

CITY OF BELLAIRE TEXAS

MAYOR AND COUNCIL

SEPTEMBER 8, 2015

Council Chamber and Council Conference Room
6:00 PM

Executive Session and Special Session

7008 S. RICE AVENUE
BELLAIRE, TX 77401



Mayor

Dr. Philip L. Nauert

Mayor Pro Tem

Amanda B. Nathan

Councilman

James P. Avioli Sr.

Councilman

Pat B. McLaughlan

Councilman

Roman F. Reed

Councilman

Gus E. Pappas

Councilman

Andrew S. Friedberg

Mission Statement:

The City of Bellaire is dedicated to outstanding quality service and facilities to ensure an open, progressive, and secure community.

I. EXECUTIVE SESSION - 6:00 P.M.**A. Call to Order and Announcement of a Quorum - Dr. Philip L. Nauert, Mayor.****B. Convene in Executive Session (Closed Session):**

Convene in Executive Session (Closed Session) under Texas Government Code, Chapter 551, Open Meetings, Section 551.071, Consultation with Attorney; Closed Meeting, and Section 551.072, Deliberation Regarding Real Property; Closed Meeting, for the purpose of discussing legal options regarding the disposition of publicly-owned rights-of-way and easements encumbering the property addressed as 5106 Bissonnet Street, Bellaire, Texas.

C. Reconvene (Open Session) and Adjourn.**II. SPECIAL SESSION - IMMEDIATELY FOLLOWING EXECUTIVE SESSION.****A. Call to Order and Announcement of a Quorum - Dr. Philip L. Nauert.****B. Possible Reconsideration of an Action of City Council:**

Reconsideration and possible repeal and replacement of Ordinance No. 15-051, duly approved and adopted by the City Council of the City of Bellaire, Texas, on the 17th day of August, 2015, said ordinance of which authorized the abandonment of the City of Bellaire's interest in two (2) rights-of-way and three (3) easements, consisting of a total of .1598 acres of land within Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas; and authorized Centro NP Holdings 12 SPE LLC, to purchase for the price of \$187,687.50, the City of Bellaire's interest in the two (2) rights-of-way and three (3) easements located at 5106 Bissonnet Street from the City of Bellaire, Texas, for the development contemplated in PD-25; and authorized the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, Abandonment of Alley Right-of-Way Documents and Declaration of Municipality Claiming No Interest in Real Estate Documents - Requested by Councilmen Andrew S. Friedberg and Roman F. Reed.

C. Adjourn.

Mayor and Council

7008 S. Rice Avenue
Bellaire, TX 77401



Meeting: 09/08/15 06:00 PM
Department: City Clerk
Category: Ordinance
Department Head: Tracy L. Dutton
DOC ID: 1671

**SCHEDULED
ORDINANCE (ID # 1671)**

Item Title:

Reconsideration and possible repeal and replacement of Ordinance No. 15-051, duly approved and adopted by the City Council of the City of Bellaire, Texas, on the 17th day of August, 2015, said ordinance of which authorized the abandonment of the City of Bellaire's interest in two (2) rights-of-way and three (3) easements, consisting of a total of .1598 acres of land within Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas; and authorized Centro NP Holdings 12 SPE LLC, to purchase for the price of \$187,687.50, the City of Bellaire's interest in the two (2) rights-of-way and three (3) easements located at 5106 Bissonnet Street from the City of Bellaire, Texas, for the development contemplated in PD-25; and authorized the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, Abandonment of Alley Right-of-Way Documents and Declaration of Municipality Claiming No Interest in Real Estate Documents - Requested by Councilmen Andrew S. Friedberg and Roman F. Reed.

