

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: January 28, 2009
COUNCIL DISTRICT(S): 6
DEPARTMENT: Trinity River Corridor Project
CMO: Jill A. Jordan, P.E., 670-5299
MAPSCO: 44 K

SUBJECT

Authorize acquisition from Dallas County, and subsequent conveyance, of an unimproved tract of land containing approximately 9,507 square feet located near the intersection of Sylvan Avenue and Morris Street for the Oncor Transition Facility associated with the West Levee Norwood 345 kV Transmission Line – Not to exceed \$15,460 (\$14,260, plus closing costs not to exceed \$1,200) - Financing: 2006 Bond Funds

BACKGROUND

This item authorizes the acquisition of an unimproved tract of land containing approximately 9,507 square feet located near the intersection of Sylvan Avenue and Morris Street. This property is part of the assemblage of land required for the Oncor Transition Facility. This is the second tract of land to be acquired from Dallas County, identified as Tract II on the attached map. It was recently determined to be in the best interest of the project to acquire this tract in fee as opposed to obtaining an easement interest.

The City of Dallas and Oncor Electric Delivery Company have worked closely over a period of several years to obtain approval of the locally preferred route for the new transmission line. In June 2007, the Public Utility Commission of Texas (PUCT) approved the West Levee Norwood transmission line along the City's locally preferred route using:

- Aerial structures along the median of Irving Boulevard, from approximately Regal Row to Sylvan Avenue; and
- Aerial structures across the Trinity River east (downstream) of the Sylvan Bridge to near the West Levee and Canada Drive; and
- Underground along the West Levee of the Trinity River (below Canada Drive) from near the Sylvan Bridge to the West Levee Switching Station.

BACKGROUND (Continued)

A transition facility at this location, near the intersection of Sylvan Avenue and Morris Street, is necessary to provide a transition from the underground segment to overhead segment of the transmission line. The City and Oncor are coordinating the West Levee Norwood 345 kV Transmission Line project with the Sylvan Avenue Bridge project in an effort to avoid any potential conflicts. The remaining land acquired through this action, not required for the Sylvan Avenue Bridge project, will be conveyed to Oncor to be utilized for the transition facility.

Upon conveyance, Oncor will reimburse the City for the actual expenses incurred related to the acquisition of this property. Oncor plans to begin construction of the underground portion of the transmission line in January, 2009 and to have the entire transmission line in service by December, 2009.

The consideration is based upon an independent appraisal.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

