

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE FEE SIMPLE TITLE TO A 0.119 ACRE TRACT OF LAND SITUATED IN THE EUGENE PUCHALSKI SURVEY, ABSTRACT NO. 996, CITY OF DENTON, 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, OR HIS DESIGNEE, TO ACQUIRE THE PROPERTY INTERESTS BY AGREEMENT INCLUDING MAKING ALL OFFERS REQUIRED BY LAW; AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO CONDEMN THE PROPERTY INTERESTS IF AN AGREEMENT CANNOT BE REACHED; AND AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE, TO FILE EMINENT DOMAIN PROCEEDINGS IF NECESSARY; AUTHORIZING THE EXPENDITURE OF FUNDING; MAKINGS FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING 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 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 to serve the public and citizens of the City; 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 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 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" attached hereto and incorporated herein, for the reasons and purposes set forth above together with all necessary electric transmission line related appurtenances, additions and improvements on, over, under, and through the Property Interests.

Section 3. The City Council authorizes the City Attorney, or his 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 his designee, is appointed as negotiator for the acquisition of the needed Property Interests and, as such, the City Manager, or 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, and operation of an electric transmission line, ancillary facilities and structures. This property is generally located at the northwest corner of Bonnie Brae Street and Oak 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.

PASSED AND APPROVED this the _____ day of _____, 2017.

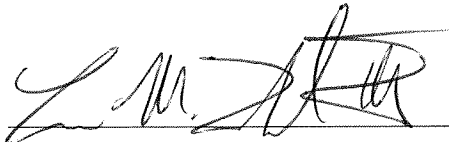
CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

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

BY:

_____

BEING a 0.119 acre tract of land situated in the Eugene Puchalski Survey, Abstract No. 996, in the City of Denton, Denton County, Texas, and being all of a called 0.121 acre tract of land described in a deed to Weston Place, Ltd., as recorded in Document No. 2004-2471 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod with cap stamped "PRISM SURVEYS" found at the northwest corner of said Western Place, I, Ed. Tarrant, common with the northeast corner of a called 0.292 acre tract of land described in the deed to Michael, R. Bless and wife, Bessie Bliss, as recorded in Document No. 2002-1111957 (P.R.D.C.T.), and located in the south line of Lot 1 in Block 1 of Denton Retirement Center Addition, as recorded in Document No. 2002-1111957 (P.R.D.C.T.), D. Page 275 of the Plat Records of Denton County, Texas (P.R.D.C.T.);

THENCE South 88°09'04" East, departing the east line of said 202 acre tract, and along the common north line of said Western Placo, Ltd. tract and the south line of said Lot 1, a distance of 212.81 feet to an "X" found at the southeast corner of said Lot 1, same being the most easterly corner of said Western Placo, Ltd. tract, and located at the intersection of the existing west right of way line of Bonnie Brae Street (variable with R.O.W.) with the existing northerly right of way line of West Oak Street (Variable with R.O.W.), and being the beginning of a non-tangent curve to the left, having a distance of 497.64 feet, a central angle of 25°42'19", and a chord bearing and distance of South 74°29'10" West, 221.39 feet.

THENCE in a southwesterly direction, departing the existing west right of way line of said Bonnie Brae Street, and along the common existing northerly right of way line of said West Oak Street, the southerly line of said Weston Place, Ltd. tract, and said curve to the left, an arc distance of 223.26 feet to a 1/2 inch iron rod found at the southeast corner of said 0.292 acre tract and the southwest corner of said Weston Place, Ltd. tract;

THENCE North 00°32'35" East, departing the existing northerly right of way line of said West Oak Street, and along the common east line of said 0.292 acre tract and the west line of said Weston Place, Ltd. tract, a distance of 66.05 feet to the **POINT OF BEGINNING**, and containing 0.119 acres of land, more or less.

TO: WESTON PLACE, LTD. AND THE CITY OF DENTON, TEXAS:

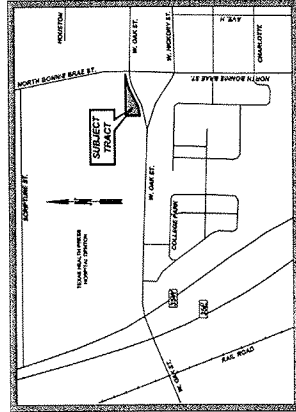
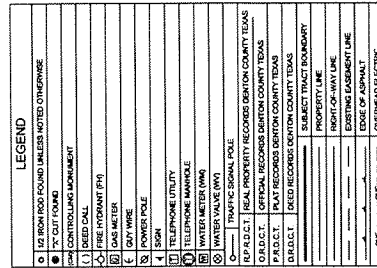
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 3, 4, 8, 13, and 16 of Table A thereof. The field work was completed on March 07, 2017.



Marvin King, R.P.L.S.
Registered Professional Land Surveyor No. 5581

1. Bearings of lines shown hereon are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone; NAD83/CORS2011 Epoch 2010.00) 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 a Combined Scale Factor of 1.000147317 to scale from grid to surface.

- [illegible]



VICINITY MAP
NOT TO SCALE

teague nall & perkins



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