

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON DETERMINING THE PUBLIC USE, NEED, AND NECESSITY FOR ACQUISITION OF A (I) TEMPORARY CONSTRUCTION EASEMENT AND A (II) RIGHT-OF-WAY PARCEL, GENERALLY LOCATED ALONG EAST MCKINNEY STREET JUST EAST OF NORTH WOODROW/AUDRA LANE, SITUATED IN THE T. DOWNING SURVEY, ABSTRACT NO. 346 ALL IN THE CITY AND COUNTY OF DENTON, TEXAS, AND MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT(S) "A" (COLLECTIVELY, THE "PROPERTY INTEREST(S)"); 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 PROCEEDINGS IF NECESSARY; AUTHORIZING THE EXPENDITURE OF FUNDING; MAKING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the McKinney Sidewalks Project ("The Project") involves acquiring critical Property Interests necessary for the construction of public improvements, including sidewalks and a pedestrian bridge; 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 (i) sidewalk easement, a (ii) temporary construction easement, and a (iii) Right-Of-Way parcel by the City of Denton ("City"); and

WHEREAS, the City Council finds that 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, 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 East

McKinney Street just east of Audra Lane/North Woodrow, situated in the T. Downing Survey, Abstract No. 346 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.

[Signatures to appear on the following page.]

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	_____	_____	_____	_____
Suzi Rumohr, District 3	_____	_____	_____	_____
Joe Holland, District 4	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5	_____	_____	_____	_____
Jill Jester, At Large Place 6	_____	_____	_____	_____

PASSED AND APPROVED this _____ day of _____, 2025.

GERARD HUDSPETH, MAYOR

ATTEST
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

EXHIBIT "A"
The Property Interests

Parcel Number	Property Owners
1	DENTON HOUSING AUTHORITY

PARCEL 1

DENTON HOUSING AUTHORITY

Westwood

**LEGAL DESCRIPTION
MCKINNEY STREET IMPROVEMENTS
RIGHT-OF-WAY DEDICATION – 0.041 ACRES
T. DOWNING SURVEY, ABSTRACT NO. 346
CITY OF DENTON, DENTON COUNTY, TEXAS**

BEING a 0.041 acre tract of land situated in the T. Downing Survey, Abstract No. 346, City of Denton, Denton County, Texas, and being a part of the tract of land conveyed to Denton Housing Authority by deed of record in Instrument No. 2024-57591 of the Official Records, Denton County, Texas, and being a part of Lot 1, Block 1, Apple Creek, an addition to the City of Denton, Denton County, Texas, according to the plat thereof recorded in Cabinet D, Page 196, Plat Records, Denton County, Texas; said 0.041 acre tract being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod found in the south right-of-way line of East McKinney Street (variable width right-of-way) at the northeast corner of a 1.029 acre tract of land conveyed to Shawn E. Cagle by deed of record in Volume 4629, Page 1065, Deed Records, Denton County, Texas, and the northwest corner of County Park Addition, an addition to the city of Denton, Denton County, Texas, according to the plat thereof recorded in Cabinet L, Page 320, Plat Records, Denton County, Texas;

THENCE along said south right-of-way line of East McKinney Street, the following courses and distances:

South 87 degrees 45 minutes 13 seconds East, along the north line of said County Park Addition, a distance of 351.69 feet to the northeast corner of said County Park Addition and northwest corner of said Apple Creek addition;

South 87 degrees 34 minutes 12 seconds East, along the north line of said Apple Creek addition, a distance of 273.48 feet to the **POINT-OF-BEGINNING**;

South 87 degrees 34 minutes 12 seconds East, continuing along said north line, a distance of 78.41 feet to the northeast corner of said Apple Creek addition and northwest corner of a 11.821 acre tract of land conveyed to the City of Denton by deed of record in Volume 621, Page 455, Deed Records, Denton County, Texas;