FISCAL INFORMATION

2006 Bond Funds - \$15,460 (\$14,260, plus closing costs not to exceed \$1,200)

OWNERS

Dallas County

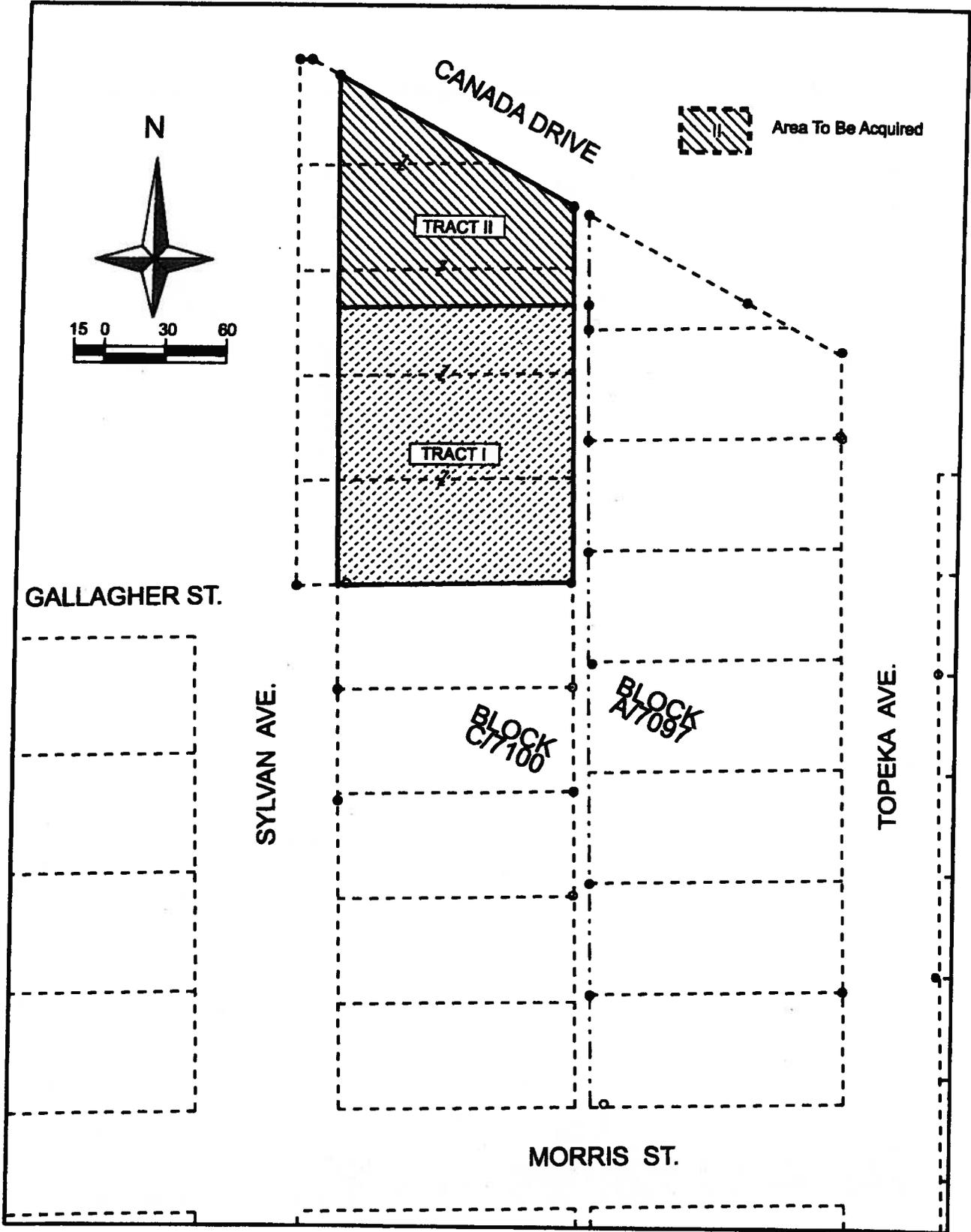
Jim Foster, County Judge

MAPS

Attached



Mapsco 44K



January 28, 2009

A RESOLUTION DETERMINING UPON THE NECESSITY OF ACQUIRING REAL PROPERTY AND AUTHORIZING ITS APPROPRIATION AND/OR CONDEMNATION FOR A MUNICIPAL PURPOSE AND PUBLIC USE AND SUBSEQUENT SALE IN FURTHERANCE OF SAID MUNICIPAL PURPOSE AND PUBLIC USE.

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

"CITY": The City of Dallas.

"PROJECT": Oncor Transition Facility/Sylvan Avenue Bridge Project

"PROPERTY INTEREST": Fee Simple

"PROPERTY": The tract or parcel of land described in Exhibit A, attached hereto and made apart hereof for all purposes. All of the above PROPERTY being located in the City of Dallas, Dallas County, Texas.

"OWNER(S)": County of Dallas, 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.

"ONCOR": Oncor Electric Delivery Company

"OFFER AMOUNT": \$14,260.00

"CLOSING COST": Closing costs not to exceed \$1,200.00

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

SECTION 1. That the PROJECT is a municipal and public purpose and a public use.

SECTION 2. That it is hereby determined that public necessity requires that the CITY should 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 Director of Development Services, or such employee as she may designate, is hereby authorized and directed to offer the OFFER AMOUNT as payment for the PROPERTY INTEREST in the PROPERTY to be acquired and full damages allowable by law, which amount represents its fair cash market value.

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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, in the OFFER AMOUNT payable out of the Street and Thoroughfare Improvements Fund No. 7T22, Department PBW, Unit U230, Activity INGV, Object 4210, Encumbrance No. PBW06U230D1.

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, pertaining to such acquisition, not to exceed the CLOSING COST. 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 the term OWNER in this resolution means all persons having an ownership interest in the PROPERTY regardless of whether those persons are actually named and 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 suits.

SECTION 8. 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 9. The CITY is acquiring the PROPERTY for the purpose of conveying same to ONCOR to be utilized as part of the Oncor Transition Facility in furtherance of the PROJECT. ONCOR, has the power of eminent domain and proposes to reimburse the CITY for actual expenses incurred by the CITY related to the acquisition.

