

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON DETERMINING THE PUBLIC USE, NEED, AND NECESSITY FOR THE ACQUISITION OF (I) PERMANENT ELECTRIC EASEMENT, GENERALLY LOCATED AT 3833 AIRPORT ROAD, DENTON, TEXAS 76207, A 0.408-ACRE EASEMENT TRACT (526551), FASTENAL ADDITION, BLOCK A, LOT 1 FOR THE DENTON WEST TO RD WELLS PROJECT, PARCEL NO 1A, SITUATED IN WILLIAM NEIL SURVEY ABSTRACT NO. 970, ALL IN THE CITY AND COUNTY OF DENTON, TEXAS, AND MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT "A" (COLLECTIVELY, THE "PROPERTY INTERESTS"); AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY, TO ACQUIRE THE PROPERTY INTERESTS BY AGREEMENT, IF POSSIBLE, INCLUDING MAKING ALL OFFERS REQUIRED BY LAW; AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO CONDEMN THE PROPERTY INTERESTS IF AGREEMENT CANNOT BE REACHED; AUTHORIZING THE CITY ATTORNEY, TO FILE EMINENT DOMAIN PROCEEDINGS IF NECESSARY; AUTHORIZING THE EXPENDITURE OF FUNDING; MAKING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Texas Department of Transportation ("TXDOT") right-of-way expansion and improvement project, Parcel No. 1A, requires a permanent easement to maintain clearance and prevent overhead encroachment at the intersection of Airport Road and Corbin; and

WHEREAS, the City Council of the City of Denton ("City Council") after consideration of this matter, has determined that a public use and necessity exists for, and that the public welfare and convenience requires, the acquisition of the Property Interests, comprised of a permanent easement, by the City of Denton ("City"). The City Council finds that the acquisition of the Property Interests is a valid public use necessary to provide electrical utilities to maintain clearance relocation and prevent overhead encroachment at the intersection of Airport Road and Corbin Road for the Denton West to RD Wells utility transmission line rebuild (Denton West to RD Wells Project) located in the City of Denton, all for the public safety and welfare (collectively, the "Project"), to serve the public and the citizens of the City; and

WHEREAS, the acquisition of the Property Interests identified in Exhibit "A" is necessary in furtherance of the Project; and

WHEREAS, the City is required to make an initial offer as defined by, and in compliance with, Texas Property Code §21.0111 ("Initial Offer"), and a bona fide offer as defined by, and in compliance with, Texas Property Code §21.0113 ("Final Offer") to acquire the Property Interests for public use, voluntarily, from the subject landowners before beginning the acquisition of the Property Interests by eminent domain; and

WHEREAS, independent professional appraisal reports of the Property Interests will be submitted to the City as required by Chapter 21 of the Texas Property Code, and the City Manager or their designee will establish a certain amount determined to be just compensation for the individual Property Interests based on the appraisals and fair market values of the Property Interests and any applicable fees necessary to acquire the Property Interests; and

WHEREAS, the City Council deems it necessary to authorize the City Attorney to initiate condemnation proceedings in order to acquire the Property Interests if an agreement cannot be reached with the subject landowners for the purchase of the Property Interests; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON ORDAINS:

SECTION 1. The City Council finds that the recitals made in the preamble of this Ordinance are true and correct and incorporates such recitals into the body of this ordinance as if copied in their entirety.

SECTION 2. The City Council authorizes acquisition of the Property Interests, as more particularly described in the attached Exhibit "A," for the reasons and purposes set forth above together with all necessary appurtenances, additions, and improvements on, over, under, and through the Property Interests.

SECTION 3. The City Council authorizes the City Attorney, or designee, to negotiate for and to acquire the required property rights in the Property Interests for the City, and to acquire these rights in compliance with State and any other applicable law. The City Attorney, or designee, is specifically authorized and directed to do each and every act necessary to acquire the needed property rights in the Property Interests including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts and conveyance documents, to retain and designate a qualified appraiser of the Property Interests to be acquired and any other experts or consultants that he deems necessary for the acquisition process, to retain qualified outside litigation counsel as needed, and, if necessary, to institute and conduct all parts of the proceedings in eminent domain in accordance with the laws and procedures of the State.

