

September 25, 2019

A RESOLUTION AUTHORIZING SETTLEMENT OF A CONDEMNATION PROCEEDING/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, OWNER refused to sell the PROPERTY INTEREST in and to the PROPERTY to CITY for the OFFICIAL OFFER AMOUNT contained in the SECOND RESOLUTION; and

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

WHEREAS, OWNERS have agreed to settle the CONDEMNATION PROCEEDING/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 PROCEEDING/LAWSUIT for the SETTLEMENT AMOUNT:

September 25, 2019

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. 17-0761 approved by the Dallas City Council on May 10, 2017, authorizing negotiations, which is incorporated herein by reference.

“SECOND RESOLUTION”: Resolution No. 18-1286 approved by the Dallas City Council on September 12, 2018, authorizing filing of a condemnation proceeding, which is incorporated herein by reference.

“CONDEMNATION PROCEEDING/LAWSUIT”: Cause No. CC-19-00248-B, in Dallas County Court at Law No. 2, and styled The City of Dallas v. LG East Ross, LLC, a Texas Limited Liability Company, et al, filed pursuant to the SECOND RESOLUTION.

“PROPERTY”: Located under approximately 11,455 square feet in area, lying between the subsurface elevations of 232 feet and 407 feet (U.S. Survey Feet), inclusive, North American Vertical Datum of 1988, located in Dallas County, Texas, the boundary of which property being more particularly described in “Exhibit A”, in Dallas County, Texas, as described in the CONDEMNATION PROCEEDING.

“PROPERTY INTEREST”: Flood Control Tunnel Easement

“OWNER”: LG East Ross, LLC, 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.

“PROJECT”: Mill Creek/Peaks Branch/State-Thomas Drainage Relief Tunnel Project

“USE”: The below ground construction, installation, use and maintenance of a deep tunnel for the storage and transmission of stormwater drainage.

“OFFICIAL OFFER AMOUNT”: \$80,185.00, as approved in the SECOND RESOLUTION.

“SETTLEMENT AMOUNT”: \$150,000.

September 25, 2019

“ADDITIONAL AMOUNT”: \$69,815.00, the difference between the SETTLEMENT AMOUNT and the OFFICIAL OFFER AMOUNT.

“CLOSING COSTS AND TITLE EXPENSES”: Not to exceed \$3,500.00

“AUTHORIZED AMOUNT”: Not to exceed \$153,500.00 (SETTLEMENT AMOUNT plus CLOSING COSTS AND TITLE EXPENSES)

“DESIGNATED FUNDS”: SETTLEMENT AMOUNT payable out of 2006 Bond Funds: Fund 1T23, Department SDM, Unit T525, Activity SDRS, Program PB06T525, Object 4210, Encumbrance CT-TWM06T525H17, CLOSING COSTS AND TITLE EXPENSES payable out of 2006 Bond Funds: Fund 1T23, Department SDM, Unit T525, Activity SDRS, Program PB06T525, Object 4230, Encumbrance CT-TWM06T525H18.

SECTION 2. That the City Attorney and the City Manager are authorized to settle the CONDEMNATION PROCEEDING/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.

September 25, 2019

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, Interim City Attorney

BY: _____
Assistant City Attorney