

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE EASEMENT INTERESTS TO A 1.253 ACRE TRACT OF LAND SITUATED IN THE J.S. COLLARD SURVEY, ABSTRACT NO. 297, CITY OF DENTON, DENTON COUNTY, TEXAS, AND OF THE REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS (“PROPERTY INTERESTS”), FOR THE PUBLIC USE OF, EXPANSION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF AN ELECTRIC TRANSMISSION LINE, ANCILLARY FACILITIES AND STRUCTURES; AUTHORIZING THE CITY MANAGER, ACTING CITY MANAGER, OR HIS DESIGNEE, TO MAKE INITIAL AND FINAL OFFERS TO EXECUTE AN EASEMENT, BETWEEN THE CITY OF DENTON, TEXAS (“CITY”), AS GRANTEE, AND PENSICO TRUST COMPANY CUSTODIAN FBO RANDALL D. SMITH ROTH IRA, BONNIE BRAE MALONE COUNTY, INC., TRUSTEE OF THE COTI PROPERTY TRUST, AND EDWARD F. WOLSKI (COLLECTIVELY “OWNER”), AS GRANTOR, TO ACQUIRE THE PROPERTY INTERESTS FOR THE TOTAL PURCHASE PRICE OF \$166,859.00, AND OTHER CONSIDERATION; AUTHORIZING THE FILING OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE THE PROPERTY INTERESTS IF THE FINAL OFFER IS NOT ACCEPTED; AUTHORIZING THE EXPENDITURE OF FUNDS; AND PROVIDING AN EFFECTIVE DATE. [NORTH LAKES TO DENTON NORTH TM LINE]

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 by the City of Denton, Texas (“City”). The City Council finds that the acquisition of the Property Interests is a valid public use necessary for the expansion, construction, maintenance, and operation of an electric transmission line, ancillary facilities and structures, approved by ordinance of the City Council on December 8, 2015;

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 owner(s) before beginning the acquisition of the Property Interests by eminent domain; 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 owner(s) for the purchase of the Property Interests; **NOW, THEREFORE**,

THE COUNCIL OF THE CITY OF DENTON ORDAINS:

Section I. The City Council ratifies, confirms and adopts the finding and recitals contained in the preamble to this Ordinance and further 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 II. For the reasons and purposes set forth above, the City Council authorizes acquisition of easement interests to the real property more particularly described in the attached Exhibits “A” and “B”, together with all necessary appurtenances, additions and improvements on, over, under, and through the same real property and including a waiver of surface use to the mineral estate (all being referred to in this Ordinance as “Property Interests”).

Section III. The City Council approves and authorizes the use of eminent domain to acquire the Property Interests for the expansion, construction, maintenance, and operation of an electric transmission line, ancillary facilities and structures, approved by ordinance of the City Council on December 8, 2015.

Section IV. The City Council authorizes the City Manager, or his designee, to negotiate for and to acquire the Property Interests from the owner(s) for the City, and to acquire the Property Interests in compliance with State and any other applicable law. Specifically, the City Manager, or his designee, in accordance with State and any other applicable law, is directed and authorized to (a) make an Initial Offer to the owner(s) of the Property Interests in the amount of \$166,859.00 as just compensation for the Property Interests, with said amount being based on an amount determined by an independent fee appraisal obtained by the City; (b) if the Initial Offer is not accepted, make a Final Offer to the owner(s) of the Property Interests in the amount of \$166,859.00 as just compensation for the Property Interests; and, (c) if the Final Offer is not accepted, to direct the City Attorney, or her designee, to file, or cause to be filed, against the owner(s) and interested parties of the Property Interests, proceedings in eminent domain to acquire the Property Interests.

Section V. The City Council approves and authorizes, without further authorization from City Council, (a) the City Attorney, or her designee, to take any and all actions required to retain additional counsel to prosecute the proceedings in eminent domain to acquire the Property Interests; and (b) the payment, after approval by the City Attorney, or her designee, of all the attorney fees and costs associated with the prosecution of the proceedings in eminent domain to acquire the Property Interests.