SECTION 4. The City Manager, or their designee, is appointed as negotiator for the acquisition of the needed Property Interests and, as such, the City Manager, or their designee, is authorized and directed to do each and every act and deed specified or authorized by this Ordinance, subject to the availability of funds appropriated by the City Council for such purpose. The City Manager, or their designee, is specifically authorized to establish and make offer(s) of just compensation for the acquisition of the Property Interests to the respective landowner(s) in accordance with State and any other applicable law. If an agreement as to damages or compensation cannot be reached, then the City Attorney, or their designee, is authorized and directed to file or cause to be filed, against the subject landowner(s) and interested parties of the Property Interests, proceedings in eminent domain to acquire the Property Interests

SECTION 5. It is the intent of the City Council that this Ordinance authorize the City Manager and City Attorney, or their designee, are authorized to perform all steps necessary to obtain the Property Interests necessary for the Project, whether through negotiation or condemnation, including the expenditure of funds.

SECTION 6. It is the intent of the City Council that this Ordinance authorize the acquisition and condemnation of all property interests required for the construction and installation

of the Project for public uses to serve the public and citizens of the City. If it is determined that there are scrivener errors in the descriptions contained herein or if later surveys contain more accurate revised descriptions, the City Attorney or their designee is authorized to have such errors corrected or revisions made without the necessity of obtaining a new City Council Ordinance authorizing condemnation of the corrected or revised property. The Project is generally located along Interstate 3833 Airport Road, at the intersection of Airport Road and Corbin Road all in the City and County of Denton, Texas.

SECTION 7. In the event that Special Commissioners, appointed by the Court during condemnation proceedings, return an award that is the same amount or less than the amount offered by the City for just compensation, the City Attorney is hereby authorized to settle the lawsuit for that amount.

SECTION 8. Following an award by Special Commissioners, the City Finance Director is hereby authorized to issue a check from the appropriate fund in an amount not to exceed the Special Commissioners' award payable to the County Clerk of Denton County to be deposited in the registry of the Court to enable the City to take possession of the respective Property Interest(s) without further action of the City Council.

SECTION 9. If any section, article, paragraph, sentence, phrase, clause, or word in this ordinance, or application thereof to any persons or circumstances, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; the City Council declares that it would have ordained such remaining portion despite such invalidity, and such remaining portion shall remain in full force and effect.

SECTION 10. This Ordinance shall become effective immediately upon its passage.

The motion to approve this ordinance was made by _____ and seconded by _____, the ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Gerard Hudspeth, Mayor:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY


BY: 
F6B2F9E1BC01456...

EXHIBIT "A"
The Property Interests

<u>Parcel</u>	<u>Property Owner</u>	<u>SOS Officer</u>
1	Fastenal Company	Daniel Lars Florness, President

AERIAL PHOTOGRAPH



Source: Google Maps

- Red line - approximate subject property boundary – *appraiser's estimate.*
- Yellow line - approximate location of proposed permanent utility easement – *appraiser's estimate.*

EXHIBIT "A"
ELECTRIC EASEMENT
Fastenal Company Tract

BEING a 0.408-acre tract of land situated in the William Neill Survey, Abstract No. 970, in the City of Denton, Denton County, Texas, being part of a called 18.544-acre tract of land, as described in deed to Fastenal Company, recorded in Document No. 2004-48713 of the Official Records Denton County, Texas (O.R.D.C.T.), and being further described as part of Lot 1 in Block A of the Fastenal Addition, recorded in Cabinet X, Page 854 of the Plat Records of Denton County, Texas (P.R.D.C.T.), and being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8-inch iron rod with cap stamped "TXDOT" found at the north end of a corner clip at the southwest corner of the intersection of F.M. 1515 (Airport Road, variable width R.O.W.) with Corbin Road (variable width R.O.W.), said point located in the existing south right-of-way line of said F.M. 1515 as described in deed to the State of Texas, and recorded in Document No. 2022-93309 (O.R.D.C.T.);