Background/Summary:

At the request of Councilmen Andrew S. Friedberg and Roman F. Reed, a Special Session of the City Council of the City of Bellaire, Texas, has been called and scheduled on Tuesday, September 8, 2015, for the purpose of reconsidering and possibly repealing and replacing Ordinance No. 15-051, duly approved and adopted by the City Council of the City of Bellaire, Texas, on the 17th day of August, 2015, said ordinance of which authorized the abandonment of the City of Bellaire's interest in two (2) rights-of-way and three (3) easements, consisting of a total of .1598 acres of land within Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas; and authorized Centro NP Holdings 12 SPE LLC, to purchase for the price of \$187,687.50, the City of Bellaire's interest in the two (2) rights-of-way and three (3) easements located at 5106 Bissonnet Street from the City of Bellaire, Texas, for the development contemplated in PD-25; and authorized the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, *Abandonment of Alley Right-of-Way Documents* and *Declaration of Municipality Claiming No Interest in Real Estate Documents*.

Councilman Andrew S. Friedberg has prepared a replacement ordinance for City Council's reconsideration that would authorize the abandonment of the referenced rights-of-way and easements at no cost in favor of Centro NP Holdings 12 SPE, LLC, for the development contemplated in PD-25. The Attached hereto are the replacement ordinance, a redlined version of the replacement ordinance against the previous ordinance as adopted, and Exhibit A, as adopted.

Previous Council Action Summary:

The City Council of the City of Bellaire, Texas, heretofore previously approved and adopted Ordinance No. 15-051 on August 17, 2015, as referenced in the first paragraph above.

Fiscal Impact:

N/A

Recommendation:

Action as City Council deems appropriate.

ATTACHMENTS:

- HEB Ordinance_post reconsideration_WITH REPEALER_ASF_20150902 (DOCX)
- HEB Ordinance_post reconsideration_WITH REPEALER_ASF_20150902_redline against previous ordinance as adopted (PDF)
- HEB Exhibit A_as adopted (DOCX)
- HEB Exhibit B_as adopted (DOC)

ORDINANCE NO. 15-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, REPEALING ORDINANCE NO. 15-051; AND IN PLACE OF SAID ORDINANCE SO REPEALED, AUTHORIZING THE ABANDONMENT, AT NO COST, OF THE CITY OF BELLAIRE'S INTEREST IN TWO (2) RIGHTS-OF-WAY AND THREE (3) EASEMENTS, CONSISTING OF A TOTAL OF .1598 ACRES OF LAND WITHIN LOTS 4-20, BLOCK 36, TOWN OF BELLAIRE, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ALSO KNOWN AS 5106 BISSENET STREET, BELLAIRE, TEXAS, IN FAVOR OF CENTRO NP HOLDINGS 12 SPE, LLC FOR THE DEVELOPMENT CONTEMPLATED IN PD-25; AND AUTHORIZING THE MAYOR AND THE CITY CLERK OF THE CITY OF BELLAIRE, TEXAS, TO EXECUTE AND ATTEST, RESPECTIVELY, *ABANDONMENT OF ALLEY RIGHT-OF-WAY DOCUMENTS*, IN A FORM AS ATTACHED HERETO AND MARKED EXHIBIT "A" AND *DECLARATION OF MUNICIPALITY CLAIMING NO INTEREST IN REAL ESTATE DOCUMENTS*, IN A FORM AS ATTACHED HERETO AND MARKED EXHIBIT "B."

WHEREAS, heretofore previously, the City Council of the City of Bellaire, Texas, adopted Ordinance No. 15-051 on August 17, 2015, which, for the purchase price of \$187,687.50, authorized the sale and abandonment of the City of Bellaire's interest in two (2) rights-of-way and three (3) easements, consisting of a total of 0.1598 acres of land within lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas, to and in favor of Centro NP Holdings 12 SPE, LLC, for the development contemplated in PD-25; and

WHEREAS, the City Council of the City of Bellaire, Texas, has duly reconsidered, in accordance with Art. 10, § Q of its Rules of Procedure (Reconsideration of an Action of City Council), its adoption of Ordinance No. 15-051, and now desires to repeal said Ordinance and in its place authorize the abandonment, at no cost, of the City of Bellaire's interest in the aforementioned rights-of-way and easements in favor of Centro NP Holdings 12 SPE, LLC, for the development contemplated in PD-25; and

