

ORDINANCE NO. 2016 - _____

AN ORDINANCE GRANTING APPROVAL, IN ACCORDANCE WITH CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE, OF THE NON-PARK USE OF A PART OF NORTH LAKES PARK FOR THE PURPOSE OF INSTALLING AND MAINTAINING A SUBSURFACE DRAINAGE PIPE AND OUTFALL FOR THE NORTH LAKES SHOPPING CENTER DEVELOPMENT PROJECT; PROVIDING FOR A NOTICE BY THE CITY OF DENTON, TEXAS OF NON-PARK USE FOR INSTALLATION AND MAINTENANCE OF A SUBSURFACE DRAINAGE PIPE AND OUTFALL AND RESERVATION OF DRAINAGE EASEMENT IN THE EVENT OF SALE OF PARK; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 26 of the Texas Parks and Wildlife Code provides that public land designated and used as a park may be used for a non-park purpose if the City Council finds after notice and hearing that there is not a feasible and prudent alternative to the use of such land for the proposed project and the proposed project includes all reasonable planning to minimize harm to the park resulting from such use; and

WHEREAS, the City of Denton desires to use approximately 0.046 acre, approximately 225 feet south of Dam 16A, of North Lakes Park ("Park"), generally located at 2001 W. Windsor Drive, for the installation and maintenance of a subsurface drainage pipe and outfall for the North Lakes Shopping Center Development Project ("Project"); and

WHEREAS, there are no feasible and prudent alternatives available for the location and installation and maintenance of a subsurface drainage pipe and outfall for the Project; and

WHEREAS, the City provided notice in the Denton Record-Chronicle on August 19, 2016, August 26, 2016, September 2, 2016, and September 9, 2016 of a Public Hearing to be held on September 20, 2016 in the Council Chambers to consider the alternatives to the non-park use of the Park for the installation and maintenance of a subsurface drainage pipe and outfall; and

WHEREAS, the City Council on September 20, 2016 received testimony at a public hearing on the issues of feasible and prudent alternatives to the non-park use of the Park for the Project and that the Project includes all reasonable planning to minimize harm to the Park resulting from the installation and maintenance of a subsurface drainage pipe and outfall; and

WHEREAS, the City Council finds that the Project does not fall within the purview of Section 253.001 of the Texas Local Government Code; and

WHEREAS, the City Council finds that there are no feasible and prudent alternatives to the non-park use of the Park and that the installation and maintenance of a subsurface drainage pipe and outfall includes all reasonable planning to minimize harm to the Park as a result of the Project; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The installation and maintenance of a subsurface drainage pipe and outfall in North Lakes Park ("Park"), approximately 225 feet south of Dam 16A, generally located at 2001 W. Windsor Drive for the North Lakes Shopping Center Development Project ("Project") shall be constructed and maintained in the 0.046 acre area described and visually depicted in Exhibit "1," which is attached and made a part of this document, and that the surface of the Park after installation of the subsurface drainage pipe and outfall shall be constructed in a manner so that the Park may still be used for, to the extent possible with the presence of the subsurface drainage pipe and outfall, landscape plantings, fencing, signage, park related utilities, temporary facilities, which uses are hereby expressly approved and authorized, as necessary after completion of the Project in the same manner it was used prior to the Project.

SECTION 2. The installation and maintenance of the subsurface drainage pipe and outfall shall be (i) in accordance with applicable City ordinances, rules and regulations, (ii) protect the patrons using the Park from injury and damage both during and after construction of the Project, and (iii) generally protect the health, safety and general welfare of the City.

SECTION 3. During construction of the Project, temporary use of such additional Park property necessary to stage the construction of the improvements may be approved by the Director of Parks and Recreation Department. However, at the completion of the construction activities for the Project such additional Park property shall be restored to the condition to which it existed prior to the beginning of such construction activities.

SECTION 4. The City Manager, or his designee, after approval by the City Attorney, shall execute, and direct to be filed in the Real Property Records of Denton County, Texas, the "NOTICE BY THE CITY OF DENTON, TEXAS OF NON-PARK USE FOR THE INSTALLATION AND MAINTENANCE OF SUBSURFACE DRAINAGE PIPE AND OUTFALL AND RESERVATION OF EASEMENT IN THE EVENT OF SALE OF PARK" which is attached as Exhibit "2" with said Notice including the appropriate ordinance number and exhibits after the passage and approval of this ordinance.

SECTION 5. The rights and benefits set forth in this ordinance may not be assigned without the express written consent of the City.

SECTION 6. The findings contained in the preamble of this ordinance are incorporated into the body of this ordinance.

SECTION 7. This ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this _____ day of September, 2016.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

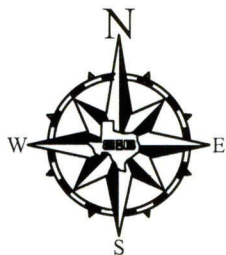
By: _____

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

By:  _____

Exhibit 1

16' WIDE DRAINAGE EASEMENT 2,000 SQUARE FEET OR 0.046 ACRE CITY OF DENTON ROBERT BEAUMONT SURVEY, ABSTRACT NO. 31 DENTON COUNTY, TEXAS

