

September 11, 2019

**A RESOLUTION DETERMINING UPON THE NECESSITY OF ACQUIRING REAL PROPERTY AND AUTHORIZING ITS PURCHASE FOR PUBLIC USE.**

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

"CITY": The City of Dallas

"PROPERTY": Approximately 2,724 square feet of land located 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, and any and all improvements, rights and appurtenances appertaining thereto.

"PROJECT": Lower Eastbank Interceptor Project

"USE": The installation, use, and maintenance of a pipeline or lines for the transmission of wastewater together with such appurtenant facilities as may be necessary, provided, however, to the extent fee title to the PROPERTY is acquired, such title and the PROPERTY shall not be limited to or otherwise deemed restricted to the USE herein provided.

"PROPERTY INTEREST": Easement subject to the exceptions, reservations, covenants, conditions and/or interests, if any, provided in the form instrument more particularly described in Exhibit "B" attached hereto and made a part hereof for all purposes.

"OWNER": Market Center Boulevard, LLC, 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.

"PURCHASE AMOUNT": \$111,684.00

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

"AUTHORIZED AMOUNT": Not to exceed \$114,684.00

**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 CITY acquire the PROPERTY INTEREST in the PROPERTY for the PROJECT.

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**SECTION 3.** That the City Manager, and/or the City Manager's designees, is hereby authorized and directed to consummate and accept the purchase, grant, and conveyance to CITY of the PROPERTY INTEREST in and to the PROPERTY pursuant to the conveyancing instrument substantially in the form described in Exhibit "B", attached hereto and made a part hereof for all purposes, and approved as to form by the City Attorney and to execute, deliver and receive such other usual and customary documents necessary, appropriate and convenient to consummating this transaction.

**SECTION 4.** 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 5.** That OWNER has been provided with a copy of the Landowner's Bill of Rights as contemplated by applicable state statute.

**SECTION 6.** That in the event this acquisition closes, the Chief Financial Officer is hereby 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 PURCHASE AMOUNT and CLOSING COSTS AND TITLE EXPENSES payable out of Wastewater Capital Improvement D Fund, Fund 2116, Department DWU, Unit PS40, Activity MPSA, Program 716358, Object 4250, Encumbrance/Contract No. CX-DWU-2019-00011003. The PURCHASE AMOUNT, CLOSING COSTS and TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

**SECTION 7.** That CITY is to have possession and/or use, as applicable, of the PROPERTY at closing; and CITY will pay any title expenses and closing costs. All costs and expenses described in this section shall be paid from the previously described funds.

**SECTION 8.** 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, Interim City Attorney

BY:   
Assistant City Attorney



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Exhibit A

**2,724 SQUARE FOOT (0.063 ACRES)  
PERMANENT WASTE WATER EASEMENT  
CALVIN G. COLE SURVEY, ABSTRACT NO. 270**

Being a 2,724 square foot or 0.063 acre permanent waste water easement situated in the Calvin G. Cole Survey, Abstract No. 270, City of Dallas, Dallas County, Texas, said 0.063 acre permanent waste water easement being a portion of Lot 1, Block A/7894 of Market Center Restaurant Addition, an addition to the City of Dallas, Texas, as recorded in Instrument No. 201700097456 of the Official Public Records of Dallas County, Texas, and being a portion of a tract of land conveyed to Market Center Boulevard, LLC as recorded in Instrument No. 201200060286 of said Official Public Records of Dallas County, Texas, said 0.063 acre permanent waste water easement being more particularly described by metes and bounds as follows:

**BEGINNING** at a 1/2 inch iron rod with plastic cap stamped "Surveying Assoc." found (controlling monument) for the southerly corner of said Lot 1, said 1/2 inch iron rod with plastic cap stamped "Surveying Assoc." being the intersection of the northeasterly right-of-way line of Market Center Boulevard (a 100' width right-of-way) with the northwesterly line of the old channel of the Trinity River;

**THENCE** North 26 degrees 37 minutes 37 seconds West, with the southwesterly line of said Lot 1 and the northeasterly right-of-way line of said Market Center Boulevard, a distance of 127.74 feet to an "X" cut set for corner, from which a Magnail with washer stamped "Votex RPLS 4813" found (controlling monument) for the westerly corner of said Lot 1 and the southerly corner of a tract of land conveyed to Faye Charalambopoulos as recorded in Volume 96140, Page 661 of the Deed Records of Dallas County, Texas, bears North 26 degrees 37 minutes 37 seconds West, a distance of 164.41 feet;