Section VI. The City Council approves and authorizes, without further authorization from City Council, the payment, after approval by the City Attorney, of all the costs associated with the acquisition of the Property Interests, including but not limited to the costs of purchases or, if necessary, eminent domain proceedings, relocation assistance expenses, appraisal fees, title policies/services, recording fees, court costs and expert witness fees.

Section VII. 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 VIII. This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this the _____ day of _____, 2016.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY:  _____

EXHIBIT "A"

ELECTRIC EASEMENT

BEING a 1.253 acre tract of land situated in the J.S. Collard Survey, Abstract No. 297 City of Denton, Denton County, Texas, and being part of a called 14.198 acre tract of land as described in Deeds to Bonnie Brae Malone County, Inc., Trustee of the COTI Property Trust, a 50% undivided interest, recorded in Document No. 2005-50248, and corrected in Document No. 2016-6300 of the Official Records of Denton County, Texas (O.R.D.C.T.), to Pensco Trust Company, Custodian FBO Randall D. Smith Roth IRA (Account No. SM 148), a 25% undivided interest, recorded in Document No. 2003-064647 (O.R.D.C.T.), and to Edward F. Wolski, a 25% undivided interest, recorded in Document No. 2015-70377 (O.R.D.C.T.), and being more particularly described as follows:

BEGINNING at the most Easterly corner of said 14.198 acre tract and located in the existing Southwesterly right-of-way line of U.S. Highway 77 (a variable width right-of-way), from which a 1/2 inch iron rod found bears North 47°06'14" East, a distance of 3.06 feet;

THENCE South 10°45'55" West, along the most Easterly line of said 14.198 acre tract and the existing Southwesterly right-of-way line of said U.S. Highway 77, for a distance of 10.06 feet to a point for corner;


THENCE North 89°25'33" West, departing the most Easterly line of said 14.198 acre tract and the existing Southwesterly right-of-way line of said U.S. Highway 77, for a distance of 1303.49 feet to a point for corner at the intersection with the common Westerly line of said 14.198 acre tract and the Easterly line of a called 22.537 acre tract of land as described in Deed to Brentwood Place Development, Ltd., and recorded in Document No. 2015-123929 (O.R.D.C.T.), from which a Railroad Spike found at the Southwest corner of said 14.198 acre tract bears South 00°04'27" West, a distance of 32.68 feet;

THENCE North 00°04'27" East, along the common Westerly line of said 14.198 acre tract and the Easterly line of said 22.537 acre tract, for a distance of 42.50 feet to a point for corner, from which a 1/2 inch iron rod found at the most Northerly corner of said 14.198 acre tract bears North 00°04'27" East, a distance of 745.75 feet;

THENCE South 89°25'32" East, departing said common line, for a distance of 1250.69 feet to a point for corner at the intersection with the Northeasterly line of said 14.198 acre tract and the existing Southwesterly right-of-way line of said U.S. Highway 77;

THENCE South 58°45'03" East, along the common Northeasterly line of said 14.198 acre tract and the existing Southwesterly right-of-way line of said U.S. Highway 77, for a distance of 63.89 feet to the **POINT OF BEGINNING**, and containing 1.253 acres of land, more or less.

NOTE: Bearings are referenced to grid north of the Texas Coordinate System of 1983 (North Central Zone, NAD83(2011) Epoch 2010) as derived locally from Western Data Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) survey methods. Distances represent surface values utilizing an average combination scale factor of 1.000147317 to scale from grid to surface.