THENCE North 88°56'00" West, along the existing south right-of-way line of said F.M. 1515, a distance of 398.06 feet to the intersection with the most westerly line of a called 1.25-acre Electric Easement as described in deed to the City of Denton, recorded in Document No. 2004-31236 (O.R.D.C.T.), and being the **POINT OF BEGINNING**;

THENCE South 01°13'15" West, departing the existing south right-of-way line of said F.M. 1515, and along the west line of said Electric Easement, a distance of 9.38 feet to the most westerly southwest corner of same;

THENCE South 89°18'04" East, along the south line of said Electric Easement, a distance of 388.18 feet to an interior ell corner of same;

THENCE South 00°06'16" East, along a west line of said Electric Easement, a distance of 248.76 feet to a point for corner;

THENCE North 04°09'26" West, departing the west line of said Electric Easement, a distance of 204.17 feet to a point for corner;

THENCE North 87°48'20" West, a distance of 386.94 feet to a point for corner;

THENCE North 01°05'58" East, a distance of 44.66 feet to the intersection with the existing south right-of-way line of said F.M. 1515, from which point a found 5/8-inch iron rod with cap stamped "TXDOT" bears North 88°56'00" West, a distance of 364.92 feet;

THENCE South 88°56'00" East, along the existing south right-of-way line of said F.M. 1515, a distance of 12.20 feet to the **POINT OF BEGINNING** and containing 0.408-acres (17,787 square feet) of land, more or less.

An Easement Exhibit of even date herewith accompanies this Legal Description. See Exhibit "B".

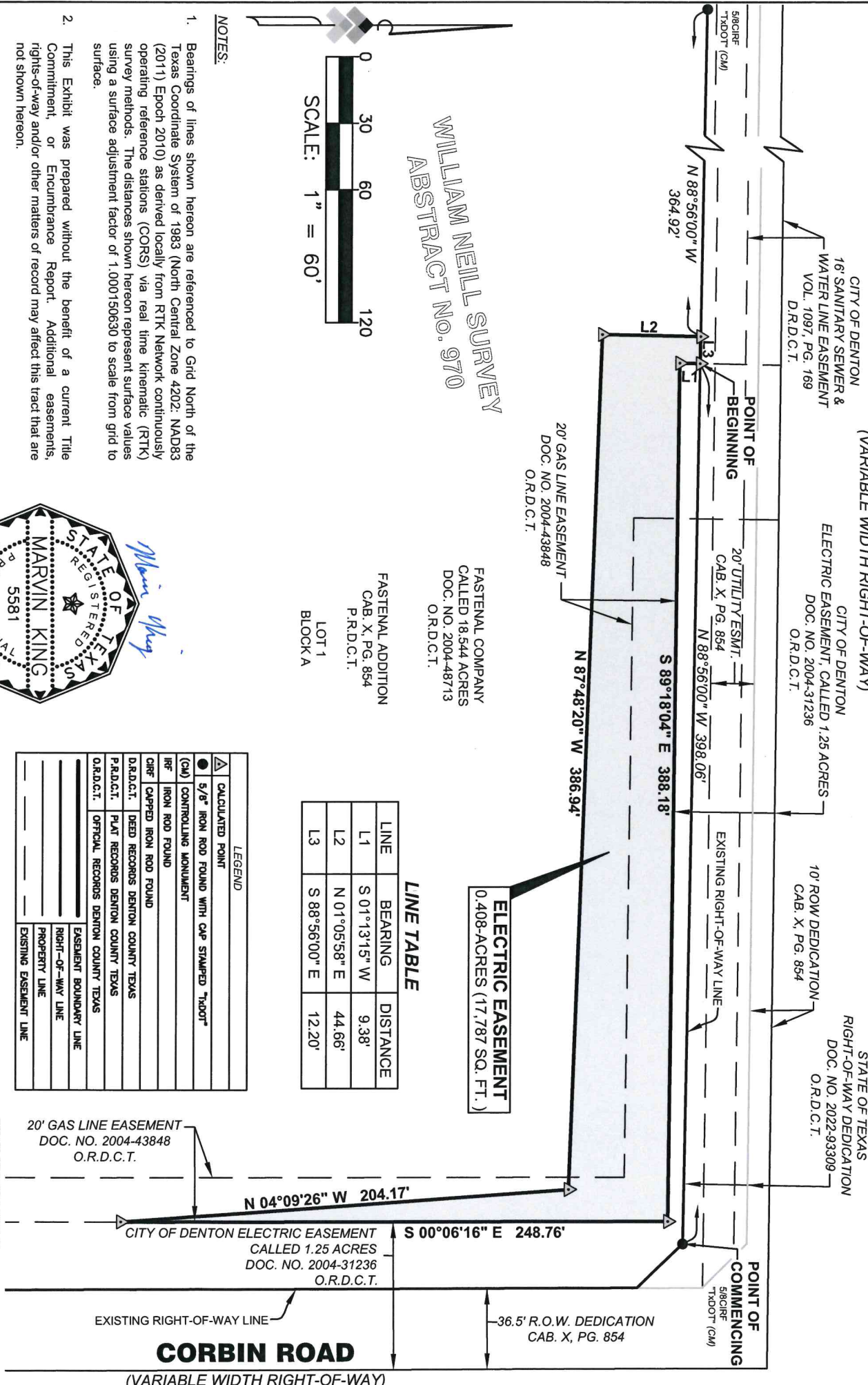
NOTE: *Bearings are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone 4202: NAD83 (2011) EPOCH 2010) as derived locally from RTK Network Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) survey methods. The distances shown hereon represent surface values utilizing a Surface Adjustment Factor of 1.000150630 to scale from grid to surface.*



