza and a portion of the subsurface of Belo Garden as necessary for the construction of DART's D2 Subway line, for the benefit to the public, to enhance mobility and access for existing and future riders, and DART must acquire in: 1) Belo Garden a subsurface [public](#) transportation easement of approximately 21,705 square feet of land, more fully described in **Exhibit A**, and 2) Pegasus Plaza i—a [public](#) transportation easement of approximately 6,427 square feet of land, as shown in **Exhibit B**, ii—a [public](#) subsurface transportation easement of approximately 15,208 square feet of land, more fully described in **Exhibit C**, and iii—a temporary construction easement of approximately 19,100 square feet of land, more fully described in **Exhibit D**, and the Park and Recreation Board is agreeable to providing the property for this use; and

WHEREAS, in consideration for the grant of the [Public](#) Transportation Easements, DART will pay the fair market value of these easements (\$304,665.00), as determined by an independent appraisal; and

WHEREAS, DART is agreeable to designing and constructing a reimagined Pegasus Plaza after construction of the D2 Project is complete, including providing additional good and valuable consideration such as enhanced security and litter and trash pickup and payment to the City for maintenance costs in excess of the current annual maintenance budget in the redesigned park, the terms thereof to be set forth by separate agreement to be executed after approval of the Park and Recreation Board and Council at a later date subsequent to approval of the conveyances after the public hearing; and

WHEREAS, with the proposed actions taken by DART to minimize harm to the park the City of Dallas concurs with the Federal Transit Administration Section 4(f) de minimis impact determination for Pegasus Plaza.

WHEREAS, a public hearing was held, as required by the Texas Parks and Wildlife Code (Chapter 26, Section 26.001 through 26.004), to determine that there is no feasible and prudent alternative to this use of this parkland and that all reasonable planning to minimize harm to Belo Garden and Pegasus Plaza has been taken.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

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SECTION 1. That as a result of the public hearing held today, it is hereby determined that there is no feasible and prudent alternative to the use of parkland for the purpose stated in this resolution and that all reasonable planning to minimize harm to the park has been taken.

SECTION 2. That, City of Dallas hereby approves and authorizes the grant of [public](#) transportation easements and temporary use easement, by form instrument as approved by the City Attorney, to DART for the construction and operation of the proposed D2 Subway line, said easement areas more fully described in **Exhibit A, B and C** attached hereto and made a part hereof.

SECTION 3. That, upon receipt of THREE HUNDRED FOUR THOUSAND SIX HUNDRED SIXTY-FIVE DOLLARS AND NO/100 (\$304,665.00) from DART, the City Manager or designee, upon approval as to form by the City Attorney is authorized to execute [Public](#) Transportation Easements and Temporary Use Easement for the benefit of DART for the purposes authorized herein and to provide the following:

Within the [Public](#) Transportation Easement in **Belo Garden** the City is permitted to:

1. Install and construct any and all park-related improvements, and other public improvements, as it sees fit, outside the subterranean Transportation Easement. In undertaking such improvements and operations the City shall be under no obligation and shall not be required to obtain approval or consent by DART. DART shall make no claim against the City for any subsequent construction or operations undertaken by the City in Belo Garden regarding DART's improvements in its subsurface easement.

Within the [Public](#) Transportation Easements in **Pegasus Plaza** the City is permitted to:

1. Install and construct any and all park-related improvements, and other public improvements, as it sees fit, outside the subterranean Transportation Easement. In undertaking such improvements and operations the City shall be under no obligation and shall not be required to obtain approval or consent by DART. DART shall make no claim against the City for any subsequent construction or operations undertaken by the City in Belo Garden regarding DART's improvements in its subsurface easement.

The [Public](#) Transportation Easements holder shall covenant to the City:

1. The [Public](#) Transportation Easements shall revert to the City if a Development and Maintenance Agreement between the City and DART is not executed prior to the commencement of construction, the D2 Subway Line is not constructed, or the Subway Line is abandoned or no longer used for its original intended purpose for a period of more than five years;

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SECTION 3. (continued)

2. To execute a Development and Maintenance Agreement with the City, subject to approval by subsequent Park Board and Council action, for the design, construction, and maintenance obligations by DART to a reimagined Pegasus Plaza;
3. To comply with health, safety, noise, environmental protection, waste disposal, and water and air quality regulations;
4. To bear the cost of construction, operation, and maintenance of the D2 Subway Line project;
5. To be responsible for all expenses to the City for the cleanup, repairs, and any and all damages or actions deleterious to either or both parks resultant of its actions or negligence.

SECTION 4. That the City Manager is hereby authorized to establish appropriations in an amount not to exceed \$304,665.00 in the Capital Gifts, Donation and Development Fund, Fund 0530; Department PKR; Unit 919A, Object 4250.

SECTION 5. That the Chief Financial Officer is hereby authorized to receive and deposit funds in an amount not to exceed \$304,665.00 paid by **GRANTEE** in the Capital Gifts, Donation and Development Fund, Fund 0530; Department PKR; Unit 919A; Revenue Code 8428.

SECTION 6. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.