Todd B. Turner, R.P.L.S. No. 4859
Teague Nail & Perkins
1517 Centre Place Drive, Suite 320
Denton, Texas 76205
940-383-4177
Date: August 8, 2016



**J.S. COLLARD SURVEY
ABSTRACT NO. 297**

EXHIBIT "B"

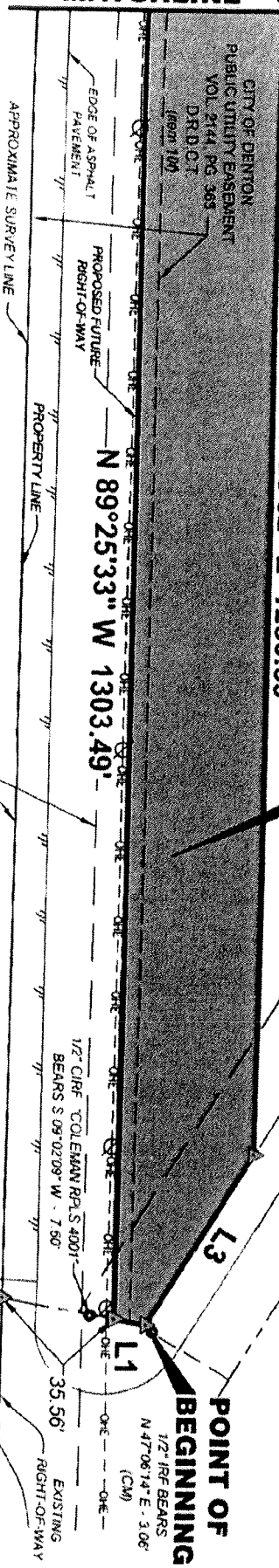
BONNIE BRAE MALONE COUNTY, INC.,
PENSCO TRUST COMPANY, AND EDWARD F. WOLSKI
CALLED 14.198 ACRES
DOC. NO. 2005-50248, DOC. NO. 2016-6300,
DOC. NO. 2003-064647, AND DOC. NO. 2015-70377
O.R.D.C.T.

S 89°25'32" E 1250.69'

**ELECTRIC
EASEMENT
1.253 ACRES**

U.S. HIGHWAY 77
VARIABLE WIDTH RIGHT-OF-WAY
VOL. 4331, PG. 2955
R.P.R.D.C.T.

MATCHLINE - SEE SH. 3 OF 4

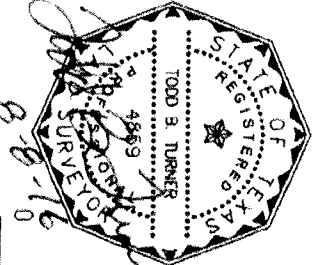


LINE	BEARING	DISTANCE
L1	S 10°45'55" W	10.06'
L3	S 58°45'03" E	63.89'

NOTES

1. Bearings of lines shown hereon are referred to Grid North of the Texas Coordinate System of 1983 (North Central Zone, NAD83(2011), EPOCH 2010), as derived locally from Western State Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. The distances shown hereon represent surface values utilizing an Average Correction Factor of 1.000147317 to scale from grid to surface.
2. This Exhibit was prepared with the benefit of that certain, The Commitment Of No. 2027-134533-HU, with effective date of June 27, 2016, provided by Reardon Title For easements, rights of-way and/or other matters of record that may affect this tract, the Survey of record solely on said Title Commitment.
3. This tract is subject to the following easements: (104) Vol. 2144, Pg. 363 D.R.D.C.T. as shown (105) Vol. 4331, Pg. 2955, R.P.R.D.C.T. as shown; (108) Vol. 4331, Pg. 2960 R.P.R.D.C.T. as shown.
4. The easement referenced in Vol. 1022, Pg. 807, D.R.D.C.T. (106) does not lie on this tract, as shown.