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SECTION 10. The CITY may sell or exchange its property to an entity that has the power of eminent domain, without complying with the notice and bidding requirements for the sale of public lands provided for in Chapter 272, Section 272.001 of the Texas Local Government Code and, certain provisions of Section 2-24 of the Dallas City Code do not apply to the sale of land by the CITY to other governmental entities. Additionally, those provisions of Section 2-24 of the Dallas City Code that are waivable and applicable to this sale to ONCOR are hereby waived unless otherwise required by State Law.

SECTION 11. That upon receipt from ONCOR of \$14,260.00, and an amount equal to the closing cost incurred by the CITY in acquiring the PROPERTY INTEREST in the PROPERTY from the County of Dallas, the City Manager is authorized to execute a Deed Without Warranty to be attested by the City Secretary upon approval as to form by the City Attorney conveying to ONCOR the PROPERTY INTEREST in the PROPERTY, a total of approximately 9,507 square feet of land, located in City Block C/7100.

SECTION 12. That the Deed Without Warranty shall provide that the conveyance to ONCOR is subject to the following:

- (a) a restriction prohibiting the placement of industrialized housing on the property; and
- (b) reservation by the City of Dallas of all oil, gas and other minerals in and under the property with a waiver of surface access rights relating to said minerals; and
- (c) any visible and apparent easements and any encroachments whether of record or not; and
- (d) any and all covenants, conditions, reservations, restrictions, exceptions, easements, rights-of-way, mineral interests, mineral leases or other instruments of record and applicable to the property or any part thereof; and
- (e) to the maximum extent allowed by law, (i) GRANTEE is taking the Property "AS IS, WHERE IS, WITH ALL FAULTS"; (ii) GRANTOR disclaims responsibility as to the accuracy or completeness of any information relating to the Property; (iii) GRANTEE assumes all responsibility to examine all applicable building codes and zoning ordinances to determine if the Property can be used for the purposes desired and to check for outstanding or pending code enforcement actions including but not limited to repair or demolition orders; and (iv) GRANTOR expressly disclaims and GRANTEE expressly waives, any

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SECTION 12 (e) Continued

warranty or representation, express or implied, including without limitation any warranty of condition, habitability, merchantability or fitness for a particular purpose of the Property; and

- (f) GRANTOR makes no representations of any nature regarding the Property and specifically disclaims any warranty, guaranty or representation, oral or written, express or implied, past, present, or future, concerning: (i) the nature and condition of the Property, including without limitation, the water, soil and geology, and the suitability thereof and the Property for any and all activities and uses which GRANTEE may elect to conduct thereon, and the existence of any environmental substances, hazards or conditions or presence of any endangered or protected species thereon or compliance with all applicable laws, rules or regulations; (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; (iii) the compliance of the Property or its operation with any law, ordinance or regulation of any federal, state, or local governmental authority; and (iv) whether or not the Property can be developed or utilized for any purpose. For purposes hereof, "environmental substances" means the following: (a) any "hazardous substance" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. Section 9601 et. seq., as amended, (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, Tex. Water Code, Section 26.261, et. seq., as amended, (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubrication oils, (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C.A. Section 651 et. seq., as amended, (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901 et. seq., as amended, (f) asbestos, (g) polychlorinated biphenyls, (h) underground storage tanks, whether empty, filled, or partially filled with any substance, (i) any substance, the presence of which is prohibited by federal, state or local laws and regulations, and (j) any other substance which by federal, state or local laws and regulations requires special handling or notification of governmental authorities in its collection, storage, treatment or disposal. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder; and
- (g) such other terms and requirements of the sale and/or disclaimers as the City deems necessary, convenient or appropriate.

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SECTION 13. That the City Controller is hereby authorized to receive and deposit funds pertaining to reimbursements for expenses incurred related to the acquisition of the PROPERTY INTEREST in the PROPERTY into the Street and Thoroughfare Improvements Fund 7T22, Department PBW, Unit U230, Revenue source 8411.

SECTION 14. That if a title policy is desired by ONCOR, same shall be at the expense of said ONCOR.

SECTION 15. That the sale shall be subject to standby fees, taxes and assessments, if any, by any taxing authority for the year of closing and subsequent years and assessments by any taxing authority for prior years due to changes in land usage or ownership, the payment of said standby fees, taxes and assessments being assumed by grantee.