**THENCE** South 52 degrees 09 minutes 30 seconds East, a distance of 98.95 feet to a 5/8 inch iron rod with cap stamped "Gorronдона & Associates" set for corner in the southeasterly line of said Lot 1 and in the northwesterly line of said old channel of the Trinity River;

**THENCE** South 21 degrees 19 minutes 53 seconds West, with the southeasterly line of said Lot 1 and with the northwesterly line of said old channel of the Trinity River, a distance of 57.43 feet to the **POINT OF BEGINNING**, and containing 2,724 square feet or 0.063 acres of land, more or less.;



FIELD NOTES APPROVED:

*PSK* 11/14/18

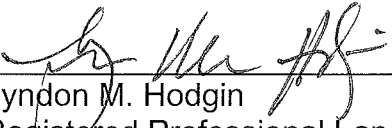
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Exhibit A

**NOTE:** All bearings and coordinates are referenced to the Texas State Plane Coordinate System, North Central Zone 4202, with horizontal datum of NAD83, with a Surface Factor for this project of 1.000136506. Distances and areas shown are surface.

\* SURVEYOR'S CERTIFICATE \*

TO ALL PARTIES INTERESTED IN TITLE TO THE PREMISES SURVEYED, I DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED FROM PUBLIC RECORDS AND FROM AN ACTUAL AND ACCURATE SURVEY UPON THE GROUND AND THAT SAME IS TRUE AND CORRECT.

Date of Survey: September 25, 2018

  
\_\_\_\_\_  
Lyndon M. Hodgkin  
Registered Professional Land Surveyor,  
Texas No. 4584  
Texas Firm No. 10106903

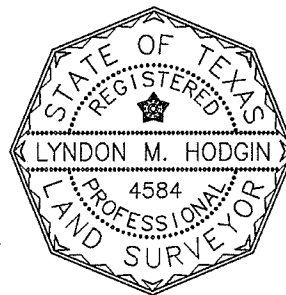


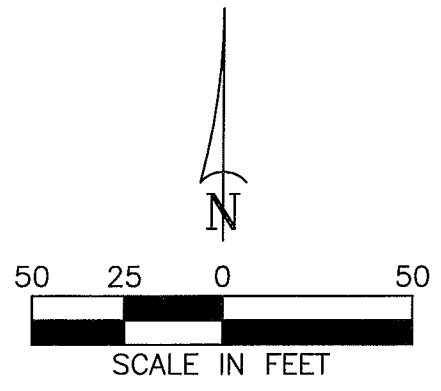
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FAYE CHARALAMBOPOULOS  
 VOLUME 96140, PAGE 661  
 D.R.D.C.T.

FND. MAGNAIL W/WASHER  
 "VOTEX RPLS 4813"  
 (CM)

BLOCK A/7894  
 MARKET CENTER  
 RESTAURANT ADDITION  
 INSTRUMENT NO. 201700097456  
 O.P.R.D.C.T.



MARKET CENTER BLVD.  
 (100' WIDTH RIGHT-OF-WAY)

LOT 1

MARKET CENTER BOULEVARD, LLC  
 INSTRUMENT NO. 201200060286  
 O.P.R.D.C.T.

OLD CHANNEL  
 OF THE TRINITY RIVER

PERMANENT WASTE  
 WATER EASEMENT AREA  
 2,724 SQ. FT. OR  
 0.063 ACRES

P.O.B.  
 FND. 1/2" IR W/ CAP  
 "SURVEYING ASSOC."  
 (CM)

LEGEND	
⊗	SET 5/8" IRON ROD WITH CAP STAMPED "GORRONDONA & ASSOCIATES"
●	MONUMENT FOUND (AS NOTED)
○	MAGNAIL SET
×	"X" CUT SET
---	EASEMENT LINE (AS NOTED)
---	PROPOSED EASEMENT LINE
---	PROPERTY LINE (AS NOTED)
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY, TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS DALLAS COUNTY, TEXAS

NOTES:  
 1. A LEGAL DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT.  
 2. ALL BEARINGS AND COORDINATES ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, WITH HORIZONTAL DATUM OF NAD83, WITH A SURFACE FACTOR FOR THIS PROJECT OF 1.000136506. DISTANCES AND AREAS SHOWN ARE SURFACE.