WHEREAS, heretofore previously, the City of Bellaire, Texas, has utilized and maintained rights-of-way and easements totaling 0.1598 acres within the 3.055 acre parent tract, being Lots 4-20, Tracts 26-29, Block 36, Town of Bellaire, a subdivision in Harris County, Texas; and

WHEREAS, Brown & Gay Engineers have submitted a Petition on behalf of Centro NP Holdings 12 SPE, LLC, owner, (hereinafter referred to as "Petitioners"), and HEB Grocery Company, LP, as leaseholder, (hereinafter referred to as "HEB"), in accordance with

the *Code of Ordinances of the City of Bellaire, Texas, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-102, Petition Required*, requesting the abandonment by the City of Bellaire, Texas, in favor of Petitioners, of the City's interest in two (2) rights-of way and three (3) easements consisting of a total of 0.1598 acres located within a 3.055 acre tract of land, being Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas; and

WHEREAS, Petitioners have complied with the requirements set forth in the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-103, Fee, and Section 27-104, Survey Required*, and have, accordingly, paid the City of Bellaire, Texas, all necessary administrative fees; and

WHEREAS, the request for abandonment has been reviewed by City staff as to its impact on utilities, drainage, and/or future traffic needs and circulation, and City staff has indicated their approval of the proposed abandonment in accordance with the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-105, Review by City Staff*; and

WHEREAS, in accordance with the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-107, Appraisal*, the City Manager of the City of Bellaire, Texas, directed the Director of Development Services to obtain an independent appraisal, at Petitioner's expense, of the value of the property sought by Petitioners to be abandoned and that said appraisal resulted in an estimated market value for the said two (2) rights-of way and three (3) easements as of July 14, 2015, of \$250,250; and

WHEREAS, the City Council of the City of Bellaire, Texas, in accordance with the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-108, Public hearing*, held a public hearing before the City Council of the City of Bellaire, Texas, on Monday, August 17, 2015, at 6:00 p.m. and all persons desiring to be heard were heard on or in connection with the Petitioner's request for the abandonment; and

WHEREAS, in accordance with the *Local Government Code, Chapter 272, Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments, Section 272.001(b)(1) and Section 272.001(b)(2)*, the notice and bidding requirements for

real property owned by a municipality do not apply to the aforementioned rights-of-way and easements;

WHEREAS, the City staff recommends as a condition of abandonment, Petitioners and/or HEB shall be required to perform a television inspection of the 8" sanitary sewer line shown to run north-south through the property, and upon receipt of the inspection results, Petitioner shall coordinate with City of Bellaire, Public Works Department, to either, reroute and replace the line, if the results show the line is in service, or properly cap and abandon the line, if it is no longer in service, with all costs associated with this condition paid by the Petitioners and/or HEB; and

WHEREAS, the City of Bellaire agrees to relinquish all rights to the aforementioned rights-of-way and easements effective as of the time (1) the parent tract and aforementioned rights-of-way and easements shall have been replatted for the development contemplated in PD-25, and (2) HEB shall have applied for a building permit for the structure to be included in PD-25; and

WHEREAS, the City Council of the City of Bellaire, Texas, finds that the City has no current need for or, expectation of, a future need for these rights-of-way or easements for public purposes and further finds that the subject parcel of land can be better utilized by Petitioners for the development contemplated in PD-25; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:

1. **THAT** the recitals set forth above are found to be true and correct.
2. **THAT** Ordinance No. 15-051 is hereby repealed in its entirety, and this Ordinance No. 15-____ adopted in its place.
3. **THAT** the City Council of the City of Bellaire, Texas, having duly reconsidered, in accordance with Art. 10, § Q of its Rules of Procedure (Reconsideration of an Action of City Council), its adoption of Ordinance No. 15-051, finds that an equitable settlement for the acquisition of the City of Bellaire's interest in the two (2) rights-of way and three (3) easements, consisting of 0.1598 acres located within a 3.055 acre tract of land, being Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas, by Petitioners is deemed to be the development contemplated in PD-25.