THENCE South 02 degrees 43 minutes 55 seconds West, departing said south right-of-way line, along the common line between said Apple Creek addition and said City of Denton tract, a distance of 10.00 feet to the beginning of a tangent curve to the left;

THENCE continuing along said common line along a tangent curve to the left having a central angle of 08 degrees 19 minutes 17 seconds, a radius of 250.00 feet, and an arc length of 36.31 feet (chord bears South 01 degrees 25 minutes 46 seconds East, 36.28 feet);

THENCE North 57 degrees 48 minutes 45 seconds West, departing said common line, over and across said Apple Creek addition, a distance of 93.07 feet to the **POINT-OF-BEGINNING**, containing **1,782 square feet or 0.041 acres of land.**

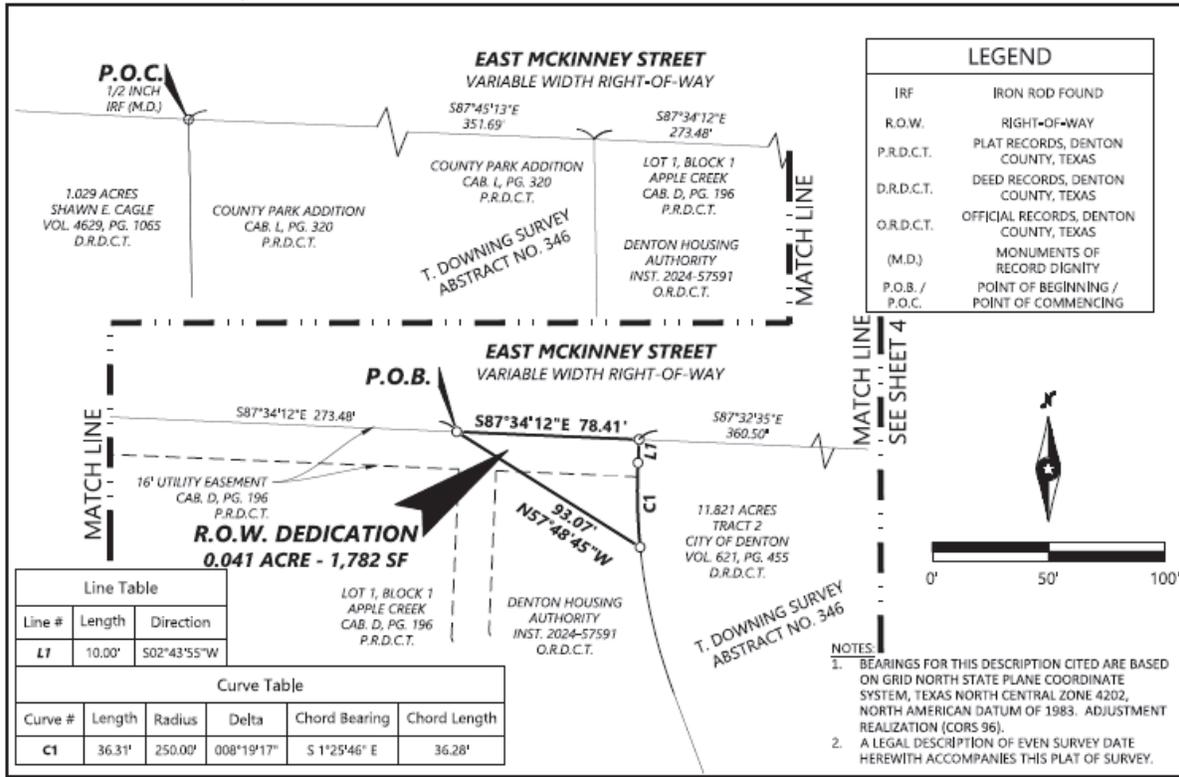
Westwood

Bearings for this description cited are based on Grid North State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. Adjustment Realization (CORS 96).
An exhibit of even date accompanies this description.
Date: March 24, 2025