**P.M. WIEGENTHALER SURVEY
ABSTRACT NO. 810**

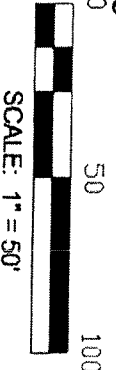


LEGEND

	△ CALCULATED POINT		EASEMENT BOUNDARY
	○ 1/2" IRON ROD FOUND UNLESS NOTED OTHERWISE		EXISTING EASEMENT
	□ CONTROLLING MONUMENT		APPROXIMATE SURVEY LINE
	⊗ POWER POLE		EDGE OF ASPHALT
			OVERHEAD ELECTRIC FENCE LINE

**1.253 ACRE
ELECTRIC EASEMENT**

SITUATED IN THE
J.S. COLLARD SURVEY, ABSTRACT NO. 297
CITY OF DENTON, DENTON COUNTY, TEXAS



teague nall & perkins
1317 Cedar Place Drive, Suite 330
Denton, Texas 76205
940.353.4177 | P: 940.353.8070 | F:
www.teague.com

EXHIBIT "B"

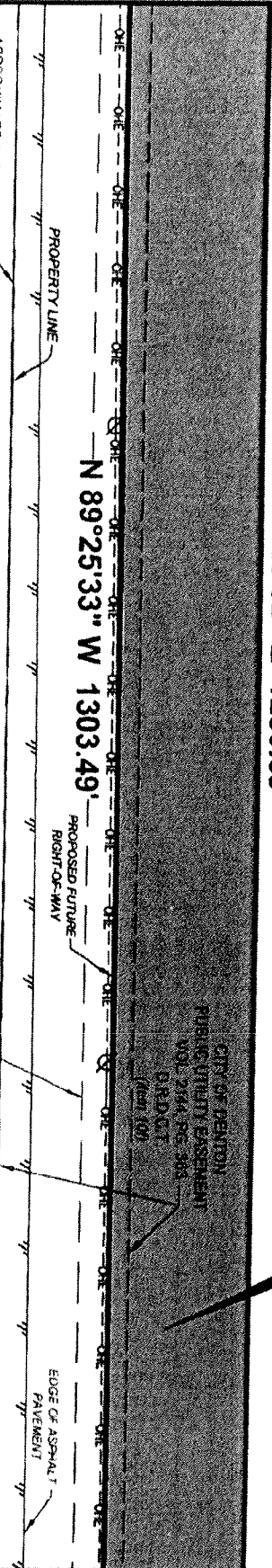
BONNIE BRAE MALONE COUNTY, INC.,
 PENSCO TRUST COMPANY, AND EDWARD F. WOLSKI
 CALLED 14.198 ACRES
 DOC. NO. 2005-50248, DOC. NO. 2016-6300,
 DOC. NO. 2003-064647, AND DOC. NO. 2015-70377
 O.R.D.C.T.

J.S. COLLARD SURVEY
 ABSTRACT NO. 297

S 89°25'32" E 1250.69'

**ELECTRIC
 EASEMENT**
 1.253 ACRES

MATCHLINE ~ SEE SH. 4 OF 4



MATCHLINE ~ SEE SH. 2 OF 4

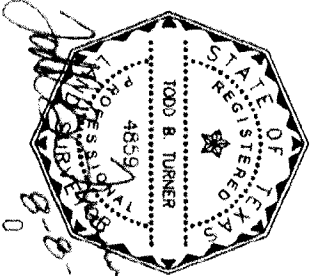
RINEY ROAD
 (VARIABLE WIDTH RIGHT-OF-WAY)

CITY OF DENTON
 PUBLIC UTILITY EASEMENT
 VOL. 1022, PG. 907
 O.R.D.C.T.
 (Item 109)

NOTES

- 1 Bearings of lines shown hereon are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone NAD83/2011) EPOCH 2010 as derived locally from Western Data Systems' Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. The distances shown hereon represent surface values utilizing an Average Correction factor of 1.000147317 to state from grid to surface.
- 2 This exhibit was prepared with the benefit of that certain The Commitment (CF No. 2027-194933-ARU with effective date of June 27, 2016) provided by Riney Title. For easements, signs-of-way and other interests of record that may affect this tract, the Surveyor relied solely on said title Commitment.
- 3 This tract is subject to the following easements: (109) Vol. 2144, Pg. 363, O.R.D.C.T. as shown (109) Vol. 4331, Pg. 2951, R.P.R.D.C.T. as shown (110a) Vol. 4331, Pg. 2950, R.P.R.D.C.T. as shown.
- 4 The easement recorded in Vol. 1022, Pg. 907, O.R.D.C.T. (109) does not lie on this tract, as shown.

