

January 10, 2024

A RESOLUTION AUTHORIZING THE DEPOSIT OF A SPECIAL COMMISSIONERS' AWARD AND SETTLEMENT OF A CONDEMNATION PROCEEDING, AND IF OBJECTIONS ARE FILED, SETTLEMENT OF A CONDEMNATION LAWSUIT, FOR AN AMOUNT NOT TO EXCEED THE AWARD.

All said capitalized terms are defined in Section 1 below.

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

WHEREAS, the Special Commissioners appointed by the Court in the CONDEMNATION PROCEEDING rendered the SPECIAL COMMISSIONERS' AWARD AMOUNT, which the City Council wishes to deposit with the County Clerk of Dallas County, Texas, so that CITY may take possession of the PROPERTY INTEREST in and to the PROPERTY; and

WHEREAS, the Dallas City Council desires to authorize the City Attorney to settle the CONDEMNATION PROCEEDING, and if objections are filed, the CONDEMNATION LAWSUIT, for an amount not to exceed the SPECIAL COMMISSIONERS' AWARD AMOUNT:

NOW, THEREFORE,

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

SECTION 1. For the purposes of this resolution, the following definitions shall apply:

"CITY": The City of Dallas

"FIRST RESOLUTION": Resolution No. 23-0133 approved by the Dallas City Council on January 11, 2023, authorizing negotiations, which is incorporated herein by reference.

"SECOND RESOLUTION": Resolution No. 23-0402 approved by the Dallas City Council on March 08, 2023, authorizing filing of a condemnation proceeding, which is incorporated herein by reference.

SECTION 1 (continued)

"CONDEMNATION PROCEEDING/LAWSUIT": Cause No. CC-23-04111-E, in Dallas County Court at Law No. 5, and styled CITY OF DALLAS VS. Byrd B. Fisher, et al., filed pursuant to City Council Resolution No. 23-0402.

"PROPERTY": Authorize acquisition of sand and gravel rights in approximately, 43 acres of land located in Dallas County, Texas, as described in the CONDEMNATION PROCEEDING.

"PROPERTY INTEREST": Fee Simple

"PROJECT": Dallas Floodway Project

"USE": The installation, use, and maintenance of a levee, swale, channel or other improvements, 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": Heirs of Byrd B. Fisher and husband W. W. Fisher, Ballard Y. Burgher, W. L. Burgher, Cedric Burgher, Laura B. Atwell and husband Webster Atwell, and Robert S. Burgher, 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": \$4,311.00

"SPECIAL COMMISSIONERS' AWARD AMOUNT": \$4,500.00

"CLOSING COSTS AND TITLE EXPENSES": Not to exceed \$0.00

"AUTHORIZED AMOUNT": Not to exceed \$4,500.00 (SPECIAL COMMISSIONERS' AWARD)

"DESIGNATED FUNDS": SPECIAL COMMISSIONERS' AWARD AMOUNT payable out of the Flood Protection and Storm Drainage Facilities Fund, Fund BT23, Department SDM, Unit W446, Activity TRPP, Program PB98W397, Object 4230, Encumbrance/Contract No. SDM-2023-00020750 (\$4,311.00); Flood Protection and Storm Drainage Facilities Fund, Fund BT23, Department SDM, Unit W446, Activity TRPP, Program

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SECTION 1 (continued)

PB98W397, Object 4230, Encumbrance/Contract No. SDM-2023-00020750 (\$189.00). The OFFICIAL OFFER AMOUNT SHALL NOT EXCEED THE AUTHORIZED AMOUNT.

SECTION 2. That the City Attorney is hereby authorized to acquire the PROPERTY INTEREST in and to the PROPERTY by instrument, or judgment, for the SPECIAL COMMISSIONERS' AWARD AMOUNT. If the PROPERTY INTEREST in and to the PROPERTY is being acquired by instrument, the Chief Financial Officer is hereby authorized to issue a check, to be paid out of and charged to the DESIGNATED FUNDS, in an amount not to exceed the SPECIAL COMMISSIONERS' AWARD 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 to issue a check, to be paid out of and charged to the DESIGNATED FUNDS, in an amount not to exceed the SPECIAL COMMISSIONERS' AWARD AMOUNT, made payable to the County Clerk of Dallas County, Texas, to be deposited into the registry of the Court, to enable CITY to take possession of the PROPERTY INTEREST in and to the PROPERTY without further action of the Dallas City Council. 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 Special Commissioners Award Amount and the CLOSING COSTS AND TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

SECTION 3. That the City Attorney is authorized to settle the CONDEMNATION PROCEEDING, and if objections are filed, the CONDEMNATION LAWSUIT, for an amount not to exceed the SPECIAL COMMISSIONERS' AWARD AMOUNT.

SECTION 4. 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