

November 10, 2021

~~**WHEREAS**, the City of Dallas is the owner of a tract of land containing approximately 3,280 square feet of land, Block 122/77, Dallas County, Texas (the "unneeded property"); and being more fully described in Exhibit "A", attached herein and made a part of hereof for all purposes, which is no longer needed for municipal use; and~~

~~**WHEREAS**, the tract is a strip of land, that because of its shape and small area, cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances, and may be sold to the abutting owner without complying with the notice and bidding requirements for the sale of public lands provided for in Chapter 272.001 of the Texas Local Government Code; and~~

~~**WHEREAS**, Main Street Investors Joint Venture ("Main Street"), the abutting property owner and current lessee of the unneeded property, proposes to terminate the lease and purchase said unneeded property at fair market value; and~~

~~**WHEREAS**, certain lessee improvements inadvertently encroach on a small portion of City's adjacent Pegasus Plaza property, and as further sale consideration, lessee proposes to license, manage, and operate the encroached area, said encroachment area being more fully described in Exhibit "B", attached herein and made a part of hereof for all purposes; and~~

~~**WHEREAS**, on November 4, 2021, the Park and Recreation Board approved (i) the direct sale of the unneeded property and (ii) the license of the encroached area to Main Street; with the sale conditioned on Main Street's execution, on or prior to closing the direct sale, of an operation and maintenance agreement providing for Main Street's license, management, and maintenance of the encroached area for a twenty-year plus one five-year renewal option period; and~~

~~**WHEREAS**, Main Street is agreed to assuming operation and maintenance obligations for the encroached area, at their sole expense, as conditioned by the Park and Recreation Board.~~

~~**Now, Therefore,**~~

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

~~**SECTION 1.** That the City Manager, upon approval as to form by the City Attorney, is authorized to execute an operation and maintenance agreement with Main Street Investors Joint Venture or their successors or assigns ("Main Street"), providing for Main Street's license, management, and maintenance of the encroached area for a twenty-year plus one five year renewal option period, at its sole cost and expense. Main Street shall improve the licensed area with park enhancements, as approved by the Park and Recreation Department Director, to include but not limited to: planters, seating, landscaping, and graffiti abatement.~~

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~~SECTION 2. That upon receipt of **THREE HUNDRED FORTY FIVE THOUSAND AND NO/100 (\$345,000.00) DOLLARS** and the executed operation and maintenance agreement described in Section 1 above from Main Street, the City Manager or designee is authorized to execute a Deed Without Warranty, to be attested by the City Secretary approved as to form by the City Attorney, for approximately 3,280 square feet of City owned land at 1516 and 1518 Main Street, Block 122/77, Dallas County, Texas and located near the intersection of Main and South Akard Streets (the "unneeded property").~~

~~SECTION 3. That the Deed Without Warranty shall provide that the conveyance of the unneeded property to Main Street ("**GRANTEE**") is subject to the following:~~

- ~~(a) a restriction prohibiting the placement of industrialized housing on the property; and~~
- ~~(b) reservation by the City of Dallas of all oil, gas and other minerals in and under the property with a waiver of surface access rights relating to said minerals; and~~
- ~~(c) any visible and apparent easements and any encroachments whether of record or not; and any and all covenants, conditions, reservations, restrictions, exceptions, easements, rights of way, mineral interests, mineral leases or other instruments of record and applicable to the property or any part thereof; and~~
- ~~(d) to the maximum extent allowed by law, (i) **GRANTEE** is taking the Property "AS IS, WHERE IS, WITH ALL FAULTS"; (ii) GRANTOR disclaims responsibility as to the accuracy or completeness of any information relating to the Property; (iii) **GRANTEE** assumes all responsibility to examine all applicable building codes and zoning ordinances to determine if the Property can be used for the purposes desired and to check for outstanding or pending code enforcement actions including but not limited to repair or demolition orders; and (iv) GRANTOR expressly disclaims and **GRANTEE** expressly waives, any warranty or representation, express or implied, including without limitation any warranty of condition, habitability, merchantability or fitness for a particular purpose of the Property; and~~
- ~~(e) GRANTOR makes no representations of any nature regarding the Property and specifically disclaims any warranty, guaranty or representation, oral or written, express or implied, past, present, or future, concerning: (i) the nature and condition of the Property, including without limitation, the water, soil and geology, and the suitability thereof and the Property for any and all activities and uses which **GRANTEE** may elect to conduct thereon, and the existence of any environmental substances, hazards or conditions or presence of any endangered or protected species thereon or compliance with all applicable laws, rules or regulations; (ii) the nature and extent of any right of way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; (iii) the compliance of the Property or its operation with any law, ordinance or regulation of any federal, state, or local governmental authority; and (iv) whether or not the Property can be developed or utilized for any purpose. For purposes hereof, "environmental substances" means the following: (a) any "hazardous substance" under the Comprehensive~~

SECTION 3. (continued)

~~Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. Section 9601 et. seq., as amended, (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, Tex. Water Code, Section 26.261, et. seq., as amended, (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubrication oils, (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C.A. Section 651 et. seq., as amended, (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901 et. seq., as amended, (f) asbestos, (g) polychlorinated biphenyls, (h) underground storage tanks, whether empty, filled, or partially filled with any substance, (i) any substance, the presence of which is prohibited by federal, state or local laws and regulations, and (j) any other substance which by federal, state or local laws and regulations requires special handling or notification of governmental authorities in its collection, storage, treatment or disposal. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder; and~~

~~(f) such other terms and requirements of the sale and/or disclaimers as the City deems necessary, convenient or appropriate.~~

SECTION 4. ~~That the sale proceeds shall be deposited into the General Fund, Fund 0001, Department PBW, Balance Sheet 0519 and Department of Public Works – Real Estate Division shall be reimbursed for the cost of obtaining legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund, Fund 0001, Department PBW, Unit 1181, Object 5011 and any remaining sale proceeds shall be transferred to the Capital Gifts, Donation and Development Fund, Fund 0530, Department PKR, Unit 919A, Revenue Code 8428.~~

SECTION 5. ~~That if a title policy is desired by GRANTEE, same shall be at the expense of said GRANTEE.~~

SECTION 6. ~~That the sale shall be subject to standby fees, taxes and assessments, if any, by any taxing authority for the year of closing and subsequent years and assessments by any taxing authority for prior years due to changes in land usage or ownership, the payment of said standby fees, taxes and assessments being assumed by GRANTEE.~~

SECTION 7. ~~That the procedures required by Section 2-24 of the Dallas City Code that are not required by state law concerning the sale of unneeded real property are waived with respect to this tract of land.~~

SECTION 8. ~~That this resolution is designated for City purposes as Contract No. PKR-2022-00017825.~~

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SECTION 9. That this resolution shall take effect immediately from and after its passage, as provided by the Charter of the City of Dallas and it is accordingly so resolved.

~~APPROVED AS TO FORM:~~

~~Christopher J. Case, City Attorney~~

~~BY:~~

~~Assistant City Attorney~~