

April 24, 2024

A RESOLUTION AUTHORIZING SETTLEMENT OF A CONDEMNATION LAWSUIT.

All capitalized terms are defined in Section 1 below.

WHEREAS, the Dallas City Council by the FIRST RESOLUTION found that the USE of the PROPERTY INTEREST in and to the PROPERTY for the PROJECT is a public use; and

WHEREAS, the Dallas City Council by the FIRST RESOLUTION found that a public necessity requires that CITY acquire the PROPERTY INTEREST in and to the PROPERTY from OWNER for the PROJECT; and

WHEREAS, the Dallas City Council by the FIRST RESOLUTION authorized acquisition, by purchase, of the PROPERTY INTEREST in and to the PROPERTY held by OWNER for the PROJECT; and

WHEREAS, OWNER refused to sell the PROPERTY INTEREST in and to the PROPERTY to CITY for the OFFICIAL OFFER AMOUNT contained in the FIRST RESOLUTION; and

WHEREAS, the Dallas City Council by the SECOND RESOLUTION authorized and directed the City Attorney to file the necessary proceeding and to take the necessary action for the acquisition of the PROPERTY INTEREST in and to the PROPERTY by condemnation, or in any other manner provided by law; and

WHEREAS, the City Attorney, pursuant to the SECOND RESOLUTION, filed a CONDEMNATION PROCEEDING for the acquisition of the PROPERTY INTEREST in and to the PROPERTY for the PROJECT; and

WHEREAS, OWNERS have agreed to settle the CONDEMNATION LAWSUIT for the SETTLEMENT AMOUNT; and

WHEREAS, the Dallas City Council desires to authorize the City Attorney and the City Manager to settle the CONDEMNATION LAWSUIT for the SETTLEMENT AMOUNT:

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Now, Therefore,

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

SECTION 1. That for the purposes of this resolution, the following definitions shall

apply: "CITY": The City of Dallas

"FIRST RESOLUTION": Resolution No. 19-0991 approved by the Dallas City Council on June 26, 2019, authorizing negotiations, which is incorporated herein by reference.

"SECOND RESOLUTION": Resolution No. 21-0529 approved by the Dallas City Council on March 24, 2021, authorizing filing of a condemnation proceeding, which is incorporated herein by reference.

"CONDEMNATION PROCEEDING/LAWSUIT": Cause No. CC-23-01590-B, in County Court at Law No. 2, and styled City of Dallas v. Keller Springs Estates, Ltd., et al, filed pursuant to the SECOND RESOLUTION.

"PROPERTY": Approximately 43,058 square feet of land in Dallas County, Texas, as described in the CONDEMNATION PROCEEDING.

"PROPERTY INTEREST": Easement

"PROJECT": McKamy and Osage Branch Wastewater Interceptor

"USE": The installation, use, and maintenance of a pipeline or lines for the transmission of wastewater together with such appurtenant facilities as may be necessary, however, to the extent fee title to the PROPERTY is acquired through instrument, such title in and to the PROPERTY shall not be limited to, or otherwise deemed restricted to, the USE herein provided.

"OWNER": Keller Springs Estates, Ltd., provided, however, that the term "OWNER" as used in this resolution means all persons or entities having an ownership interest, regardless of whether those persons or entities are actually named herein.

"OFFICIAL OFFER AMOUNT": \$228,442.00, as approved in the FIRST RESOLUTION.

"SETTLEMENT AMOUNT": \$300,000.00

"CLOSING COSTS AND TITLE EXPENSES": Not to exceed \$20,000.00

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"AUTHORIZED AMOUNT": Not to exceed \$320,000.00 (SETTLEMENT AMOUNT plus CLOSING COSTS AND TITLE EXPENSES)

"DESIGNATED FUNDS": \$233,942.00 out of Wastewater Capital Improvement E Fund, Fund 3116, Department DWU, Unit PS40, Activity MPSA, Program 706028, Object 4250, Encumbrance/Contract No. CX-DWU-2018-00008635 and \$86,058.00 out of Wastewater Construction Fund, Fund 0103, Department DWU, Unit CS40, Program 706028, Object 4250, Encumbrance/Contract No. CX-DWU-2018-00008635.

SECTION 2. That the City Attorney and the City Manager are authorized to settle the CONDEMNATION LAWSUIT for the SETTLEMENT AMOUNT.

SECTION 3. That the City Attorney and the City Manager are authorized to prepare and execute such documents as may be necessary to effect the settlement described herein.

SECTION 4. That if the PROPERTY INTEREST in and to the PROPERTY is being acquired by instrument, the Chief Financial Officer is hereby authorized and directed to issue a check, paid out of and charged to the DESIGNATED FUNDS, in the amount of the SETTLEMENT AMOUNT, made payable to OWNER, or the then current owner(s) of record, or to the title company insuring the transaction described herein. If the PROPERTY INTEREST in and to the PROPERTY is not being acquired through instrument, the Chief Financial Officer is hereby authorized and directed to issue a check, paid out of and charged to the DESIGNATED FUNDS, in an amount not to exceed the SETTLEMENT AMOUNT, made payable to the County Clerk of Dallas County, Texas, which is to be deposited into the registry of the Court. The Chief Financial Officer is further authorized and directed to issue another check, to be paid out of and charged to the DESIGNATED FUNDS, in the amount of the CLOSING COSTS AND TITLE EXPENSES, made payable to the title company insuring the transaction described herein. The SETTLEMENT AMOUNT and the CLOSING COSTS AND TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

SECTION 5. 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.

APPROVED AS TO FORM:
Tammy Palomino, City Attorney

BY



Assistant City Attorney