

September 23, 2020

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 eminent domain, of the PROPERTY INTEREST in and to the PROPERTY held by OWNER for the PROJECT; 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, the Dallas City Council by the THIRD RESOLUTION authorized a negotiated price higher than the authorized purchase amount, of the PROPERTY INTEREST in and to the PROPERTY held by OWNER for the PROJECT; and

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

WHEREAS, the Dallas City Council desires to authorize the City Attorney and the City Manager to settle the CONDEMNATION PROCEEDING for the SETTLEMENT 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. 10-1975 approved by the Dallas City Council on August 11, 2010 authorizing negotiations and filing of a condemnation proceeding, which is incorporated herein by reference.

“SECOND RESOLUTION”: Resolution No. 13-0639 approved by the Dallas City Council on April 10, 2013, authorizing the use of eminent domain, which is incorporated herein by reference.

“THIRD RESOLUTION”: Resolution No. 13-1948 approved by the Dallas City Council on November 12, 2013, authorizing a negotiated price higher than the AWARD AMOUNT, which is incorporated herein by reference.

“PROPERTY”: Approximately 45,835 square feet of land in fee in Dallas County, Texas, and being the same property more particularly described in "Exhibit A", attached hereto and made a part hereof for all purposes.

“PROPERTY INTEREST”: Fee

“PROJECT”: Southwest 120/96-inch Water Transmission Pipeline Project

“USE”: The installation, use, and maintenance of a pipeline or lines for the transmission of treated water together with such appurtenant facilities as may be necessary, 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”: Mark C. Jacobs and Leslie D. Jacobs, 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”: \$70,662.00 as approved in the FIRST RESOLUTION.

SECTION 1. (continued)

“INCREASED OFFER AMOUNT”: \$78,162.00 as approved in the THIRD RESOLUTION.

“CLOSING COSTS AND TITLE EXPENSES”: Not to exceed \$2,518.00

“ADDITIONAL AMOUNT”: \$96,838.00, the difference between the SETTLEMENT AMOUNT and the amounts approved by the FIRST RESOLUTION and SECOND RESOLUTION.

“AUTHORIZED AMOUNT”: Not to exceed \$ 177,518.00

“DESIGNATED FUNDS”:

\$73,180.00 from Water Capital Improvement E Fund, Fund 3115, Department DWU, Unit PW40, Activity MPSA, Program 706623, Object 4210, Encumbrance CX-DWU-2020-00014188

\$7,500.00 from Water Capital Improvement E Fund, Fund 3115, Department DWU, Unit PW40, Activity MPSA, Program 706623, Object 4210, Encumbrance CX-DWU-2020-00014188

\$96,838.00 from Water Capital Improvement D Fund, Fund 2115, Department DWU, Unit PW40, Activity MPSA, Program 706623, Object 4210, Encumbrance CX-DWU-2020-00014188

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

SECTION 3. That the City Attorney and the City Manager are hereby 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 ADDITIONAL 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 ADDITIONAL 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

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SECTION 4. (continued)

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 ADDITIONAL 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:
Christopher J. Caso, City Attorney

BY: Christopher C. Dan
Assistant City Attorney