

Memorandum



CITY OF DALLAS

DATE August 14, 2009

TO Trinity River Committee Members:
David A. Neumann (Chairman)
Steve Salazar (Vice-Chair)
Mayor Pro Tem Dwaine Caraway
Deputy Mayor Pro Tem Pauline Medrano
Carolyn R. Davis

Vonciel Jones Hill
Delia Jasso
Linda Koop

SUBJECT **August 26, 2009 Council Agenda – Trinity Parkway Property Acquisition**

On the August 26, 2009 Dallas City Council Agenda, the Trinity River Corridor Project Office will be requesting action to authorize the following Trinity Parkway acquisition:

- Authorize acquisition, including the exercise of the right of eminent domain, if such becomes necessary, of a property containing approximately 7,000 square feet of land improved with a single family residence, which may require potential relocation assistance at a future date. This property is located near the intersection of Colonial Avenue and Starks Avenue and is required for the reconstruction of a direct connector route between US 175/S.M. Wright to I-45 to ultimately eliminate "dead-man's curve" - Not to exceed \$64,000 (\$59,000, plus closing costs not to exceed \$5,000)

Please let me know if you have any additional questions.

Jill A. Jordan, P.E.
Assistant City Manager



THE TRINITY
DALLAS

c: Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
A. C. Gonzalez, Assistant City Manager
Forest E. Turner, Assistant City Manager
David K. Cook, Chief Financial Officer
Deborah A. Watkins, City Secretary
Thomas P. Perkins, Jr., City Attorney
Craig D. Kinton, City Auditor
Judge C. Victor Lander
Helena Stevens-Thompson, Asst. to the City Manager
Frank Libro, Director, Public Information Office

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: August 26, 2009
COUNCIL DISTRICT(S): 7
DEPARTMENT: Trinity River Corridor Project
CMO: Jill A. Jordan, P.E., 670-5299
MAPSCO: 56 G

SUBJECT

Authorize acquisition, including the exercise of the right of eminent domain, if such becomes necessary, from Zelma J. Malone and The Estate of Ardella S. Penny of a property containing approximately 7,000 square feet of land improved with a single family residence located near the intersection of Colonial Avenue and Starks Avenue for the Trinity Parkway; potential relocation assistance may be warranted - Not to exceed \$64,000 (\$59,000, plus closing costs not to exceed \$5,000) - Financing: 1998 Bond Funds

BACKGROUND

This item authorizes the acquisition of approximately 7,000 square feet of land located near the intersection of Colonial Avenue and Starks Avenue. The property is improved with a single family residence, which may require potential relocation assistance at a future date. This property is located near the intersection of Colonial Avenue and Starks Avenue and is necessary for the reconstruction of a direct connector route between US 175/S.M. Wright to I-45 to ultimately eliminate "dead-man's curve". 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 - \$64,000 (\$59,000, plus closing costs not to exceed \$5,000)