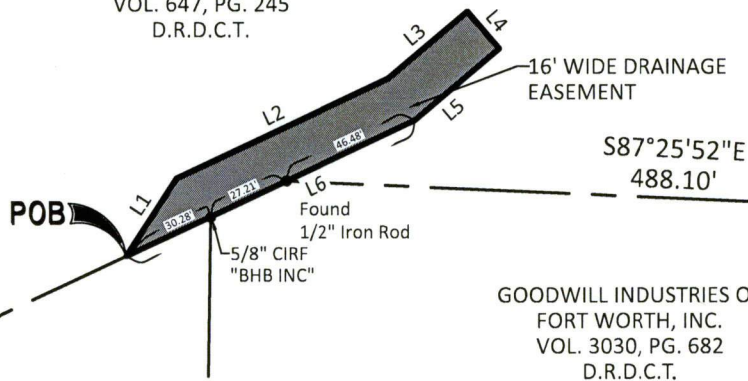


0 60'
SCALE: 1" = 60'

ROBERT BEAUMONT SURVEY
Abstract No. 31

REMAINDER OF
CITY OF DENTON
VOL. 647, PG. 245
D.R.D.C.T.

Line Table		
Line #	Direction	Length
L1	N32°44'45"E	30.21'
L2	N64°43'38"E	76.24'
L3	N49°43'39"E	33.84'
L4	S40°16'28"E	16.00'
L5	S49°43'38"W	35.95'
L6	S64°43'38"W	103.97'



NOTES:

1. Basis of bearing being State Plane Grid - Texas North Central Zone (4202) NAD83 as established using GPS Technology in conjunction with the RTK Cooperative Network. Reference frame is NAD83 Cors96 Epoch 2011.0000.

2. All distances shown are at ground.

LEGEND

DRDCT.....Deed Records Denton County, Texas
CIRF.....Capped Iron Rod Found
IRF.....Iron Rod Found
POB.....Point of Beginning
POC.....Point of Commencing
PRDCT.....Plat Records Denton County, Texas

SURVEYOR'S CERTIFICATION

I, John G. Margotta, a Registered Professional Land Surveyor licensed in the State of Texas, do hereby declare that this survey is true and correct and was prepared from an actual survey made under my supervision on the ground. Further, this survey conforms to the general rules of procedures and practices of the most current Professional Land Surveying Practices Act.



John G. Margotta
Registered Professional Land Surveyor
No. 5956
Date: July 22, 2016

BHB BAIRD, HAMPTON & BROWN, INC.
ENGINEERING & SURVEYING
6300 Ridglea Place, Ste. 700, Ft. Worth, TX 76116
mail@bhinc.com 817-338-1277 www.bhinc.com
BHB Project #2014.187.000 TBPE Firm F-44 TBPLS Firm 10011300

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**NOTICE BY THE CITY OF DENTON, TEXAS OF NON-PARK USE FOR
INSTALLATION AND MAINTENANCE OF SUBSURFACE DRAINAGE
PIPE AND OUTFALL, AND RESERVATION OF EASEMENT
IN EVENT OF SALE OF PARK**

1. Notice of Non-Park Use for Installation and Maintenance of Drainage Pipe and Outfall

On September 20, 2016, the City Council of the City of Denton, Texas, a Texas home rule municipal corporation ("City"), passed Ordinance No. 2016 - _____ (See "Exhibit "A") which allows the City, in accordance with the requirements of Chapter 26 of the Texas Parks and Wildlife Code, the permanent and perpetual use in, along, upon, under, over, and across a 0.046 acre portion of North Lakes Park ("Park") approximately 225 feet south of Dam 16A, located at 2001 W. Windsor Drive, Denton, Denton County, Texas, for the sole purpose of installing, constructing, repairing, maintaining, altering, replacing, relocating, rebuilding, removing, and operating a subsurface drainage pipe and outfall, and all necessary and related facilities and appurtenances. The specific location for the area of the Park used for the subsurface drainage pipe and outfall is more particularly described and visually depicted in Exhibit "B". The Park is more particularly described in Exhibit "C." Exhibits "A," "B," and "C" are attached to this document and made a part of the same.

2. Reservation of Easement in the Event of Sale of Park

In the event the City sells the Park, which is described in Exhibit "C," the City reserves a permanent and perpetual drainage easement for the purpose of installing, constructing, repairing, maintaining, altering, replacing, relocating, rebuilding, removing, and operating a subsurface drainage pipe and outfall, and all necessary and related facilities and appurtenances, in, along, upon, under, over, and across the land described in Exhibit "B" together with the right of ingress and egress as necessary for such purposes. In addition to the reservation of the permanent easement, a 20-foot wide temporary work space easement is reserved adjacent to and outside the perimeter of the permanent easement tract described in Exhibits "B". This easement shall run with the land, is irrevocable, and is for the benefit of the City and the City's successors and assigns.

Executed the _____ day of _____, 2016.

CITY OF DENTON, TEXAS

By: _____
Howard Martin, Interim City Manager

ACKNOWLEDGMENT

STATE OF TEXAS §
DENTON COUNTY §

This document is acknowledged before me, on the _____ day of _____, 2016, by HOWARD MARTIN, Interim City Manager, Denton, a Texas home rule municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said City of Denton, Texas, a municipal corporation, that he was duly authorized to perform the same by the City Council of the City of Denton and that he executed the same as the act of said City for the purposes and consideration therein expressed, and in the capacity therein stated.

Notary Public, State of Texas

Approved as to legal form:
Anita Burgess, City Attorney

By: _____

After recording, return to:

Paul Williamson, Real Estate & Capital Support Manager
City of Denton
901-A Texas St.
Second Floor
Denton, Texas 76209