

A RESOLUTION DETERMINING UPON THE NECESSITY OF ACQUIRING REAL PROPERTY AND AUTHORIZING ITS APPROPRIATION AND/OR CONDEMNATION FOR PUBLIC USE.

DEFINITIONS: For the purposes of this resolution, the following definitions of terms shall apply:

"CITY": The City of Dallas

"PROPERTY": Approximately 12,389 square feet of property located in Dallas County, and being the same property more particularly described in "Exhibit A", attached hereto and made a part hereof for all purposes.

"PROJECT": Central Expressway from Commerce to Live Oak Realignment Project

"USE": The construction, use, and maintenance of a six lane divided roadway with two-way operation, increasing roadway capacity for future growth.

"PROPERTY INTEREST": Fee Simple

"OWNER": Tomaino Properties, LP, provided, however, that the term "OWNER" as used in this resolution means all persons having an ownership interest, regardless of whether those persons are actually named herein.

"OFFER AMOUNT": \$410,000

"CLOSING COSTS AND TITLE EXPENSES ": Not to exceed \$3,500

"AUTHORIZED AMOUNT": \$413,500

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

SECTION 1. That the USE of the PROPERTY for the PROJECT is a public use.

SECTION 2. That public necessity requires that the CITY acquire the PROPERTY INTEREST in the PROPERTY for the PROJECT.

SECTION 3. That for the purpose of acquiring the PROPERTY INTEREST in the PROPERTY, the Assistant Director of the Sustainable Development and Construction Department, Real Estate Division, or such person as she may designate, is hereby authorized and directed to offer the OFFER AMOUNT as payment for the PROPERTY INTEREST in the PROPERTY.

SECTION 4. That in the event the OWNER accepts the OFFER AMOUNT, the City Controller is authorized and directed to draw a warrant in favor of the OWNER, or the then current owner of record, or the title company closing the transaction described herein in the OFFER AMOUNT and CLOSING COSTS AND TITLE EXPENSES payable out of 2006 Bond Funds, Fund No. 7T22, Department PBW, Unit U779, Activity THRF, Program No. PB06U779, Object 4210, Encumbrance No. CT-SUSU779PM86. The OFFER AMOUNT, CLOSING COSTS and TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

SECTION 5. That the CITY is to have possession of the PROPERTY at closing; and the CITY will pay any title expenses and closing costs. In the event of condemnation, 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 from the previously described funds.

SECTION 6. That if the OWNER refuses to accept the OFFER AMOUNT, the CITY will appropriate the PROPERTY INTEREST in the PROPERTY for the PROJECT under the laws of eminent domain and the provisions of the Charter of the City of Dallas. In such case, the City Attorney is authorized and requested to file the necessary suit(s) and take the necessary action for the prompt acquisition of the PROPERTY INTEREST in the PROPERTY by condemnation or in any manner provided by law.

SECTION 7. That in the event it is subsequently determined that additional persons 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 suit(s).

SECTION 8. That to the extent the PROPERTY is being purchased wholly or partly with bond proceeds CITY has obtained an independent appraisal of the PROPERTY'S market value.

SECTION 9. That OWNER has been provided with a copy of the Landowner's Bill of Rights as required by Texas Property Code Section 21.0112.

June 27, 2012

SECTION 10. That in the event the Special Commissioners in Condemnation appointed by the Court return an award that is the same amount or less than the OFFER AMOUNT, the City Attorney is hereby authorized to settle the lawsuit for that amount and the City Controller is hereby authorized to issue a check drawn on the previously described funds in an amount not to exceed the Commissioners' award made payable to the County Clerk of Dallas County, to be deposited into the registry of the Court, to enable the CITY to take possession of the PROPERTY without further action of the Dallas City Council.

SECTION 11. 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:

THOMAS P. PERKINS, JR., City Attorney

BY


Assistant City Attorney

APPROVED BY
CITY COUNCIL

JUN 27 2012


City Secretary

EXHIBIT A

121678

ACQUISITION IN, BLOCK B/136 TOMAINO PROPERTIES LP

ALL THAT certain lot, tract or parcel of land lying and being situated in the City and County of Dallas, Texas, more particularly described in the following two tracts as follows:

BEING an approximately 12389 square foot tract of land lying in the John Grigsby League and Labor Survey, Abstract No. 495, Dallas County, Texas and being part of lots 1 & 2 and all of lot 3 in Block B/136, official City of Dallas numbers, and being all of the land conveyed to Tomaino Properties by Special Warranty Deed dated June 15, 2006 and recorded in Instrument number 200600227192, Tract 18, Official Public Records Dallas County, Texas (OPRDCT) and being more particularly described as follows:

