

September 23, 2020

A RESOLUTION AUTHORIZING AN INCREASED OFFER AMOUNT FOR THE ACQUISITION OF REAL PROPERTY.

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, the Dallas City Council by the FIRST RESOLUTION authorized the City Attorney to acquire the PROPERTY INTEREST in and to the PROPERTY by condemnation for the ORIGINAL OFFICIAL OFFER AMOUNT; and

WHEREAS, the 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 desires to authorize the City Attorney to acquire the PROPERTY INTEREST in and to the PROPERTY by condemnation for the OFFICIAL OFFER AMOUNT stated herein.

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. 12-1942 approved by the Dallas City Council on August 8, 2012, which is incorporated herein by reference.

“PROPERTY”: Three tracts of land containing approximately 25 acres of land located 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 Simple

SECTION 1. (continued)

"PROJECT": Southwest 120/96-inch Water Transmission Pipeline

"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, provided, however, to the extent fee title to the PROPERTY is acquired, such title and the PROPERTY shall not be limited to or otherwise deemed restricted to the USE herein provided.

"OWNER": Ashley Furniture Industries, Inc. 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.

"ORIGINAL OFFICIAL OFFER AMOUNT": \$1,172,046.00

"REVISED OFFICIAL OFFER AMOUNT": \$1,751,465.00

"CLOSING COSTS AND TITLE EXPENSES": Not to exceed \$12,844.00

"AUTHORIZED AMOUNT": \$579,419.00 (OFFICIAL OFFER AMOUNT plus CLOSING COSTS AND TITLE EXPENSES)

"DESIGNATED FUNDS":

\$1,184,890.00 from Water Capital Improvement D Fund, Fund 2115, Department DWU, Unit PW40, Activity MPSA, Program 706623, Object 4210, Encumbrance/Contract No. CX-DWU-2020-00013483.

\$579,419.00 from Water Construction Fund, Fund 0102, Department DWU, Unit CW40, Activity MPSA, Program 706623, Object 4210, Encumbrance/Contract No. CX-DWU-2020-00013483.

SECTION 2. That the CITY will pay court costs as may be assessed by the Special Commissioners' or the Court. Further, that litigation expenses determined by the City Attorney to be necessary are authorized for payment. All costs and expenses described in this section shall be paid out of and charged to the DESIGNATED FUNDS.

SECTION 3. That the City Attorney is authorized and requested to file the necessary proceeding and take the necessary action for the acquisition of the PROPERTY INTEREST in and to the PROPERTY by condemnation or in any manner provided by law.

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SECTION 4. That in the event it is subsequently determined that additional persons or entities other than those named herein have an interest in the PROPERTY, the City Attorney is authorized and directed to join said parties as defendants in said condemnation proceeding and/or suit.

SECTION 5. That in the event the Special Commissioners' appointed by the Court return an award that is the same amount, or less, than the OFFICIAL OFFER AMOUNT, 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 and directed to issue a check, 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 and directed to issue a check, 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 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:

Christopher J. Caso, City Attorney

BY: 
Assistant City Attorney