STATE OF TEXAS  
 REGISTERED  
 LYNDON M. HODGIN  
 4584  
 LAND SURVEYOR

LYNDON M. HODGIN  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 NO. 4584 TEXAS FIRM No. 10106903

191395  
EXHIBIT B

## WASTEWATER EASEMENT

THE STATE OF TEXAS   §  
  §       KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF DALLAS   §

That Market Center Boulevard, LLC, a Texas limited liability company (hereinafter called "Grantor" whether one or more natural persons or legal entities) of the County of Dallas, State of Texas, for and in consideration of the sum of ONE HUNDRED ELEVEN THOUSAND SIX HUNDRED EIGHTY FOUR AND 00/100 DOLLARS (\$111,684.00) to the undersigned in hand paid by the **City of Dallas, 1500 Marilla Street, Dallas, Texas, 75201**, a Texas municipal corporation (hereinafter called "City"), the receipt of which is hereby acknowledged and confessed, and the further benefits to be derived by the remaining property as a result of projected public improvements, has granted, sold and conveyed and does hereby grant, sell and convey unto City, its successors and assigns, an easement for the purpose of laying, constructing, maintaining, repairing and replacing a City wastewater main or mains and appurtenances and such additional main or mains and appurtenances as are needed in the future in, under, through, across and along all that certain lot, tract or parcel of land described in Exhibit A, attached hereto and made a part hereof by reference for all purposes.

The City is acquiring this property for the purpose of laying, constructing, maintaining, repairing and replacing a City wastewater main or mains and appurtenances, and such additional main or mains and appurtenances as are needed in the future, according to such plans and specifications as will, in City's opinion, best serve the public purpose. The payment of the purchase price shall be considered full and adequate compensation for the easement rights herein granted.

Should one or more of the Grantors herein be natural persons and not joined by their respective spouse, it is conclusively presumed that the land herein conveyed is not the residence or business homestead of such Grantor(s). Should one or more of the Grantors herein be a legal entity other than a natural person, it shall be conclusively presumed that the person signing on behalf of such a party has been duly and legally authorized to so sign and there shall be no necessity for a seal or attestation.

The City shall have all other rights and benefits necessary or convenient for the full enjoyment or use of the rights herein granted, including, but without limiting the same to, the right of ingress and egress over and across said property to and from said easement for the purpose of constructing, reconstructing, maintaining, inspecting or repairing said main or mains and appurtenances.

The City shall have the right to remove and keep removed from the permanent easement herein granted any and all structures, fences, trees, shrubs, growths or other obstructions which may endanger or interfere with the construction, reconstruction, maintenance, repair or operation of the said main or mains. (Grantor, its successors or assigns, shall not place or store any material upon, or cover, bury, pave over or otherwise obstruct any cleanout, valve, meter or manhole located within the herein described permanent easement.)

Grantor, its successors or assigns, shall not be permitted to plant trees or shrubs of any kind within the boundaries of the herein described permanent easement.

All expenses in the construction and maintenance of said main or mains and appurtenances shall be borne by the City. In the construction of said main or mains and appurtenances, should the City find it necessary to remove any improvements now on the above-described property, all of those expenses shall also be borne by the City. Upon completion of construction, all surplus excavation, debris, trash or litter resulting from construction shall be cleaned up and hauled off the premises, and the easement property, including any fences disturbed, shall be restored to its original contour and condition.

Nothing in this easement shall be construed as a waiver by the City of any connection charge or charges imposed by ordinance or Charter of the City of Dallas.

SPECIAL PROVISIONS: NONE

TO HAVE AND TO HOLD the above described easement, together with all and singular the rights and appurtenances thereto in anywise belonging unto City, its successors and assigns forever, and Grantor binds Grantor and Grantor's heirs, executors, administrators or successors, to Warrant and Forever Defend all and singular the said easement unto City, its successors and assigns, against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Market Center Boulevard, LLC, a Texas limited liability company

\* \* \* \* \*  
STATE OF TEXAS            '  
COUNTY OF DALLAS        '

This instrument was acknowledged before me on by \_\_\_\_\_,  
as \_\_\_\_\_ of Market Center Boulevard, LLC, a Texas limited  
liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public, State of TEXAS

\* \* \* \* \*

After recording return to:  
City of Dallas  
Department of Sustainable Development and Construction  
Real Estate Division  
320 East Jefferson Boulevard, Room 203  
Dallas, Texas 75203  
attn: Christian Roman