4. THAT the City Council of the City of Bellaire, Texas, hereby agrees to the abandonment of its interest heretofore previously held in the two (2) rights-of way and three (3) easements listed below:

- A .0069 acre right-of-way being a 10' X 30' strip of land out of 3.055 acres being Lots 4-20, and Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0631 acre right-of-way being a 25' X 110' strip of land out of 3.055 acres being Lots 4-20, and Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0230 acre utility easement being a 10' X 100' strip of land out of 3.055 acres being Lots 4-20, and Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0496 acre utility easement being a 10' L-shaped strip of land out of 3.055 acres being Lots 4-20, Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0172 acre utility easement being a 25' X 30' rectangle of land out of 3.055 acres being Lots 4-20, Tracts 26-29, Block 36, Bellaire, Harris County, Texas

5. THAT the Mayor and the City Clerk of the City of Bellaire, Texas, are each hereby authorized to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, an *Abandonment of Alley Right-of-Way* document, in a form as attached hereto and marked Exhibit "A," in accordance with the requirements of the *Code of Ordinances of the City of Bellaire, Texas, Chapter 27, Streets, Sidewalks and Public Places, Section 27-110, Conditions Precedent to Granting of Petition, Subsection c).*

6. THAT the Mayor and the City Clerk of the City of Bellaire, Texas, are each hereby authorized to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, a *Declaration of Municipality Claiming No Interest in Real Estate*, to and in favor of Centro NP Holdings 12 SPE, LLC, in a form as attached hereto and marked Exhibit "B," in accordance with the requirements of the *Code of Ordinances of the City of Bellaire,*

Texas, Chapter 27, Streets, Sidewalks and Public Places, Section 27-110, Conditions Precedent to Granting of Petition, Subsection c).

7. THAT the abandonment of the City of Bellaire's interest in the two (2) rights-of way and three (3) easements to and in favor of Centro NP Holdings 12 SPE, LLC, shall be invalid if Petitioners and/or HEB fail to perform a television inspection of the 8" sanitary sewer line.

8. THAT the foregoing abandonment and authorizations shall be effective only as of the time (1) the parent tract and aforementioned rights-of-way and easements shall have been replatted for the development contemplated in PD-25, and (2) HEB shall have applied for a building permit for such development.

PASSED, APPROVED, and ADOPTED this 8th day of September, 2015.

Philip L. Nauert, Mayor
City of Bellaire, Texas

ATTEST:

Tracy L. Dutton, TRMC
City Clerk
City of Bellaire, Texas

APPROVED AS TO FORM:

Alan P. Petrov, City Attorney
City of Bellaire, Texas

ORDINANCE NO. 15-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, REPEALING ORDINANCE NO. 15-051; AND IN PLACE OF SAID ORDINANCE SO REPEALED, AUTHORIZING THE ABANDONMENT, AT NO COST, OF THE CITY OF BELLAIRE'S INTEREST IN TWO (2) RIGHTS-OF-WAY AND THREE (3) EASEMENTS, CONSISTING OF A TOTAL OF .1598 ACRES OF LAND WITHIN LOTS 4-20, BLOCK 36, TOWN OF BELLAIRE, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ALSO KNOWN AS 5106 BISSONNET STREET, BELLAIRE, TEXAS, ~~AUTHORIZING, IN FAVOR OF~~ CENTRO NP HOLDINGS 12 SPE, LLC ~~TO PURCHASE FOR THE PRICE OF \$187,687.50, THE CITY OF BELLAIRE'S INTEREST IN THE TWO (2) RIGHTS-OF-WAY AND THREE (3) EASEMENTS LOCATED AT 5106 BISSONNET STREET FROM THE CITY OF BELLAIRE, TEXAS,~~ FOR THE DEVELOPMENT CONTEMPLATED IN PD-~~25,25;~~ AND AUTHORIZING THE MAYOR AND THE CITY CLERK OF THE CITY OF BELLAIRE, TEXAS, TO EXECUTE AND ATTEST, RESPECTIVELY, ~~ABANDONMENT OF ALLEY RIGHT-OF-WAY~~ DOCUMENTS, IN A FORM AS ATTACHED HERETO AND MARKED EXHIBIT "A" AND ~~DECLARATION OF MUNICIPALITY CLAIMING NO INTEREST IN REAL ESTATE~~ DOCUMENTS, IN A FORM AS ATTACHED HERETO AND MARKED EXHIBIT "B."