LEGEND	
	CALCULATED POINT
	1/2 IRON ROD FOUND UNLESS NOTED OTHERWISE
	CONTROLING MONUMENT
	POWER POLE
	EASEMENT BOUNDARY
	PROPERTY LINE
	EXISTING EASEMENT
	APPROXIMATE SURVEY LINE
	EDGE OF ASPHALT
	OVERHEAD ELECTRIC
	FENCE LINE



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1.253 ACRE

ELECTRIC EASEMENT

SITUATED IN THE
 J.S. COLLARD SURVEY, ABSTRACT NO. 297
 CITY OF DENTON, DENTON COUNTY, TEXAS

EXHIBIT "B"

**J.S. COLLARD SURVEY
ABSTRACT NO. 297**

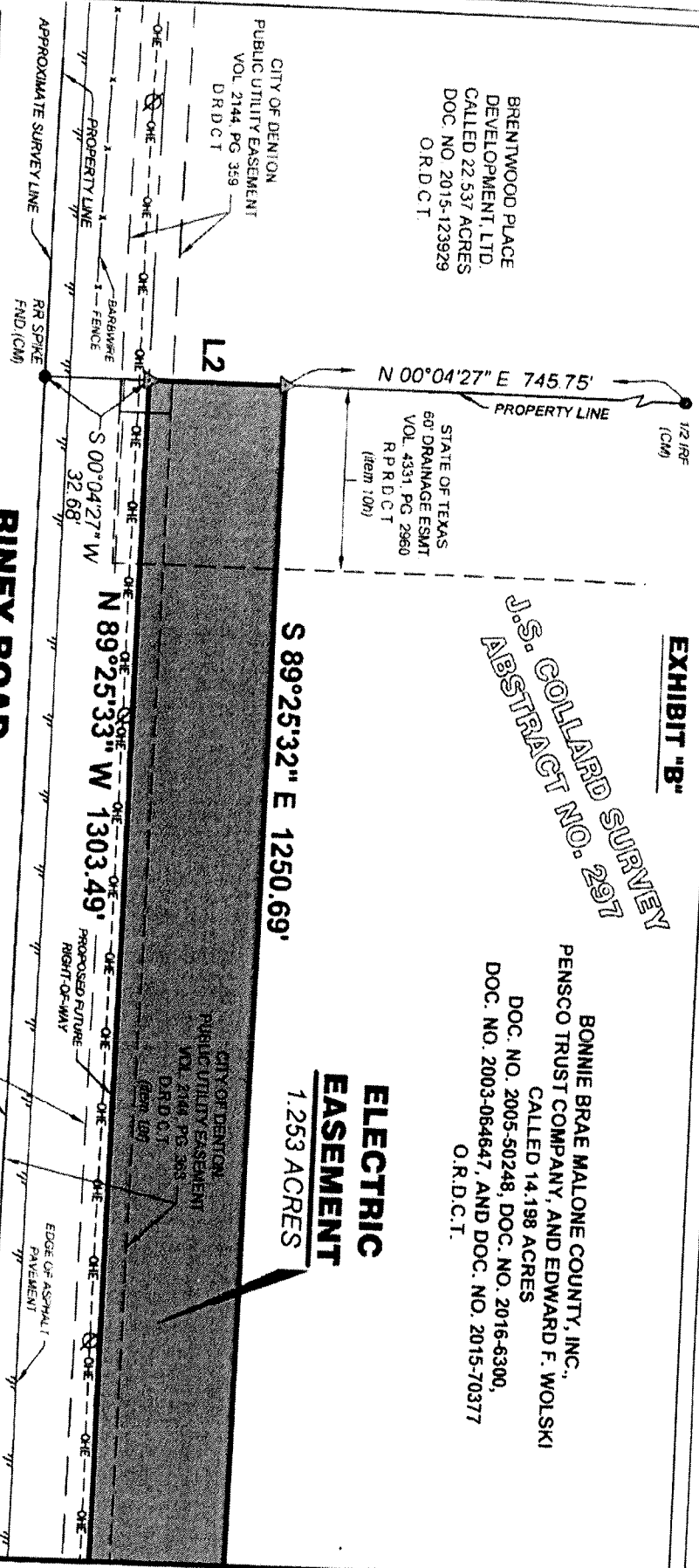
**BONNIE BRAE MALONE COUNTY, INC.,
PENSCO TRUST COMPANY, AND EDWARD F. WOLSKI**
CALLED 14.198 ACRES
DOC. NO. 2005-50248, DOC. NO. 2016-6300,
DOC. NO. 2003-084647, AND DOC. NO. 2015-70377
O.R.D.C.T.