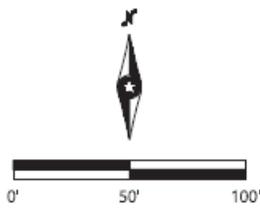


Jason E. Armstrong
Registered Professional Land Surveyor
Texas Registration No. 5557





LEGEND	
IRF	IRON ROD FOUND
R.O.W.	RIGHT-OF-WAY
P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
O.R.D.C.T.	OFFICIAL RECORDS, DENTON COUNTY, TEXAS
(M.D.)	MONUMENTS OF RECORD DIGNITY
P.O.B. / P.O.C.	POINT OF BEGINNING / POINT OF COMMENCING



Line Table		
Line #	Length	Direction
L1	10.00'	S02°43'55\"W

Curve Table					
Curve #	Length	Radius	Delta	Chord Bearing	Chord Length
C1	36.31'	250.00'	008°19'17\"	S 1°25'46\" E	36.28'

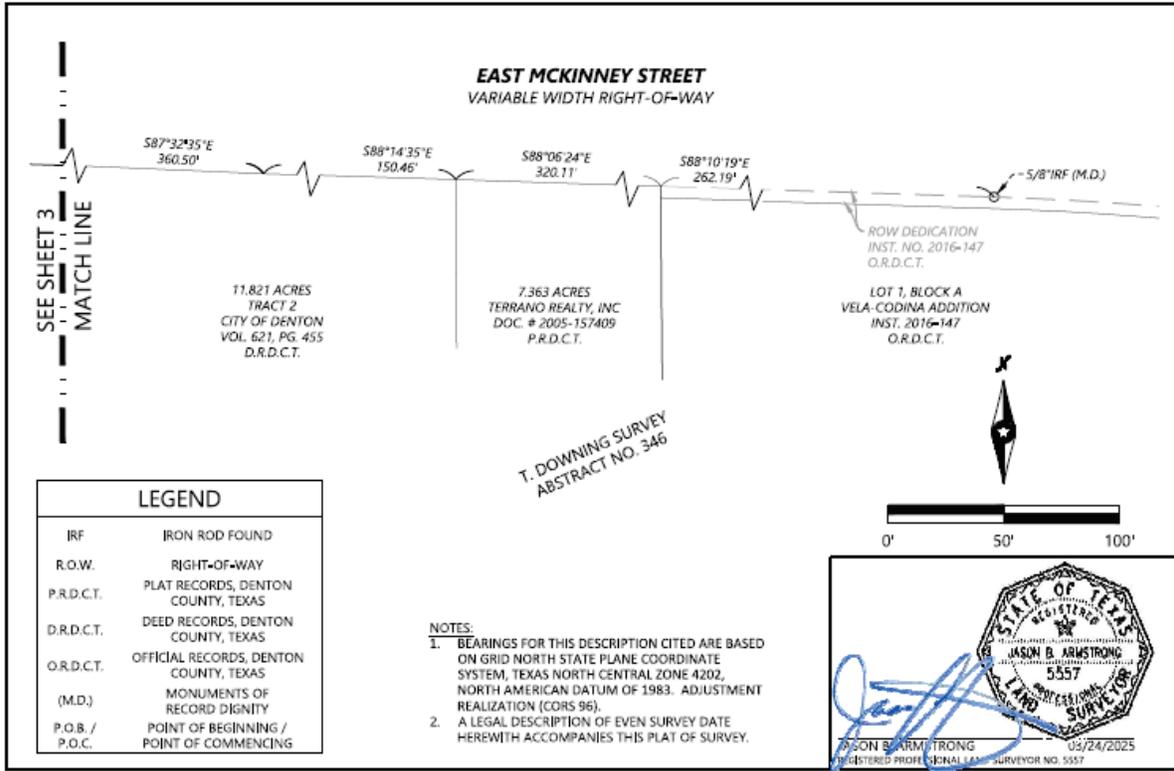
- NOTES**
- BEARINGS FOR THIS DESCRIPTION CITED ARE BASED ON GRID NORTH STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983. ADJUSTMENT REALIZATION (CORS 96).
 - A LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH ACCOMPANIES THIS PLAT OF SURVEY.