Marvin King 8/30/23
Marvin King, R.P.L.S. No. 5581
Teague Nall & Perkins
3200 S. Interstate 35E, Suite 1129
Denton, Texas 76210
940-383-4177
TBPLS Firm No. 10011601

F.M. 1515 (AIRPORT ROAD)

(VARIABLE WIDTH RIGHT-OF-WAY)



WILLIAM NEILL SURVEY
ABSTRACT NO. 970



NOTES:

1. Bearings of lines shown hereon are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone 4202: NAD83 (2011) Epoch 2010) as derived locally from RTK Network continuously operating reference stations (CORS) via real time kinematic (RTK) survey methods. The distances shown hereon represent surface values using a surface adjustment factor of 1.000150630 to scale from grid to surface.
2. This Exhibit was prepared without the benefit of a current Title Commitment, or Encumbrance Report. Additional easements, rights-of-way and/or other matters of record may affect this tract that are not shown hereon.
3. A Legal Description of even date herewith accompanies this Easement Exhibit. See Exhibit "A."

FASTENAL COMPANY
CALLED 18.544 ACRES
DOC. NO. 2004-48713
O.R.D.C.T.

FASTENAL ADDITION
CAB. X, PG. 854
P.R.D.C.T.

LOT 1
BLOCK A

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 01°13'15" W	9.38'
L2	N 01°05'58" E	44.66'
L3	S 88°56'00" E	12.20'



