

**KEY FOCUS AREA:** Economic Vibrancy  
**AGENDA DATE:** April 28, 2010  
**COUNCIL DISTRICT(S):** 7  
**DEPARTMENT:** Trinity Watershed Management  
**CMO:** Jill A. Jordan, P.E., 670-5299  
**MAPSCO:** 56 F G

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### **SUBJECT**

Authorize acquisition, including the exercise of the right of eminent domain, if such becomes necessary, from Joe L. Esters, of an unimproved tract of land containing approximately 96,800 square feet located near the intersection of Lamar Street and Starks Avenue for the Trinity Parkway portion of the Trinity River Corridor Project - Not to exceed \$258,589 (\$253,589 plus closing costs not to exceed \$5,000) – Financing: 1998 Bond Funds

### **BACKGROUND**

This item authorizes the acquisition of an unimproved tract of land containing approximately 96,800 square feet from Joe L. Esters. This property is located near the intersection of Lamar Street and Starks Avenue and is necessary for the reconstruction of a direct connector route between US 175/SM Wright to I-45 to ultimately eliminate “dead-man’s curve”. This connector is part of the Trinity Parkway and without it the downgrade of SM Wright cannot proceed. The consideration is based upon an independent appraisal.

### **PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)**

This item has no prior action.

### **FISCAL INFORMATION**

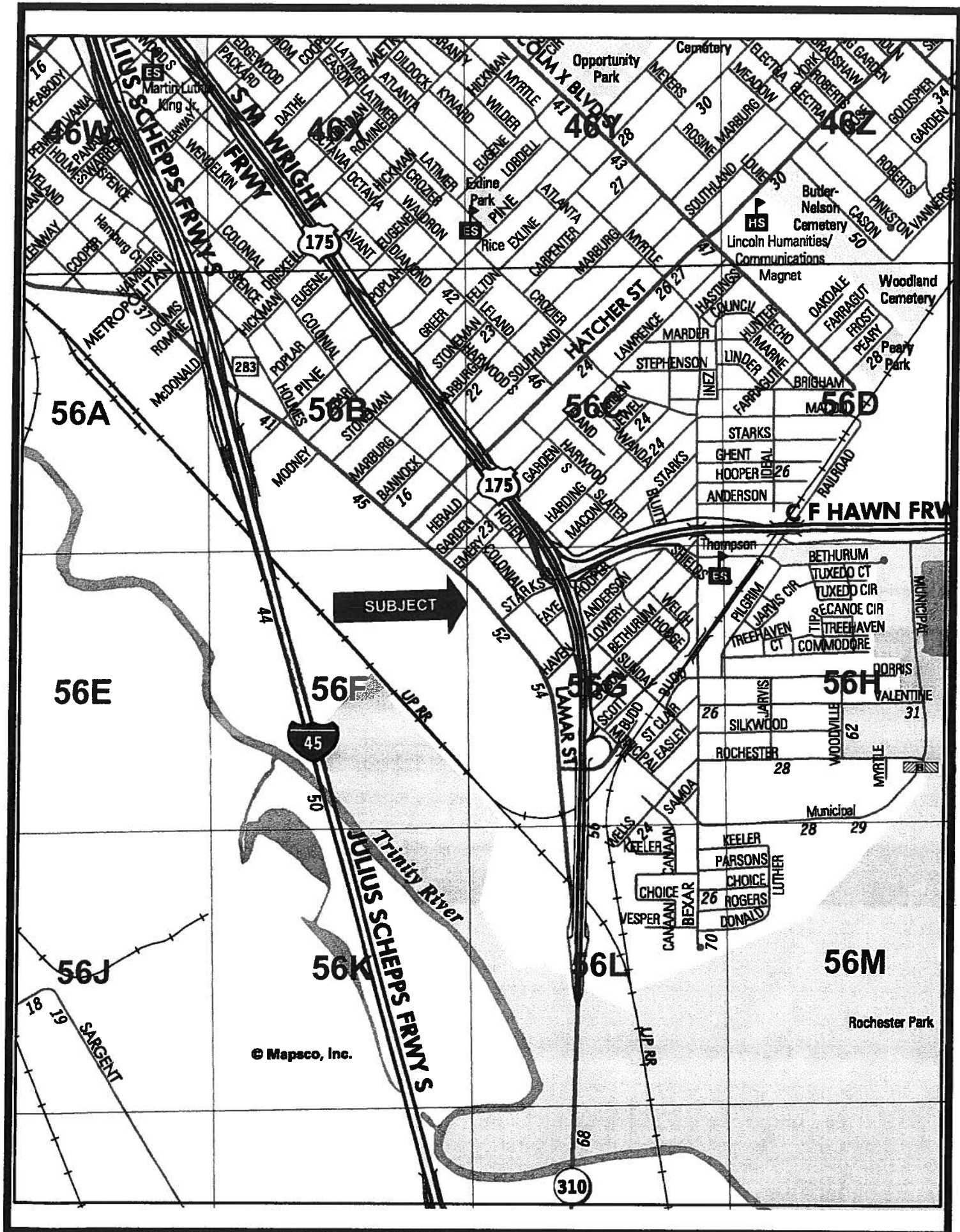
1998 Bond Funds - \$258,589 (\$253,589 plus closing costs not to exceed \$5,000)

