

December 8, 2021

**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:

**Now, Therefore,**

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**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. 19-1395 approved by the Dallas City Council on September 11, 2019 authorizing negotiations and filing of a condemnation proceeding, which is incorporated herein by reference.

“SECOND”: Resolution No. 20-0281 approved by the Dallas City Council on February 12, 2020, authorizing the use of eminent domain, which is incorporated herein by reference.

“CONDEMNATION PROCEEDING/LAWSUIT”: Cause No. CC-20-02627-E, in Dallas County Court at Law No. 5, and styled City of Dallas v. Market Center Boulevard, LLC, et al., filed pursuant to the SECOND RESOLUTION.

“THIRD”: Resolution No. 21-0229 approved by the Dallas City Council on January 27, 2021, authorizing the deposit of a Special Commissioners’ Award and Settlement of a condemnation proceeding, which is incorporated herein by reference.

“PROPERTY”: Approximately 2,724 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”: Easement Interest

“PROJECT”: Lower East Bank Interceptor 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”: Market Center Boulevard, 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.

“OFFICIAL OFFER AMOUNT”: \$111,684.00, as approved in the FIRST RESOLUTION.

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**SECTION 1.** (continued)

“SPECIAL COMMISSIONERS’ AWARD AMOUNT”: \$129,390.00, the same having been previously deposited pursuant to the THIRD RESOLUTION.

“SETTLEMENT AMOUNT”: \$300,000.00, which includes the SPECIAL COMMISSIONERS’ AWARD AMOUNT.

“ADDITIONAL AMOUNT”: \$170,610.00, the difference between the SETTLEMENT AMOUNT and the SPECIAL COMMISSIONERS’ AWARD AMOUNT.

“CLOSING COSTS AND TITLE EXPENSES”: Not to exceed \$3,000.00

“AUTHORIZED AMOUNT”: Not to exceed \$170,610.00

“DESIGNATED FUNDS”:

\$170,610.00 from Wastewater Capital Improvement F Fund, Fund 4116, Department DWU, Unit PS40, Activity MPSA, Program 716358, Object 4250, Encumbrance/Contract No. CX-DWU-2022-00017937

\$17,706.00 from Wastewater Capital Construction Fund, Fund 0103, Department DWU, Unit CS40, Activity MPSA, Program 716358, Object 4250, Encumbrance/Contract No. CX DWU-2021-00015172.

\$114,684.00 from Wastewater Capital Improvement D Fund, Fund 2116, Department DWU, Unit PS40, Activity MPSA, Program 716358, Object 4250, Encumbrance/Contract No. CX-DWU-2019-00011003.

**SECTION 2.** That the City Attorney and the City Manager are hereby authorized to settle the CONDEMNATION PROCEEDING 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,

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**SECTION 4.** (continued)

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 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:   
Assistant City Attorney