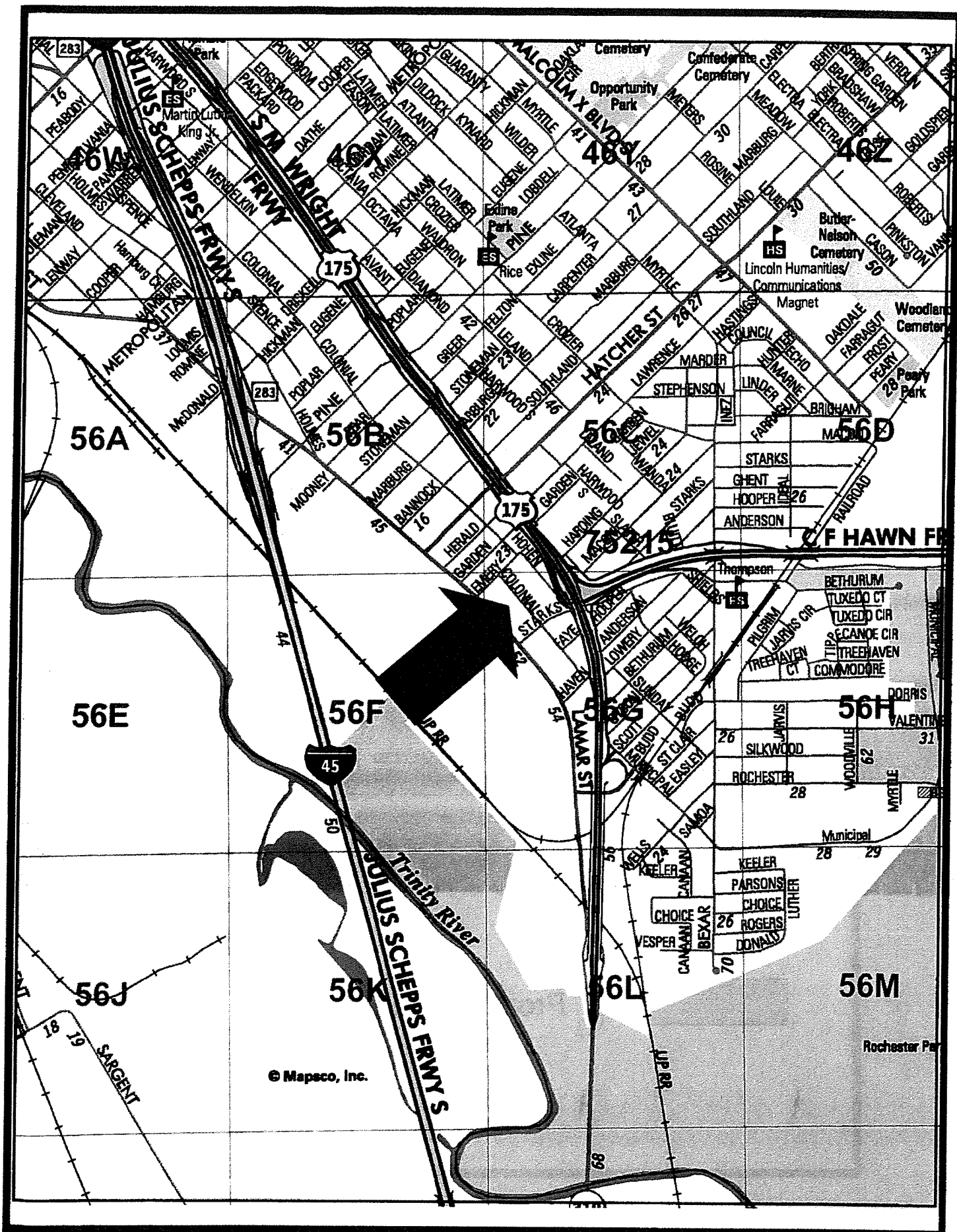
OWNERS

Zelma J. Malone

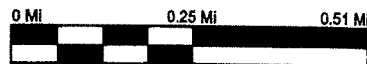
The Estate of Ardella S. Penny

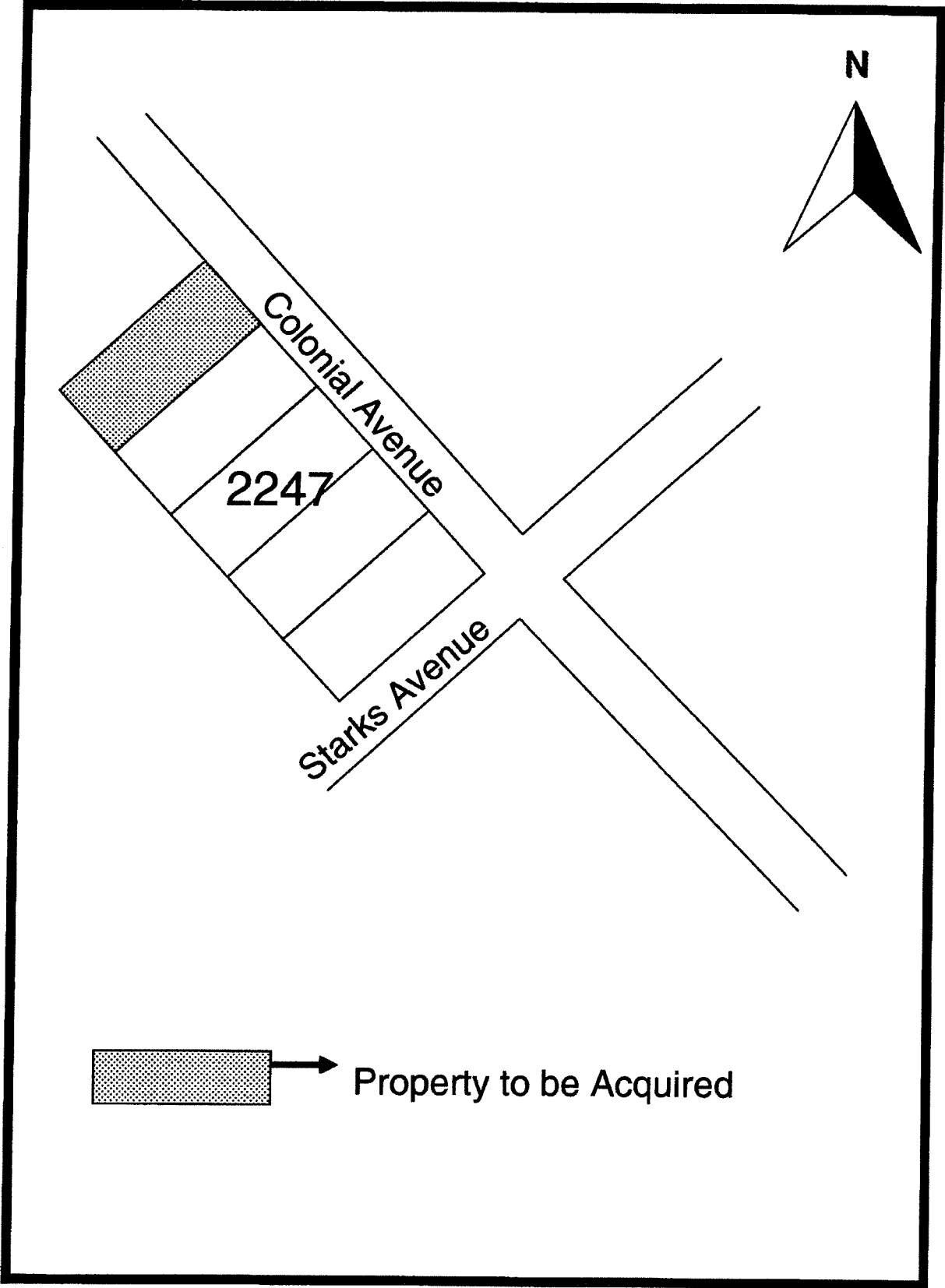
MAPS

Attached



© Mapscoc, Inc.



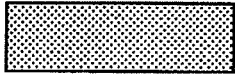


N

Colonial Avenue

2247

Starks Avenue



Property to be Acquired

August 26, 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.

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

"CITY": The City of Dallas.

"PROPERTY": The tracts or parcels of land described in "Exhibit A", attached hereto and made a part hereof for all purposes.

"PROJECT": Trinity Parkway

"PROPERTY INTEREST": Fee Simple Interest

"OWNER": Zelma J. Malone and The Estate of Ardella S. Penny, 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": \$59,000.00

"CLOSING COSTS": 5,000.00

"AUTHORIZED AMOUNT": \$64,000.00

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 Development Services 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.

August 26, 2009

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 Trinity River Corridor Project Fund No. 6P14, Department PBW, Unit N965, Activity TRPP, Program No. PB98N965, Object 4210, Encumbrance No. CT- PBW98N965JP. The OFFER AMOUNT (\$59,000.00) and the CLOSING COSTS (\$5,000.00) together shall not exceed the AUTHORIZED AMOUNT (\$64,000.00).

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.

COUNCIL CHAMBER

August 26, 2009

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

