

December 12, 2012

WHEREAS, the City of Dallas ("City"), on its own behalf and as Trustee for the County of Dallas, Texas ("County"), and Dallas Independent School District ("DISD") acquired that one certain lot, tract and/or parcel of land consisting of Lots 1 and 2, Block 13/1164, Chestnut Hill Addition, Dallas, Dallas County, Texas, commonly known as 1502 Pennsylvania Avenue, Dallas, Texas ("the Property") by Sheriff Deed dated January 11, 2012, recorded on February 15, 2012 as Instrument No. 201200042911, Official Real Property Records of Dallas County, Texas, pursuant to a certain judgment, decree of foreclosure and/or order of sale rendered in that one certain ad valorem tax suit styled, County of Dallas, et al, Plaintiffs v. Timothy Adeal Hawkins, et al, Case #TX-03-30999-T-G, in the District Courts of Dallas County, Texas; and

WHEREAS, In the City for Good, Inc., ("ITCFG") is a validly existing non-profit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code 1986, as amended, and has requested that the City, for itself and as Trustee of the other taxing authorities, convey the Property to ITCFG for use in a manner that primarily promotes a public purpose of the City and the greater community, including specifically the renovation of the Property and establishment, expansion, and operation of a community food pantry and related facilities, programs and services by the ITCFG, St. Phillips School, which is also a validly existing non-profit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code 1986, and/or such other validly existing 501(c)(3) non-profit approved by the City; and

WHEREAS, the City may transfer the Property to a non-profit organization for and in consideration of an agreement between the parties that requires the non-profit organization to use the property in a manner that primarily promotes a public purpose of the municipality, without complying with the notice and bidding requirements for the sale of public lands provided for in Section 272.001(a) of the Texas Local Government Code and other law, all as provided in Section 253.011 of the Texas Local Government Code; and

WHEREAS, pursuant to Section 34.05 of the Texas Tax Code, the City, for itself and on behalf of the taxing authorities, may re-sell the Property pursuant to a private sale for an amount less than the lesser of the market value specified in the judgment of foreclosure or the total amount of the judgment against the property, and without having to use the procedures provided by Sections 263.001 and/or 272.001 of the Texas Local Government Code; and

WHEREAS, the City Manager, acting on behalf of the County pursuant to a County Commissioner's Court Order and on behalf of DISD pursuant to a School Board Resolution, has the authority to execute a Deed Without Warranty to ITCFG to the Property and transfer any rights, title, or interests acquired or held by each taxing entity that was a party to the judgment in the tax suit; and

WHEREAS, the City, the County and DISD all desire to transfer the Property to ITCFG for and in consideration of nominal cash consideration and ITCFG's agreement to use the Property in a manner that primarily promotes a public purpose of the City and the greater community, including specifically the renovation of the Property and establishment, expansion, and operation of a community food pantry and related facilities, programs and services by the ITCFG, St. Phillips School and/or such other validly existing 501(c)(3) non-profit approved by the City; **Now, Therefore,**

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

SECTION 1. That upon receipt of **ONE THOUSAND FIVE HUNDRED AND NO/100 (\$1,500.00) DOLLARS** from In the City for Good, Inc., the City Manager upon approval as to form by the City Attorney and attested by the City Secretary, is hereby authorized to execute an Agreement with ITCFG whereby ITCFG commits to renovate the Property and to use the Property in a manner that primarily promotes a public purpose of the City and the greater community, including specifically the renovation of the Property and establishment, expansion, and operation of a community food pantry and related facilities, programs and services by the ITCFG, St. Phillips School and/or such other validly existing 501(c)(3) non-profit approved by the City, and, upon consent by the County and DISD, a Deed Without Warranty to the Property in favor of ITCFG.

SECTION 2. That the Agreement shall provide the following:

- a) ITCFG, St. Phillips School and/or such other validly existing 501(c)(3) non-profit approved by the City, shall use the Property in a manner that primarily promotes a public purpose of the City and the greater community, including specifically within 18 months of transfer of the Property to ITCFG (i) the renovation of the Property as evidenced by issuance of a certificate of occupancy sufficient for and accommodating the community food pantry use, (ii) establishment, expansion, and operation of a community food pantry and related facilities, programs and services by ITCFG, St. Phillips School and/or such other validly existing 501(c)(3) non-profit approved by the City; and (iii) conveyance by ITCGF initially to St. Phillips School; and ITCFG, St. Phillips School, and/or subsequent owners of the Property shall not materially alter, amend or discontinue said use without the prior written consent of the City. In the event that ITCFG shall reacquire the Property it shall have the right to thereafter convey title to the Property to such other validly existing 501(c)(3) non-profit approved by the City; and
- b) The Property will be conveyed in its then current "AS IS" condition without warranty, express or implied, and ITCFG shall be responsible for all necessary inspections, investigations, renovations, and improvements, including without limitation any environmental issues; and