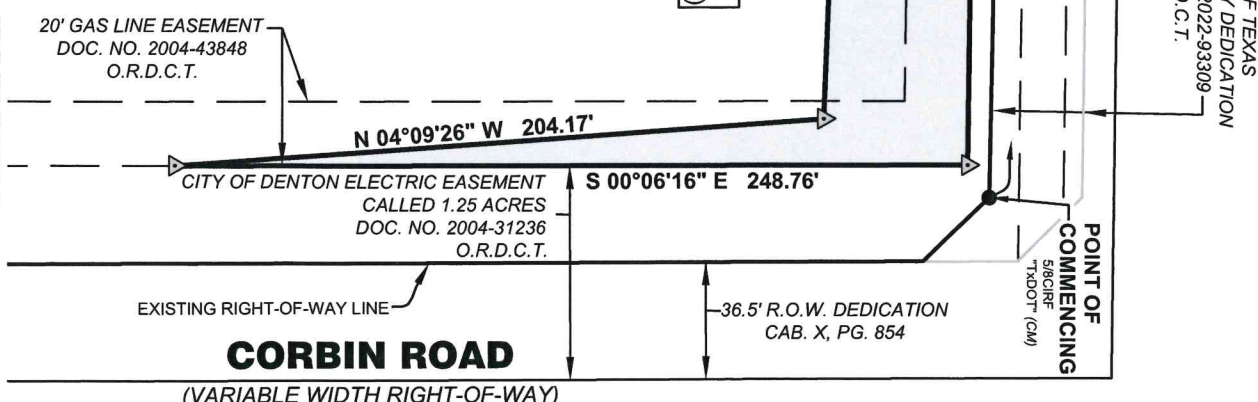
8/30/23

LEGEND

▲	CALCULATED POINT
●	5/8" IRON ROD FOUND WITH CAP STAMPED "TxDOT"
(C&J)	CONTROLLING MONUMENT
IR	IRON ROD FOUND
CRF	CAPPED IRON ROD FOUND
D.R.D.C.T.	DEED RECORDS DENTON COUNTY TEXAS
P.R.D.C.T.	PLAT RECORDS DENTON COUNTY TEXAS
O.R.D.C.T.	OPTICAL RECORDS DENTON COUNTY TEXAS
---	EASEMENT BOUNDARY LINE
---	RIGHT-OF-WAY LINE
---	PROPERTY LINE
---	EXISTING EASEMENT LINE

ELECTRIC EASEMENT

EXHIBIT "B"



teague noll and perkins
3200 S. Interstate 35E, Suite 1129
Denton, Texas 76210
940.383.4177 ph 940.383.8026 fx
www.tnpinc.com
TBP&S FIRM 10011601

BEING 0.408 ACRES ~ 17,787 SQ. FT. OF LAND SITUATED
IN THE WILLIAM NEILL SURVEY, ABSTRACT NO. 970
CITY OF DENTON, DENTON COUNTY, TEXAS
DME13222
PAGE 3 OF 3

Certificate Of Completion

Envelope Id: C790FD3F426E468596D4BB1E93C3A068	Status: Completed
Subject: Complete with DocuSign: Exhibit 2 - Ordinance - Denton West to RD Wells Fastenal_DRAFT_ED autho...	
Source Envelope:	
Document Pages: 9	Signatures: 1
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Captoria Brown
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	captoria.brown@cityofdenton.com
	IP Address: 198.49.140.10

Record Tracking

Status: Original	Holder: Captoria Brown	Location: DocuSign
5/2/2024 6:20:34 AM	captoria.brown@cityofdenton.com	

Signer Events

Benjamin Samples
 benjamin.samples@cityofdenton.com
 Security Level: Email, Account Authentication (None)

Signature



Signature Adoption: Pre-selected Style
 Using IP Address: 166.199.242.35
 Signed using mobile

Timestamp

Sent: 5/2/2024 6:23:38 AM
 Viewed: 5/2/2024 6:30:37 AM
 Signed: 5/2/2024 6:32:00 AM

Electronic Record and Signature Disclosure:
 Accepted: 5/2/2024 6:30:37 AM
 ID: 562c011a-177a-463f-8cef-5a9b0e683ec4

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Benjamin Samples
 benjamin.samples@cityofdenton.com
 Security Level: Email, Account Authentication (None)



Sent: 5/2/2024 6:32:02 AM

Electronic Record and Signature Disclosure:
 Accepted: 5/2/2024 6:30:37 AM
 ID: 562c011a-177a-463f-8cef-5a9b0e683ec4

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent	Hashed/Encrypted	5/2/2024 6:23:38 AM
Certified Delivered	Security Checked	5/2/2024 6:30:37 AM
Signing Complete	Security Checked	5/2/2024 6:32:00 AM
Completed	Security Checked	5/2/2024 6:32:02 AM

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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To withdraw your consent with City of Denton

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.