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MCKINNEY STREET

CHECKED: <u>AW</u> DRAWN: <u>ST</u>	MCKINNEY STREET CITY OF DENTON DENTON COUNTY, TEXAS	Phone (214) 475-6940 2801 DALLAS PKWY, STE 400 Toll-Free (888) 937-6150 PLANO, TX 75093 westwood@westwood.com Westwood Professional Services, Inc. <small>MEMBER OF THE WESTWOOD GROUP</small>	RIGHT-OF-WAY DEDICATION T. DOWNING SURVEY ABSTRACT NO. 346 PROJECT NUMBER: 0051722.00	SHEET NUMBER: 3 OF 4 DATE: 03/24/25
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LEGEND	
IRF	IRON ROD FOUND
R.O.W.	RIGHT-OF-WAY
P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
O.R.D.C.T.	OFFICIAL RECORDS, DENTON COUNTY, TEXAS
(M.D.)	MONUMENTS OF RECORD DIGNITY
P.O.B. / P.O.C.	POINT OF BEGINNING / POINT OF COMMENCING

- NOTES:
- BEARINGS FOR THIS DESCRIPTION CITED ARE BASED ON GRID NORTH STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983. ADJUSTMENT REALIZATION (CORS 96).
 - A LEGAL DESCRIPTION OF EVEN SURVEY DATE HERewith ACCOMPANIES THIS PLAT OF SURVEY.

CHECKED: _____
 DRAWN: _____

MCKINNEY STREET
 CITY OF DENTON
 DENTON COUNTY, TEXAS

Westwood
 Phone: (214) 473-6940 2801 DALLAS PKWY, STE 400
 Toll-Free: (888) 937-6150 PLANO, TX 75083
 westwoodps.com
 Westwood Professional Services, Inc.
 Surveying & Engineering

RIGHT-OF-WAY DEDICATION
T. DOWNING SURVEY
ABSTRACT NO. 346
 PROJECT NUMBER: 0051722.00

SHEET NUMBER:
4 OF **4**
 DATE: 03/24/25

MCKINNEY STREET

Westwood

**LEGAL DESCRIPTION
MCKINNEY STREET IMPROVEMENTS
TEMPORARY CONSTRUCTION EASMENT – 0.186 ACRES
T. DOWNING SURVEY, ABSTRACT NO. 346
CITY OF DENTON, DENTON COUNTY, TEXAS**

BEING a 0.186 acre tract of land situated in the T. Downing Survey, Abstract No. 346, City of Denton, Denton County, Texas, and being a part of the tract of land conveyed to Denton Housing Authority by deed of record in Instrument No. 2024-57591 of the Official Records, Denton County, Texas, and being a part of Lot 1, Block 1, Apple Creek, an addition to the City of Denton, Denton County, Texas, according to the plat thereof recorded in Cabinet D, Page 196, Plat Records, Denton County, Texas; said 0.186 acre tract being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod found in the south right-of-way line of East McKinney Street (variable width right-of-way) at the northeast corner of a 1.029 acre tract of land conveyed to Shawn E. Cagle by deed of record in Volume 4629, Page 1065, Deed Records, Denton County, Texas, and the northwest corner of County Park Addition, an addition to the city of Denton, Denton County, Texas, according to the plat thereof recorded in Cabinet L, Page 320, Plat Records, Denton County, Texas;

THENCE along said south right-of-way line of East McKinney Street, the following courses and distances:

South 87 degrees 45 minutes 13 seconds East, along the north line of said County Park Addition, a distance of 351.69 feet to the northeast corner of said County Park Addition and northwest corner of said Apple Creek addition;