WHEREAS, heretofore previously, the City Council of the City of Bellaire, Texas, adopted Ordinance No. 15-051 on August 17, 2015, which, for the purchase price of \$187,687.50, authorized the sale and abandonment of the City of Bellaire's interest in two (2) rights-of-way and three (3) easements, consisting of a total of 0.1598 acres of land within lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas, to and in favor of Centro NP Holdings 12 SPE, LLC, for the development contemplated in PD-25; and

WHEREAS, the City Council of the City of Bellaire, Texas, has duly reconsidered, in accordance with Art. 10, § Q of its Rules of Procedure (Reconsideration of an Action of City Council), its adoption of Ordinance No. 15-051, and now desires to repeal said Ordinance and in its place authorize the abandonment, at no cost, of the City of Bellaire's interest in the aforementioned rights-of-way and easements in favor of Centro NP Holdings 12 SPE, LLC, for the development contemplated in PD-25; and

~~WHEREAS, heretofore previously,~~ WHEREAS, heretofore previously, the City of Bellaire, Texas, has utilized and maintained rights-of-way and easements totaling 0.1598 acres within the 3.055 acre parent tract, being Lots 4-20, Tracts 26-29, Block 36, Town of Bellaire, a subdivision in Harris County, Texas; and

WHEREAS, Brown & Gay Engineers have submitted a Petition on behalf of Centro NP Holdings 12 SPE, LLC, owner, (hereinafter referred to as "Petitioners"), and HEB Grocery Company, LP, as leaseholder, (hereinafter referred to as "HEB"), in accordance with the *Code of Ordinances of the City of Bellaire, Texas, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-102, Petition Required*, requesting the abandonment by the City of Bellaire, Texas, ~~and the subsequent purchase by~~ in favor of Petitioners, of the City's interest in two (2) rights-of way and three (3) easements consisting of a total of 0.1598 acres located within a 3.055 acre tract of land, being Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas; and

WHEREAS, Petitioners have complied with the requirements set forth in the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-103, Fee, and Section 27-104, Survey Required*, and have, accordingly, paid the City of Bellaire, Texas, all necessary administrative fees; and

WHEREAS, the request for abandonment has been reviewed by City staff as to its impact on utilities, drainage, and/or future traffic needs and circulation, and City staff has indicated their approval of the proposed abandonment in accordance with the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-105, Review by City Staff*; and

WHEREAS, in accordance with the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-107, Appraisal*, the City Manager of the City of Bellaire, Texas, directed the Director of Development Services to obtain an independent appraisal, at Petitioner's expense, of the value of the property sought by Petitioners to be abandoned and that said appraisal resulted in an estimated market value for the said two (2) rights-of way and three (3) easements as of July 14, 2015, of \$250,250; and

WHEREAS, the City Council of the City of Bellaire, Texas, in accordance with the *Bellaire City Code of Ordinances, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-108, Public hearing*, held a public hearing before the City Council of the City of Bellaire, Texas, on Monday, August 17, 2015, at 6:00 p.m. and all persons desiring to be heard were heard on or in connection with the Petitioner's request for the abandonment; and

WHEREAS, in accordance with the *Local Government Code, Chapter 272, Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments*,

Section 272.001(b)(1) and Section 272.001(b)(2), the notice and bidding requirements for real property owned by a municipality do not apply to the aforementioned rights-of-way and easements;