### **OWNER**

**Joe L. Esters**

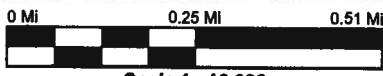
**MAPS**

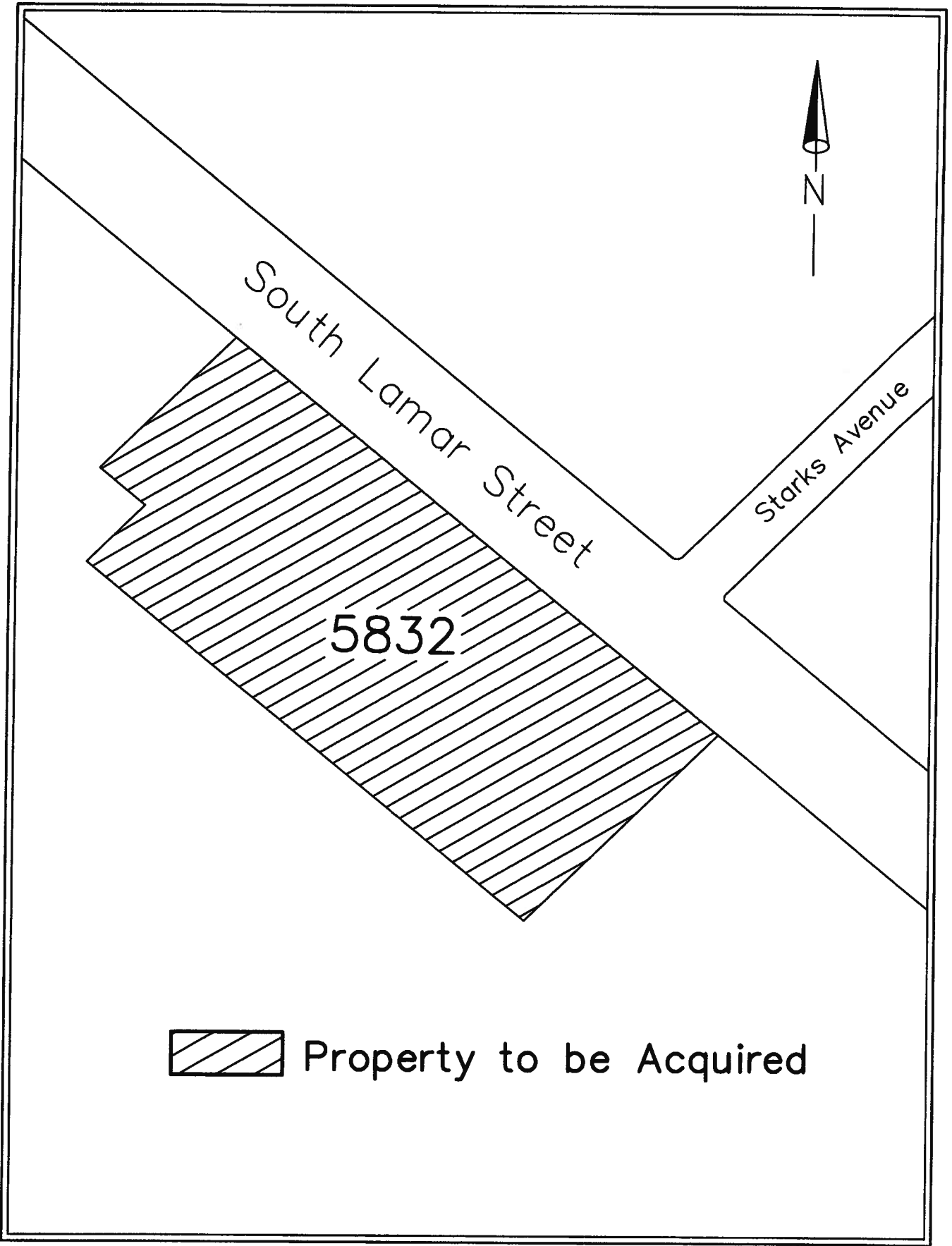
Attached



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MAPSCO 56F, G





South Lamar Street

Starks Avenue

5832



Property to be Acquired

April 28, 2010

Revised 8-3-09

**A RESOLUTION DETERMINING UPON THE NECESSITY OF ACQUIRING REAL PROPERTY AND AUTHORIZING ITS APPROPRIATION AND/OR CONDEMNATION FOR A MUNICIPAL PURPOSE AND PUBLIC USE.**

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

"CITY": The City of Dallas.

"PROPERTY": Approximately 96,800 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": Trinity River Corridor Project – Trinity Parkway

"PROPERTY INTEREST": Fee Simple

"OWNER": Joe L. Esters, 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": \$253,589.00

"CLOSING COSTS": Not to exceed \$5,000.00

"AUTHORIZED AMOUNT": \$258,589.00

**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 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 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.

April 28, 2010

**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 payable out of the Trinity River Corridor Project Fund, Fund 6P14, Department PBW, Unit N965, Activity TRPP, Program #PB98N965, Object 4210, CT PBW98N965EC. The OFFER AMOUNT and the CLOSING COSTS 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 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 9.** 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**