SECTION 16. 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

Exhibit A

**Field Notes Describing Land to Be Acquired in Block C/7100
From Dallas County**

Being a 9,507 square foot tract of land situated in the Amariah Hanna Survey, Abstract Number 564, Dallas County, Texas, and being a part of Lots 1, 2, and 3, Block C, of the Tipton Annex No. 2 Addition, an addition to the City of Dallas, recorded in Volume 8, Page 163 of the Map Records of Dallas County, and being also a part of Lots 1, 2, and 3, Block C/7100, official City of Dallas Block Numbers, and being a portion of the property acquired by Dallas County in two transactions:

Lot 2: Deed dated July 23, 1954, recorded in Volume 4091, Page 524.

Lots 1 & 3: Deed dated February 20, 1990, recorded in Volume 4169, Page 172, and being more particularly described as follows:

BEGINNING at a 5/8" dia. Iron Rod with cap marked "City of Dallas" (hereafter referred to as "5/8" I.R. w/COD Cap") set on the Southwest line of Canada Drive (a Variable Right-of-Way) at the Northwest corner of the herein described tract of land:

THENCE South 61°34'56" East with the said Southwest line of Canada Drive a distance of 133.87 feet to a 5/8" I.R. w/COD Cap set on the West line of a 7.50-foot wide alley:

THENCE South 01°05'31" East, departing the last said Southwest line of Canada Drive and with the West line of said alley, a distance of 48.64 feet to a 5/8" I.R. w/COD Cap set at the Southeast corner of the herein described tract of land:

THENCE South 88°54'29" West, departing the West line of last said 7.50-foot wide alley, a distance of 116.50 feet to a 5/8" I.R. w/COD Cap set at the Southwest line of the herein described tract of land, being 20.00 feet East of the East line of Sylvan Avenue, as shown on said Tipton Annex No. 2 Addition:

THENCE North 01°05'31" West, being always 20.00 feet East of and parallel with the said East line of Sylvan Avenue, a distance of 114.58 feet to the **POINT OF BEGINNING**, containing 9,507 square feet, or 0.2183 Acres of land.

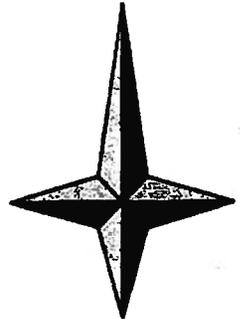
BASIS OF BEARINGS: Bearings are based on the Southwest line of Canada Drive, at South 61°34'56" East, based on field observations using the North Texas Cooperative Real Time Kinematic Virtual Reference Station Global Positioning System survey instruments and procedures, North American Datum of 1983.



Scott Holt
12-16-08

Exhibit A

N



58" I.R. (Found)
Bears 0.31' @
N43°39'59"E, 0.31'
CONTROLLING
MONUMENT

5.95'
N88°54'29"E
16.14'
S61°34'56"E

Set 58" I.R.
wCOD Cap
POINT OF
BEGINNING

CANADA DRIVE
(Variable Width Right-of-Way)

133.87' S61°34'56"E

Dallas County
Vol. 4169, Pg. 172

58" I.R.
Set

114.58' N01°05'31"W

Dallas County
Vol. 4091, Pg. 524

2
9,507 Sq. Ft.

116.50' S88°54'29"W

Set 58" I.R.
wCOD Cap

3
Dallas County
Vol. 4169, Pg. 172

Set 58" I.R.
wCOD Cap

Dallas County
Vol. 4091, Pg. 523

TIPTON ANNEX NO. 2
Volume 8, Page 163

BLOCK
C/7100

BRANTLEY'S JUNIOR
ADDITION
Volume 12, Page 13

7.50' Alley

58" I.R.
Found

5
Dallas County
Vol. 90078, Pg. 1457

1" I.P. (Found)
Brs: N77°02'28"E
4.39'

Area To Be Acquired
LOCATOR MAP

ONCOR Transition Site			
Yopoka Ave. @ Canada Dr.			
ONCOR Electrical Transmission Corridor			
DEPT. OF PUBLIC WORKS & TRANSPORTATION			
SURVEY DIVISION CITY OF DALLAS, TEXAS			
DATE	SCALE	FILE NO.	DATE
10-10-08	AS SHOWN	320R-408-B	
PARTY	CALCULATIONS	FIELD	FILE NO.
G. Holt	G. Holt	G. Holt	320R-408-B