South 87 degrees 34 minutes 12 seconds East, along the north line of said Apple Creek addition, a distance of 201.31 feet to the **POINT-OF-BEGINNING**;

South 87 degrees 34 minutes 12 seconds East, continuing along said north line, a distance of 72.17 feet to a point for corner;

THENCE South 57 degrees 48 minutes 45 seconds East, over and across said Apple Creek addition, a distance of 93.07 feet to a point at the beginning of a non-tangent curve to the left in the common line between said Apple Creek addition and a 11.821 acre tract of land conveyed to the City of Denton by deed of record in Volume 621, Page 455, Deed Records, Denton County, Texas;

THENCE continuing along said common line along a non-tangent curve to the left having a central angle of 04 degrees 21 minutes 54 seconds, a radius of 250.00 feet, and an arc length of 19.05 feet (chord bears South 07 degrees 46 minutes 21 seconds East, 19.04 feet);

THENCE departing said common line, over and across said Apple Creek addition the following courses and distances:

North 87 degrees 34 minutes 27 seconds West, a distance of 156.26 feet to a point for corner;

North 02 degrees 21 minutes 21 seconds East, a distance of 64.95 feet to the **POINT-OF-BEGINNING**, containing **8,094 square feet or 0.186 acres of land**.

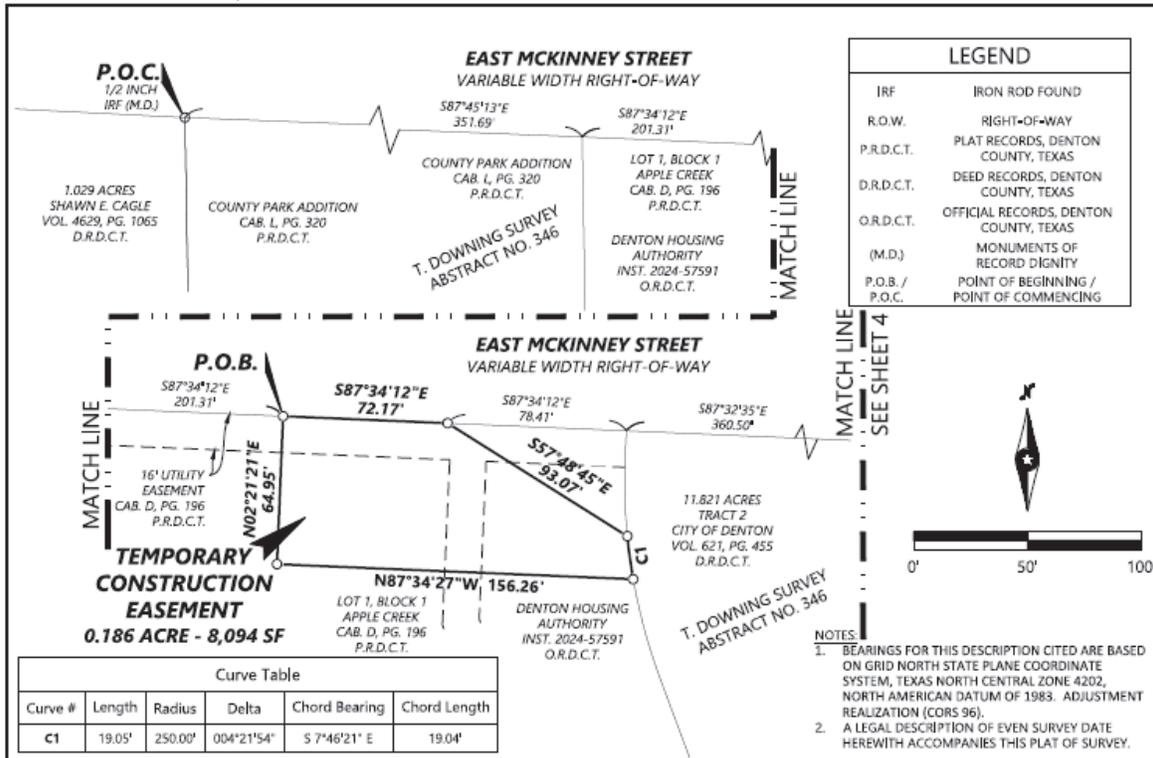
Westwood

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An exhibit of even date accompanies this description.
Date: March 24, 2025



