

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": Located under approximately 550 square feet in area, lying between the subsurface elevations of 243 feet and 417 feet (U.S. Survey Feet), inclusive, North American Vertical Datum of 1988, located in Dallas County, Texas, the boundary of which property being more particularly described in "Exhibit A", attached hereto and made a part hereof for all purposes.

"PROJECT": Mill Creek/Peaks Branch/State Thomas Drainage Relief Tunnel Project

"USE": The below ground construction, installation, use, and maintenance of a deep tunnel for storage and transmission of storm drainage.

"PROPERTY INTEREST": Flood Control Tunnel Easement

"OWNER": Erik N. Peterson and Alison Elrod, 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": \$2,750.00

"CLOSING COSTS AND TITLE EXPENSES": Not to exceed \$2,000.00

"AUTHORIZED AMOUNT": \$4,750.00

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.

SECTION 4. That in the event the OWNER accepts the OFFER AMOUNT, the Chief Financial Officer is authorized and directed to draw a warrant in favor of the OWNER, the then current owner of record, or the title company closing the transaction described herein in the OFFER AMOUNT payable out of 2006 Bond Funds: Fund No. 3T23, Department TWM, Unit T525, Activity SDRS, Program No. PB06T525, Object 4210, Encumbrance No. CT-PBW06T525G64, CLOSING COSTS AND TITLE EXPENSES payable out of 2006 Bond Funds: Fund No. 3T23, Department TWM, Unit T525, Activity SDRS, Program No. PB06T525, Object 4230, Encumbrance No. CT-PBW06T525G65. 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 the CLOSING COSTS AND TITLE EXPENSES. In the event of condemnation, the CITY will pay costs as may be assessed by the Special Commissioners or the court. Further, that 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 proceeding(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 proceedings or 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 City Attorney files a condemnation proceeding because the OWNER refused to accept the OFFER AMOUNT; and in the event the special commissioners 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 deposit the award in the registry of the Court and to settle the condemnation proceeding, or if the condemnation proceeding becomes a lawsuit, the lawsuit, for an amount not to exceed the OFFER AMOUNT; and the Chief Financial Officer is hereby authorized to issue a check drawn on the previously described funds in an amount not to exceed the OFFER AMOUNT 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; and the Chief Financial Officer is hereby authorized to issue a check drawn on the previously described funds in an amount not to exceed \$2,000.00 for CLOSING COSTS AND TITLE EXPENSES in favor of the title company closing the transaction described herein. The Award, CLOSING COSTS AND TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.


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:
WARREN M. S. ERNST, City Attorney

BY 
Assistant City Attorney

APPROVED BY
CITY COUNCIL

MAY 27 2015


City Secretary

FIELD NOTES DESCRIBING A 550 SQUARE FOOT (0.0126 ACRE)
 SUB-SURFACE DRAINAGE TUNNEL EASEMENT
 CITY OF DALLAS DRAWING NO. 423R-54 (PARCEL 522g)
 TO BE ACQUIRED IN CITY OF DALLAS BLOCK 2/594
 PART OF LOT 23 OF LOTS 2-34, FLORA STREET TOWNHOMES NO. 1
 JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
 CITY OF DALLAS, DALLAS COUNTY, TEXAS
 FROM MEGATEL HOMES, INC.

EXHIBIT A

BEING a 550 square foot (0.0126 acre) tract of land situated in the John Grigsby Survey, Abstract No. 495, in City Block 2/594 of the City of Dallas, Dallas County, Texas, and being part of that tract of land described in Special Warranty Deed to Megatel Homes, Inc. recorded in Instrument Number 201300199849 of the Official Public Records of Dallas County, Texas, and being part of Lot 23 of Lots 2-34, Block 2/594, Flora Street Townhomes No. 1, an addition to the City of Dallas recorded in Instrument Number 200900306242 of said Official Public Records, and being more particularly described as follows:

(Note: Subsurface easement corners not monumented are so noted hereon.)

BEGINNING at an X cut (controlling monument) having coordinates of N=6976392.0927, E=2493227.1352 found for the west corner of said Lot 23 and north corner of Lot 22 of said Lots 2-34, Block 2/594, Flora Street Townhomes No. 1 addition, said corner being on the southeasterly line of Lot 21 of said Lots 2-34, Block 2/594, Flora Street Townhomes No. 1 addition;

THENCE North 44 degrees 12 minutes 57 seconds East, with said southeasterly line of said Lot 21 and the northwesterly line of said Lot 23, at 13.81 feet passing the southeast corner of said Lot 21 and southwest corner of Lot 20 of said Lots 2-34, Block 2/594, Flora Street Townhomes No. 1 addition, and departing said southeasterly line of Lot 21 and with the southeasterly line of said Lot 20 and continuing with said northwesterly line of Lot 23 for a total of 20.00 feet to an X cut (controlling monument) having coordinates of N=6976406.4251, E=2493241.0806 found for the north corner of said Lot 23 and west corner of Lot 24 of said Lots 2-34, Block 2/594, Flora Street Townhomes No. 1 addition;

THENCE South 45 degrees 47 minutes 03 seconds East, departing said southeasterly line of Lot 20 and said northwesterly line of Lot 23 with the northeasterly line of said Lot 23 and southwesterly line of said Lot 24, 40.43 feet to the point of curvature having coordinates of N=6976378.2334, E=2493270.0547 (not monumented) of a non-tangent circular curve to the right having a central angle of 01 degree 18 minutes 15 seconds, a radius of 1,445.00 feet, a tangent of 16.45 feet and a chord which bears North 83 degrees 14 minutes 07 seconds West 32.89 feet;

THENCE Westerly, departing said southeasterly line of Lot 23 and said southwesterly line of Lot 24 and across said Lot 23 with said curve to the right, an arc distance of 32.89 feet to the end of said curve having coordinates of N=6976382.1071, E=2493237.3980 (not monumented), said end of curve being on the southwesterly line of said Lot 23 and northeasterly line of said Lot 22;



FIELD NOTES APPROVED:

202 1 10/15

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SUB-SURFACE DRAINAGE TUNNEL EASEMENT
CITY OF DALLAS DRAWING NO. 423R-54 (PARCEL 522g)
TO BE ACQUIRED IN CITY OF DALLAS BLOCK 2/594
PART OF LOT 23 OF LOTS 2-34, FLORA STREET TOWNHOMES NO. 1
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FROM MEGATEL HOMES, INC.

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THENCE North 45 degrees 47 minutes 03 seconds West, with said southwesterly line of Lot 23 and said northeasterly line of Lot 22, 14.32 feet to the POINT OF BEGINNING and containing 550 square feet (0.0126 acre) of land, more or less.

Basis of Bearing is the State Plane Coordinate System, Texas North Central Zone (4202), North American Datum of 1983. All coordinates are state plane on grid. All distances are surface distances. Surface Adjustment Scale Factor: 1.000136506

For Nathan D. Maier Consulting Engineers, Inc.

Gary W. Matthews

Gary W. Matthews
Registered Professional Land Surveyor
Texas No. 5534 9.12.2013



FIELD NOTES APPROVED:

PERK 1/15/13