**BRENTWOOD PLACE
DEVELOPMENT, LTD.
CALLED 22.537 ACRES
DOC. NO. 2015-123929
O.R.D.C.T.**

**STATE OF TEXAS
60" DRAINAGE ESMT
VOL. 4331 PG. 2960
R.P.R.D.C.T.
(Item 10b)**

S 89°25'32" E 1250.69'

**ELECTRIC
EASEMENT
1.253 ACRES**



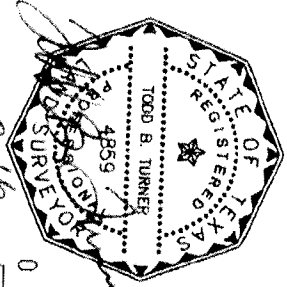
LINE	BEARING	DISTANCE
L2	N 00°04'27" E	42.50'

RINEY ROAD
VARIABLE WIDTH RIGHT-OF-WAY

**CITY OF DENTON
PUBLIC UTILITY EASEMENT
VOL. 1022 PG. 807
D.R.D.C.T.
(Item 10e)**

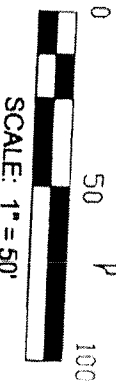
LEGEND

△	CALCULATED POINT	EASEMENT BOUNDARY
○	1/2" IRON ROD - FOUND UNLESS NOTED OTHERWISE	PROPOSED LINE
□	CONTROL POINT MONUMENT	EXISTING EASEMENT
⊗	POWER POLE	APPROXIMATE SURVEY LINE
---		EDGE OF ASPHALT
---		OVERHEAD ELECTRIC
---		FENCE LINE



**T. M. MUSENHAUER SURVEY
ABSTRACT NO. 810**

- Bearings of lines shown hereinafter are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone NAD83(2011) EPOCH 2010) as derived locally from Western Texas Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. The distances shown hereinafter represent surface values utilizing an Average Correction Factor of 1.00047317 to scale from grid to surface.
- This Exhibit was prepared with the benefit of that certain Title Commitment (CF No. 2027-159853) RU with effective date of June 27, 2016, provided by Reunitor LLC. For easements rights-of-way and/or other matters of record that may affect this tract, the Surveyor relied solely on said Title Commitment.
- This tract is subject to the following easements: (10a) Vol. 2144 Pg. 359 D.R.D.C.T. as shown (10g) Vol. 4331 Pg. 2960 R.P.R.D.C.T. as shown; (10h) Vol. 4331 Pg. 2960 R.P.R.D.C.T. as shown.
- The easement recorded in Vol. 1022 Pg. 807 D.R.D.C.T. (10e) does not lie on this tract as shown.



**1.253 ACRE
ELECTRIC EASEMENT**

SITUATED IN THE
**J.S. COLLARD SURVEY, ABSTRACT NO. 297
CITY OF DENTON, DENTON COUNTY, TEXAS**

MATCHLINE 1 SEE SH. 3 OF 4