Jason E. Armstrong
Registered Professional Land Surveyor
Texas Registration No. 5557





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MCKINNEY STREET

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MCKINNEY STREET
CITY OF DENTON
DENTON COUNTY, TEXAS

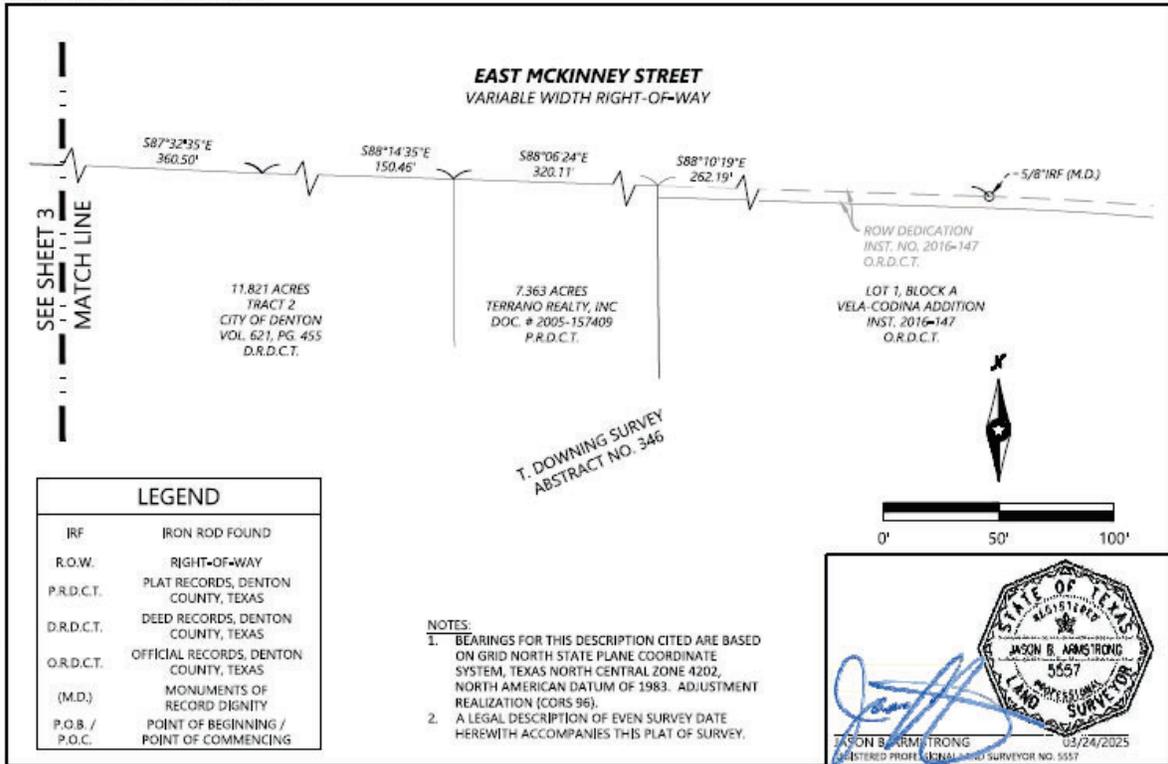
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TEMPORARY CONSTRUCTION EASEMENT
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ABSTRACT NO. 346
PROJECT NUMBER: 0051722.00

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3 OF **4**
DATE: 03/24/25



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