BEGINNING at the intersection of the southeast line of Pacific Ave. (80' Right-of-Way) and the southwest line of Central Blvd. (variable width Right-of-Way), said intersection also being the most northerly corner of herein described tract;

THENCE South 15°26'20" East, along the said southwest line of Central Blvd. and the northeast line of said Tomaino Properties tract, a distance of 138.34 feet, to a PK Nail found at the intersection of the most easterly corner of said Tomaino Properties tract and the most northerly corner of a tract of land conveyed to CJT Properties & Trust 12 by Warranty Deed dated April 29, 1982 and recorded in Volume 82150, Page 3161, Deed Records Dallas County, Texas (DRDCT);

THENCE South 74°56'01" West, departing the southwest line of said Central Blvd. and along the common line of said Tomaino and CJT Partnership tracts, a distance of 45.04 feet, to a PK Nail set at an inner ell corner, said corner also being the most westerly corner of herein described tract;

THENCE South 15°03'59" East, along the common line of said Tomaino and CJT Partnership tracts, a distance of 80.00 feet to a point in the northwest line of Elm St. (80' Right-of-Way);

THENCE South 74°56'01" West, along the northwest line of said Elm St. and the most southeast line of said Tomaino Properties tract, a distance of 29.16 feet to the intersection of the said northwest line of Elm St. with the common corner of lots 3 and 4 of said block, said corner also being the most southerly corner of herein described tract and the most easterly corner of a tract of land conveyed to JC O'Connor Estate et. al. and recorded in Volume 964, Page 140, DRDCT:

THENCE North 15°03'59" West, departing the northwest line of said Elm St. and with the common line of the Tomaino Properties and O'Connor tracts, a distance of 214.43 feet to a PK Nail set in the southeast line of said Pacific Ave., said PK Nail also being the beginning of a non-tangent curve to the left having a radius of 11499.11 feet and a chord that bears North 71°52'48" East, a distance of 73.40 feet;

THENCE in a northeasterly direction with said curve to the left and along the said southeast line of Pacific Ave., through a central angle of 0°21'57", a distance of 73.40 feet the **POINT OF BEGINNING** and containing approximately 12389 square feet or 0.284 square acres of land:

BASIS OF BEARINGS: Bearings are based on the Southwest line of Central Blvd., at North 15°03'59" West, monumented as noted and derived from Global Positioning System observations using the North Texas Cooperative Real Time Kinematic Survey, Virtual Reference Station System, North American Datum of 1983. *AR*

DHC/dhc
centralblvdFN8.doc



EXHIBIT A

PACIFIC AVE.
(80' Width Right-of-Way)

PK NAIL SET

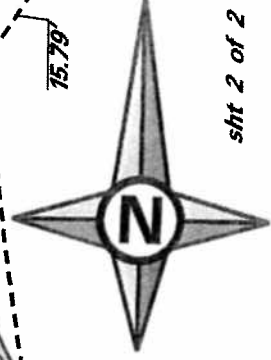
$R=11499.11'$
 $L=73.40'$
 $CB=N71^{\circ}52'48"E$
 $LC=73.40'$

POB
18+17.84
28.15 L

P.O.T. Sta. 18+60.35
Survey Baseline

P.I. Sta. 18+23.11
Survey Baseline

$R=579.00'$
 $L=104.29'$
 $CB=N9^{\circ}50'23"E$
 $LC=104.15'$



sht 2 of 2

PAN COASTAL LIMITED PS
Vol. 96026, Pg. 4551

$R=162.67'$
 $L=34.18'$
 $CB=N8^{\circ}58'49"E$
 $LC=34.12'$

$R=292.01'$
 $L=61.36'$
 $CB=N8^{\circ}58'49"E$
 $LC=61.24'$

12389 square feet
To Be Acquired



133.21'
O'CONNOR, J C ESTATE
ET AL GREY
& JAMES, Pg. 140
Vol. 964, Pg. 140

Block 103
TOMAINO PTIES LP
Int. 200600227192

$S74^{\circ}56'01"W - 45.04'$

C J T PARTNERSHIP
& TRUST 12
Vol. 82150 Pg. 3161

$R=20'$
 $L=12.56'$
 $CB=N56^{\circ}56'26"E$
 $LC=12.36'$

PK NAIL SET

$S74^{\circ}56'01"W - 29.16'$

ELM STREET
(80' Width Right-of-Way)

P.I. Sta. 15+50.50
Survey Baseline

P.I. Sta. 15+59.50
Survey Baseline

CENTRAL BOULEVARD
Width Right-of-Way (Variable)

Block 148

24.95'
13.47'
CROSS CUT

22.59'

28.24'