

October 25, 2023

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, the Dallas City Council by the THIRD RESOLUTION authorized the City Attorney to deposit the SPECIAL COMMISSIONERS' AWARD AMOUNT rendered by the Special Commissioners appointed by the Court in the CONDEMNATION PROCEEDING; and

WHEREAS, objections to the SPECIAL COMMISSIONERS' AWARD AMOUNT were filed, turning the CONDEMNATION PROCEEDING into a CONDEMNATION LAWSUIT; 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. 20-1472 approved by the Dallas City Council on September 23, 2020, authorizing negotiations, which is incorporated herein by reference.

“SECOND RESOLUTION”: Resolution No. 20-1822 approved by the Dallas City Council on November 11, 2020, authorizing filing of a condemnation proceeding, which is incorporated herein by reference.

“CONDEMNATION PROCEEDING/LAWSUIT”: Cause No. CC-21-00536-E, in Dallas County Court at Law No. 5, and styled City of Dallas v. Mainland Land & Equipment Co., A Nebraska Corporation, et al., filed pursuant to the SECOND RESOLUTION.

“THIRD RESOLUTION”: Resolution No. 22-0254 approved by the Dallas City Council on January 26, 2022, authorizing deposit of the SPECIAL COMMISSIONERS’ AWARD AMOUNT, which is incorporated herein by reference.

“PROPERTY”: Approximately 11.755 acres of land in Dallas County, Texas, as described in the CONDEMNATION PROCEEDING.

“PROPERTY INTEREST”: Fee

“PROJECT”: Dallas Floodway Extension

“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”: Mainland Land & Equipment Co., 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.

SECTION 1. (continued)

“OFFICIAL OFFER AMOUNT”: \$10.00, as approved in the FIRST RESOLUTION.

SPECIAL COMMISSIONERS’ AWARD AMOUNT”: \$320,000.00, the same having been previously deposited pursuant to the THIRD RESOLUTION.

“SETTLEMENT AMOUNT”: \$1,500,000.00, which includes the SPECIAL COMMISSIONERS’ AWARD AMOUNT.

“ADDITIONAL AMOUNT”: \$1,180,000.00, the difference between the SETTLEMENT AMOUNT and the SPECIAL COMMISSIONERS’ AWARD AMOUNT.

“ADDITIONAL CLOSING COSTS AND TITLE EXPENSES”: Not to exceed \$10,000.00

“AUTHORIZED AMOUNT”: Not to exceed \$1,190,000.00 (ADDITIONAL AMOUNT plus ADDITIONAL CLOSING COSTS AND TITLE EXPENSES)

“DESIGNATED FUNDS”:

\$320,000.00 out of the Trinity River Corridor Fund, Fund 2P14, Department SDM, Unit W632, Activity TRPP, Program PB98W397, Object 4210, Encumbrance/Contract No. SDM-2020-00014223

\$1,180,000.00 out of the Trinity River Corridor Fund (Appropriation), Fund 2P14, Department SDM, Unit W632, Activity TRPP, Program PB98W397, Object 4210, Encumbrance/Contract No. DWU-2023-00023197

\$10,000.00 out of the Trinity River Corridor Fund, Fund 4P14, Department SDM, Unit W632, Activity TRPP, Program PB98W397, Object 4230, Encumbrance/Contract No. DWU-2023-00023198

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 Manager is hereby authorized to increase appropriations in an amount not to exceed \$1,190,000.00, as follows:

Trinity River Corridor Fund, Fund 2P14, Department SDM, Unit W632, Activity TRPP, Program PB98W397, Object 4210, in the amount not to exceed \$1,180,000.00

Trinity River Corridor Fund, Fund 4P14, Department SDM, Unit W632, Activity TRPP, Program PB98W397, Object 4230, in the amount not to exceed \$10,000.00

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SECTION 4. That the City Attorney and the City Manager are authorized to prepare and execute such documents as may be necessary to affect the settlement described herein.

SECTION 5. 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 OWNER, or the OWNER's attorney, Dawson Sodd Firm PLLC, or to the County Clerk of Dallas County, Texas. If a check is made payable to the County Clerk of Dallas County, said check shall 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 ADDITIONAL AMOUNT and the CLOSING COSTS AND TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

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.

APPROVED AS TO FORM:
Tammy L. Palomino, Interim City Attorney

BY _____
Assistant City Attorney