

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 1,808 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": CBD Fair Park Link Project

"USE": Street and Transportation Improvements

"PROPERTY INTEREST": Fee Simple

"OWNER": Richard Whitehead, 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": \$49,466

"CLOSING COSTS AND TITLE EXPENSES": Not to exceed \$2,000

"AUTHORIZED AMOUNT": \$51,466 (\$49,466, plus closing cost and title expenses not to exceed \$2,000)

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 Department of 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.

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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 2003 Bond Funds, Fund No. 5R22, Department PBW, Unit R157, Activity INGV, Program No. PB03R157, Object 4210, Encumbrance No. CT-SUSR157LM98. 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.

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.

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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



122777

**Field Notes Describing a 1,808 Square Foot Tract of
Land To Be Acquired in City Block 835
From Richard Whitehead**

EXHIBIT A

Being a 1,808 Square Foot (0.0415 Acres) Tract of land situated in the John Grigsby Survey, Abstract No. 495, Dallas County, Texas, and lying in Block 835, Official City of Dallas Block Number, being part of Lots 12, 13, 14 and 15, of the "Gaston Homestead Unrecorded Addition", an addition to the City of Dallas, recorded in Book 2, Page 234 ½, of the Public Records of Dallas County, Texas, and being a part of the property conveyed to Richard Whitehead by deed recorded in Volume 2001067, Page 4881 of the Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at an "X" cut, at the most Southerly corner of said Richard Whitehead tract of land, being also the common Southeast corner with a tract of land conveyed to Baylor Health Care System, as recorded in Volume 88013, Page 3806, of the Deed Records of Dallas County, Texas, being also on the Northwest line of Elm Street (a 50 foot Right-of-Way):

THENCE North 45°21'59" West, departing the last said Northwest line of Elm Street, with the common line between the Richard Whitehead tract and said Baylor Health Care System tract, a distance of 41.92 feet to the most Westerly corner of the herein described tract of land (unable to monument):

THENCE North 78°43'59" East, departing the said common line with the Baylor Health Care System tract, a distance of 61.30 feet, to an "X" cut at an inside corner of the herein described tract of land:

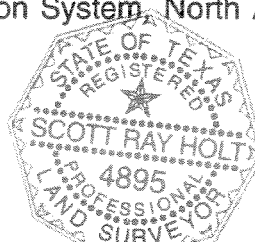
THENCE North 44°51'42" East, a distance of 74.47 feet to an "X" cut on the common line between the Richard Whitehead tract and a tract of land conveyed to Baylor Health Care System, recorded in Volume 2002248, Page 5645 of the Deed Records of Dallas County, Texas, being the most Westerly North corner of the herein described tract of land:

THENCE South 45°21'59" East, with the last said common line between the Richard Whitehead tract and said Baylor Health Care System tract, a distance of 7.26 feet, to an "X" cut at the said Northwest line of Elm Street, being the most Easterly North corner of the herein described tract of land:

THENCE South 44°38'01" West, with the last said Northwest line of Elm Street, a distance of 125.23 feet, to the **POINT OF BEGINNING**, containing 1,808 Square Feet, or 0.0415 Acres of land.

BASIS OF BEARINGS: Bearings are based on the Northeast line of Elm Street, at South 44°38'01" West, monumented as shown 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. *SRH*

Richard Whitehead: Parcel #8



Scott Holt
4.19.2010

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