

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE FEE SIMPLE TITLE TO A 1.656 ACRE TRACT OF LAND SITUATED IN THE ALEXANDER HILL SURVEY, ABSTRACT NO. 623, CITY OF DENTON, DENTON COUNTY, TEXAS (“PROPERTY INTERESTS”), FOR THE EXPANSION, CONSTRUCTION, MAINTENANCE, OPERATION, AND IMPROVEMENT OF ELECTRICAL TRANSMISSION LINES, FACILITIES, AND STRUCTURES, INCLUDING SUBSTATIONS; AUTHORIZING THE CITY TO ACQUIRE THE PROPERTY INTERESTS BY EITHER AGREEMENT OR THROUGH THE USE OF THE POWER OF EMINENT DOMAIN; AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO CONDEMN THE PROPERTY INTERESTS IF AN AGREEMENT CANNOT BE REACHED; AUTHORIZING THE EXPENDITURE OF FUNDS; MAKING FINDINGS; PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.

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 require, the acquisition of the Property Interests together with all necessary appurtenances, additions and improvements on, over, under, and through the Property Interests (“Related Rights”) by the City of Denton, Texas (“City”). The City Council finds that the acquisition of the Property Interests and Related Rights is a valid public use necessary to provide for the expansion, construction, maintenance, operation, and improvement of electric transmission lines, facilities, and structures, including substations, to serve the public and citizens of the City.

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 landowner before beginning the acquisition of the Property Interests by eminent domain; and

WHEREAS, an independent professional appraisal report 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 his designee will establish a certain amount determined to be just compensation for the Property Interests based on the appraisal and fair market value 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 landowner for the purchase of the Property Interests. **NOW, THEREFORE,**

THE COUNCIL OF THE CITY OF DENTON HEREBY 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 and depicted in Exhibit "A", which is attached hereto and incorporated herein, for the reasons and purposes set forth above.

SECTION 3. The City Council authorizes the City Attorney, or his designee, to negotiate for and to acquire the related 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 his 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 his designee, is appointed as negotiator for the acquisition of the needed Property Interests and, as such, the City Manager, or his 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 designee, is specifically authorized to establish and make offer(s) of just compensation for the acquisition of the Property Interests to the landowner(s) of the Property Interests 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 designee, is authorized and directed to file or cause to be filed, against the subject landowner 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 condemnation of all property required for the expansion, construction, maintenance, operation, and improvement of electric transmission lines, facilities, and structures, including substations. This property is generally located at the southeast corner of Eagle Drive and Bernard Street, or 801-811 Eagle Drive and 827 Bernard Street, Denton, Denton County, Texas.

SECTION 6. 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 his 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.

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 the 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 subject property 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 and approval.

PASSED AND APPROVED this the _____ day of _____, 2017

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY:  _____