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- c) At all times during its ownership of the Property, ITCFG will maintain its status as a non-profit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code 1986, as amended, and ITCFG will not sell or otherwise convey its ownership of the Property to another entity without the prior written consent of City; provided, however, no prior approval shall be necessary for the initial conveyance to St. Phillips School and St. Phillips School and any subsequent owner of the Property shall be subject to the terms of the Agreement and the Deed Without Warranty described below; and
- d) ITCFG shall be responsible for investigating the status of title to the Property and shall pay for any desired title insurance. In the event the Property is subject to any liens, mortgages, encumbrances or title matters which would prohibit the proposed project ITCFG shall be responsible for addressing same and under no circumstance shall City have any obligation to cure any such matter or incur any expense with regards to same; and
- e) The Property shall not be conveyed to ITCFG unless and until any applicable state tax law redemption period has expired without redemption; and
- f) ITCFG shall pay any reasonable processing fee imposed by the City and all customary closing costs; including without limitation, recording fees, title company expenses and the premium for any desired title policy; and
- g) Any post judgment taxes, penalties and interest attributable to the Property will be ITCFG's responsibility pursuant to the Texas Property Tax Code, including the pro-rata property taxes for the remaining part of the then current calendar year, which will be assessed from the date of execution of the deed; and
- h) Such other terms and conditions as the City deems necessary, convenient or appropriate

SECTION 3. That the Deed Without Warranty shall provide that the conveyance of the Property to ITCFG is and shall be subject to the following:

- a) restriction ("Deed Restriction") of the primary use of the Property to the establishment, expansion, and operation of a community food pantry and related facilities, programs and services, which use shall not be materially altered, amended or discontinued without the prior written consent of the City; and

- b) a condition subsequent with right of reentry in favor of the City enforcing the Deed Restriction and requiring that the Property be renovated as evidenced by issuance of a certificate of occupancy sufficient for and accommodating the community food pantry use and transferred initially to St. Phillips School within 18 months of the transfer of the Property to ITCFG, and providing for the reversion of title to the Property to the City of Dallas, for itself and as trustee for the applicable taxing authorities, upon its exercise thereof. Provided, however, in the event that ITCFG shall reacquire the Property after conveyance to the St. Phillips School, ITCFG shall not thereafter convey title to the Property to other than a validly existing 501(c)(3) non-profit approved by the City; and
- c) any right of redemption; and
- d) any post judgment taxes, penalties and interest attributable to the Property which matters will be ITCFG's responsibility pursuant to the Texas Property Tax Code, including the pro-rata Property taxes for the remaining part of the then current calendar year, which will be assessed from the date of execution of the deed; and
- e) any and all covenants, conditions, reservations, restrictions, exceptions, easements, rights-of-way, mineral interests, mineral leases, or other instruments of record in the official real property records for the county where the Property is located effective as to the Property or any part thereof, and any and all visible and apparent easements and encroachments, whether of record or not impacting the Property; and
- f) such other terms, conditions, waivers and disclaimers as the City deems necessary, convenient or appropriate.

SECTION 4. That the Property shall not be conveyed by the City to ITCFG unless the exiting underground fuel storage tanks are removed and the Property remediated to the reasonable satisfaction of the parties and the TCEQ, said remediation being a condition precedent to the any conveyance; provided, however, that neither party shall have an affirmative obligation to perform, cause to be performed, or pay for said removal and remediation; and

SECTION 5. That the cash consideration received shall be distributed pursuant to Chapter 34, Section 34.06 of the Texas Property Tax Code, and applied to the payment of the court costs, interest, and cost of sale and applied to the amount of delinquent taxes, penalties, and municipal liens pursuant to the order of the court.

SECTION 6. That ITCFG be responsible for the pro rata portion of property taxes for the remaining part of the current calendar year that will be assessed from the date of closing of the conveyance. ITCFG shall also be responsible for any post judgment taxes, penalties and interest, pursuant to the Texas Property Tax Code. The Property shall be replaced on the tax rolls as of the date of execution of the Deed Without Warranty.

SECTION 7. That to the extent authorized by law, any liens securing taxes referenced in Section 4 above are hereby released.

SECTION 8. That any and all proceeds from the conveyance will be deposited to General Fund 0001, Department DEV, Balance Sheet Account 0519.

SECTION 9. That upon receipt of the cash consideration from this conveyance, the City Controller is authorized to disburse the proceeds in accordance with Chapter 34, Section 34.06 of the Texas Property Tax Code. Calculations for disbursements shall be provided by the Director of Sustainable Development and Construction to the City of Dallas Land Based Receivables, the Dallas County District Clerk, and the Dallas County Tax Office from the account specified in Section 8, above.

SECTION 10. That if a title policy is desired by ITCFG, it shall be at the expense of ITCFG.

SECTION 11. That any procedures required by Section 2-24 of the Dallas City Code and not required by Texas state law are hereby waived with respect to this conveyance.

SECTION 12. 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

DEC 12 2012


City Secretary