WHEREAS, the City staff recommends as a condition of abandonment, Petitioners and/or HEB shall be required to perform a television inspection of the 8" sanitary sewer line shown to run north-south through the property, and upon receipt of the inspection results, Petitioner shall coordinate with City of Bellaire, Public Works Department, to either, reroute and replace the line, if the results show the line is in service, or properly cap and abandon the line, if it is no longer in service, with all costs associated with this condition paid by the Petitioners and/or HEB; and

WHEREAS, the City of Bellaire agrees to relinquish all rights to the aforementioned ~~right~~rights-of-way and easements effective as of the time (1) the parent tract and aforementioned ~~right~~rights-of-way and easements shall have been replatted for the development contemplated in PD-25, and (2) HEB shall have applied for a building permit for the structure to be included in PD-25; and

WHEREAS, the City Council of the City of Bellaire, Texas, finds that the City has no current need for or, expectation of, a future need for these rights-of-way or easements for public purposes and further finds that the subject parcel of land can be better utilized by Petitioners for the development contemplated in PD-25; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:

1. THAT the recitals set forth above are found to be true and correct.
2. THAT Ordinance No. 15-051 is hereby repealed in its entirety, and this Ordinance No. 15-_____ adopted in its place.
3. ~~1.~~ THAT the City Council of the City of Bellaire, Texas, ~~based on a review of an appraisal dated July 14, 2015, performed by Edward B. Schulz & Co, finds that the sum of \$187,687.50 is~~having duly reconsidered, in accordance with Art. 10, § Q of its Rules of Procedure (Reconsideration of an Action of City Council), its adoption of Ordinance No. 15-051, finds that an equitable settlement for the acquisition ~~by Petitioners~~ of the City of Bellaire's interest in the two (2) rights-of way and three (3) easements, consisting of 0.1598 acres located within a 3.055 acre tract of land, being Lots 4-20, Block ~~36~~, 36, Town

of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas, ~~for~~ by Petitioners is deemed to be the development contemplated in PD-25.

4. ~~2-~~ **THAT** ~~for the purchase price of \$187,687.50,~~ the City Council of the City of Bellaire, Texas, hereby agrees to the ~~sale and~~ abandonment of its interest heretofore previously held in the two (2) rights-of way and three (3) easements listed below:

- A .0069 acre right-of-way being a 10' X 30' strip of land out of 3.055 acres being Lots 4-20, and Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0631 acre right-of-way being a 25' X 110' strip of land out of 3.055 acres being Lots 4-20, and Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0230 acre utility easement being a 10' X 100' strip of land out of 3.055 acres being Lots 4-20, and Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0496 acre utility easement being a 10' L-shaped strip of land out of 3.055 acres being Lots 4-20, Tracts 26-29, Block 36, Bellaire, Harris County, Texas
- A .0172 acre utility easement being a 25' X 30' rectangle of land out of 3.055 acres being Lots 4-20, Tracts 26-29, Block 36, Bellaire, Harris County, Texas

5. ~~3-~~ **THAT** the Mayor and the City Clerk of the City of Bellaire, Texas, are each hereby authorized to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, an *Abandonment of Alley Right-of-Way* document, in a form as attached hereto and marked Exhibit "A," in accordance with the requirements of the *Code of Ordinances of the City of Bellaire, Texas, Chapter 27, Streets, Sidewalks and Public Places, Section 27-110, Conditions Precedent to Granting of Petition, Subsection c).*

6. ~~4-~~ **THAT** the Mayor and the City Clerk of the City of Bellaire, Texas, are each hereby authorized to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, a *Declaration of Municipality Claiming No Interest in Real Estate*, to and in favor of Centro NP Holdings 12 SPE, LLC, in a form as attached hereto and marked Exhibit "B," in accordance with the requirements of the *Code of Ordinances of the City of Bellaire,*

Texas, Chapter 27, Streets, Sidewalks and Public Places, Section 27-110, Conditions Precedent to Granting of Petition, Subsection c).