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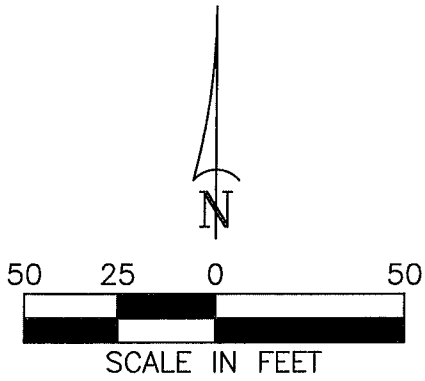
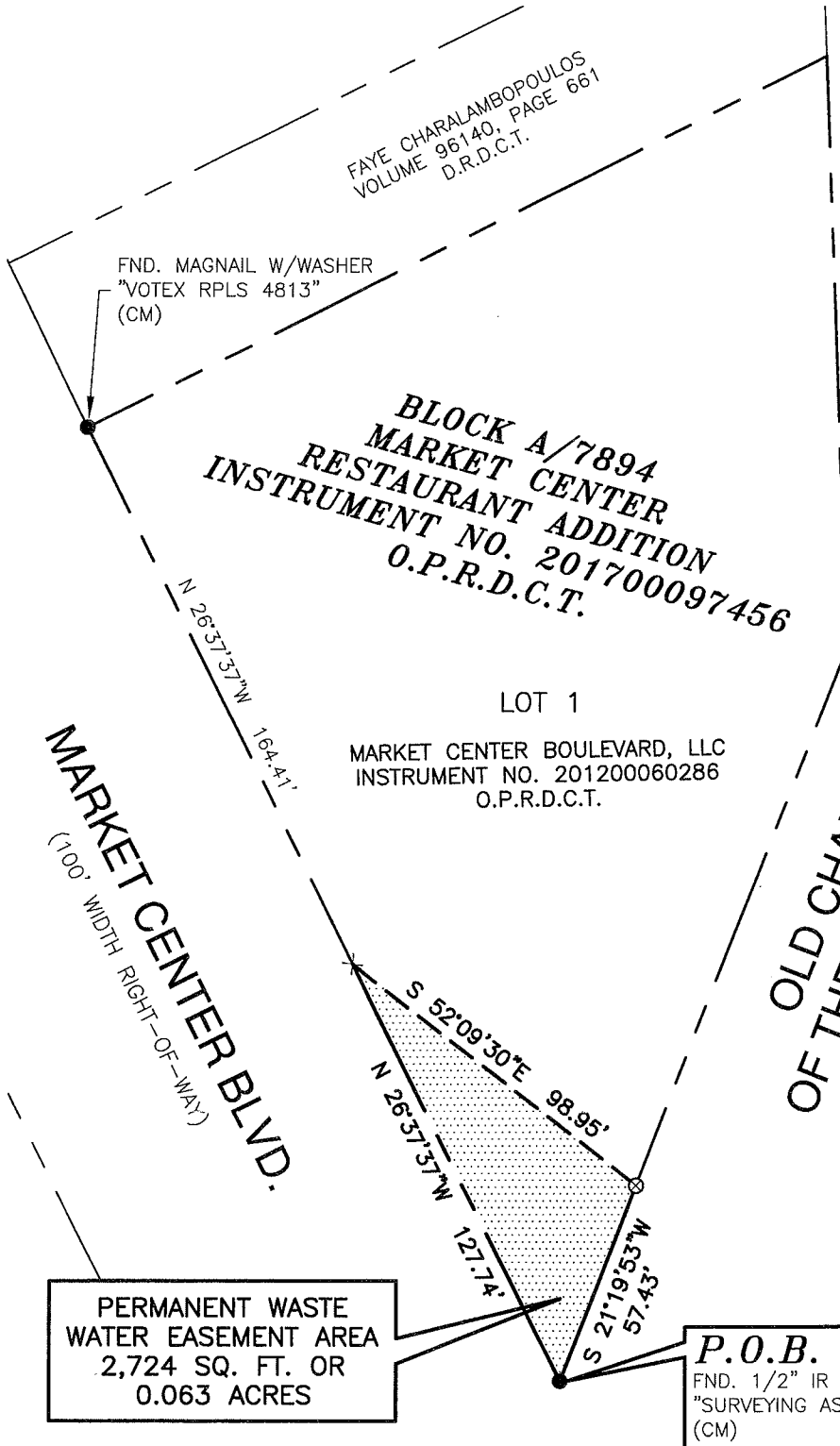
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Lyndon M. Hodgkin  
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Texas Firm No. 10106903



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