7. ~~5-THAT~~ the abandonment of the City of Bellaire's interest in the two (2) rights-of way and three (3) easements to and in favor of Centro NP Holdings 12 SPE, LLC, shall be invalid if Petitioners and/or HEB ~~fails~~fail to perform a television inspection of the 8" sanitary sewer line.

8. ~~6-THAT~~ the foregoing ~~sale,~~ abandonment and authorizations shall be effective only as of the time (1) the parent tract and aforementioned ~~right~~rights-of-way and easements shall have been replatted for the development contemplated in PD-25, and (2) HEB shall have applied for a building permit ~~therefor~~for such development.

PASSED, APPROVED, and ADOPTED this ~~17~~8th day of ~~August~~September, 2015.

Philip L. Nauert, Mayor
City of Bellaire, Texas

ATTEST:

Tracy L. Dutton, TRMC
City Clerk
City of Bellaire, Texas

APPROVED AS TO FORM:

Alan P. Petrov, City Attorney
City of Bellaire, Texas

EXHIBIT A**ABANDONMENT OF ALLEY RIGHT-OF-WAY**

STATE OF TEXAS §
§
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

That the **CITY OF BELLAIRE, TEXAS**, a home rule city, does, by these presents, abandon, release, and relinquish all of its right-of-way interest and all right, title, and interest of any nature whatsoever held by the City of Bellaire, Texas, to the property described below. The property being generally described as two (2) rights-of-way and (3) easements consisting of .1598 acres of land within the 3.055 acre parent tract, being Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 3, Page 59, of the Map Records, of Harris County, Texas.

EXECUTED this ____ day of _____, 201____.

_____, Mayor
City of Bellaire, Texas

ATTEST:

Tracy L. Dutton, City Clerk
City of Bellaire, Texas

Attachment: HEB Exhibit A as adopted (1671 : Reconsideration of City Council Action)

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared [], known to me to be the Mayor of the City of Bellaire, Texas, and **TRACY L. DUTTON**, known to me to be the City Clerk of the City of Bellaire, Texas, whose names are subscribed to the foregoing instrument, and acknowledge to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office this, the _____ day of _____, 201____.

Notary Public in and for the
State of Texas

My Commission Expires: _____

Attachment: HEB Exhibit A as adopted (1671 : Reconsideration of City Council Action)

EXHIBIT B**DECLARATION OF MUNICIPALITY
CLAIMING NO INTEREST IN REAL ESTATE**

STATE OF TEXAS §
§
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

That the **CITY OF BELLAIRE, TEXAS**, a home rule city incorporated and existing under the laws of the State of Texas, of the County of Harris, State of Texas, does hereby declare no interest or claim to the property described below. The property generally described as two (2) rights-of-way and three (3) easements consisting of .1598 acres within the 3.055 acre parent tract, being Lots 4-20 in Block 36 of the Town of Bellaire, a subdivision of Harris County, Texas, according to the map or plat, recorded in Volume 3, Page 59, of the Map Records of Harris County, Texas.

An affidavit of property owner **Centro NP Holdings 12 SPE, LLC**, attached hereto and marked "Exhibit 1," acknowledges the superior claim to said property by the said property owners.

This declaration is executed for the purpose of initiating a chain of title in the property herein described by **Centro NP Holdings 12 SPE, LLC**.

EXECUTED this, the _____ day of _____, 201____.

_____, Mayor
City of Bellaire, Texas

ATTEST:

Tracy L. Dutton, TRMC
City Clerk
City of Bellaire, Texas

Attachment: HEB Exhibit B as adopted (1671 : Reconsideration of City Council Action)

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared [____], known to me to be the Mayor of the City of Bellaire, Texas, and **TRACY L. DUTTON**, known to me to be the City Clerk of the City of Bellaire, Texas, whose names are subscribed to the foregoing instrument, and acknowledge to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office this, the ____ day of _____, 201__.

Notary Public in and for the
State of Texas

My Commission Expires: _____

Attachment: HEB Exhibit B as adopted (1671 : Reconsideration of City Council Action)