

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE AN EASEMENT COVERING A 0.339 ACRE TRACT OF LAND SITUATED IN THE MARY L. AUSTIN SURVEY, ABSTRACT NO. 4, 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 SUPPORTING A NEW ELECTRIC SUBSTATION; 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 [BRINKER SUBSTATION PROJECT – NUVIEW TRACT].

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 supporting a new electric substation 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 Exhibit "A" and depicted in Exhibit "B", both of which are 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 on the south side of Shady Oaks Drive, east of Woodrow Lane, 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:  _____

EXHIBIT "A"

ELECTRIC EASEMENT

NuView Molecular Pharmaceuticals, Inc.

BEING a 0.339 acre tract of land situated in the Mary L. Austin Survey, Abstract No. 4, City of Denton, Denton County, Texas, and being a part of that tract of land described as Tract I in a Deed to NuView Molecular Pharmaceuticals, Inc., as recorded in Document No. 2011-119321 of the Official Records of Denton County, Texas, and being known as a part of Lot 2, Block 1 per the Final Plat of Research Addition, as recorded in Cabinet O, Page 130 of the Plat Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found for the Southeast corner of the above cited Lot 2 and being in the South line of a called 105.2281 acre tract of land described in a Deed to NW Realty, Inc., as recorded in Document No. 93-065091 of the Real Property Records of Denton County, Texas, said point also being in the North line of a 30' Street Easement, as recorded in Volume 407, Page 472 of the Deed Records of Denton County, Texas;

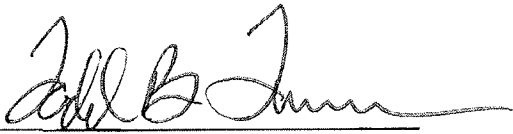
THENCE North 89°28'12" West along the South line of said Lot 2, the South line of said 105.2281 acre tract and the North line of said 30' Street Easement, for a distance of 283.83 feet to a 5/8 inch iron rod with cap stamped "TNP INC ESMT" set for corner, from which the Southwest corner of said Lot 2 bears North 89°28'12" West a distance of 451.88 feet;

THENCE North 52°38'17" East departing the South line of said Lot 2, the South line of said 105.2281 acre tract and the North line of said 30' Street Easement, for a distance of 97.69 feet to a 5/8 inch iron rod with cap stamped "TNP INC ESMT" set for corner at an angle point;

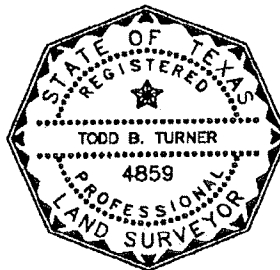
THENCE South 89°28'12" East for a distance of 208.14 feet to a 5/8 inch iron rod with cap stamped "TNP INC ESMT" set for corner in the East line of said Lot 2;

THENCE South 01°52'37" West along the East line of said Lot 2, for a distance of 60.02 feet to the **POINT OF BEGINNING**, and containing 0.339 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 a surface adjustment factor of 1.000147317 to scale from grid to surface.



Todd B. Turner, R.P.L.S. No. 4859
Teague Nall & Perkins
1517 Centre Place Drive, Suite 320
Denton, Texas 76205
940-383-4177
Date: February 7, 2017



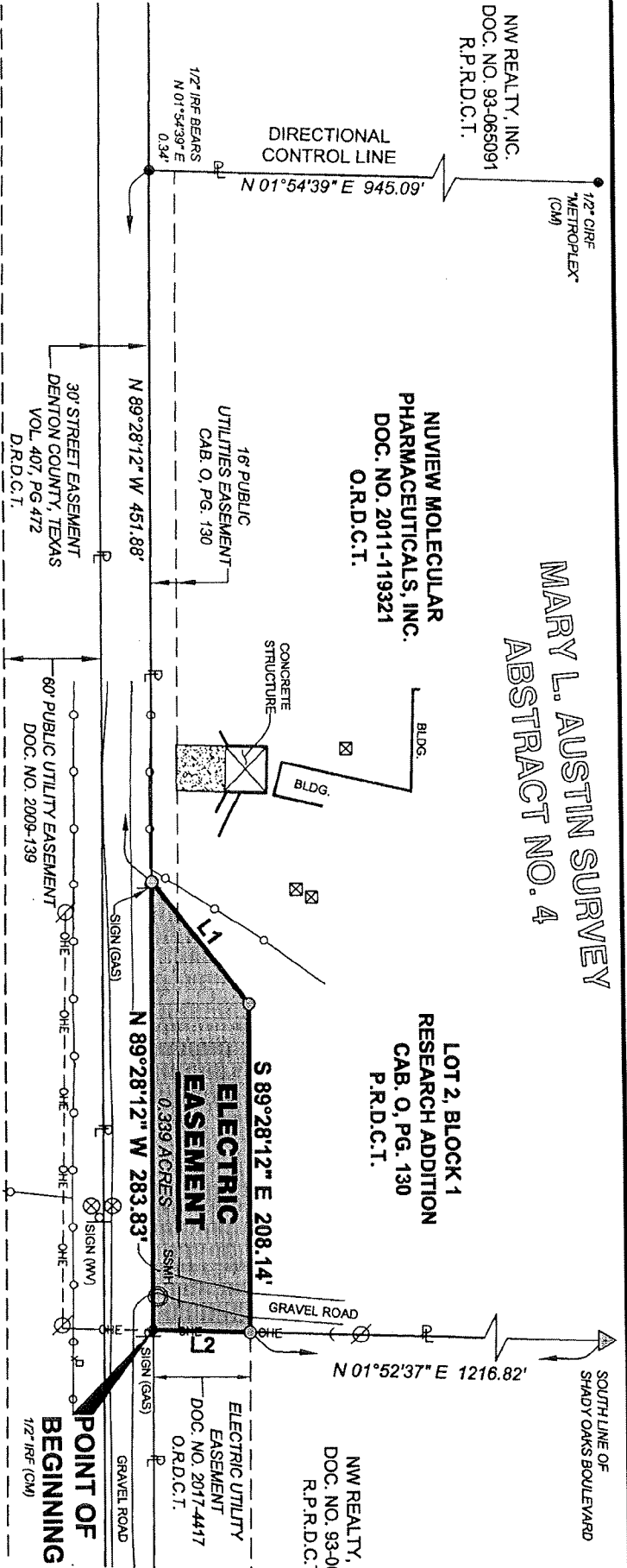
MARY L. AUSTIN SURVEY ABSTRACT NO. 4

NW REALTY, INC.
DOC. NO. 93-065091
R.P.R.D.C.T.

NUVIEW MOLECULAR
PHARMACEUTICALS, INC.
DOC. NO. 2011-119321
O.R.D.C.T.

LOT 2, BLOCK 1
RESEARCH ADDITION
CAB. O, PG. 130
P.R.D.C.T.

NW REALTY, INC.
DOC. NO. 93-065091
R.P.R.D.C.T.



LINE	BEARING	DISTANCE
L1	N 52°38'17" E	97.69'
L2	S 01°52'37" W	60.02'

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 a combined scale factor of 1.000147317 to scale from grid to surface.
2. This Exhibit was prepared without the benefit of a current Title Commitment or Encumbrance Report. Additional easements, rights-of-way and/or other matters of record may affect this tract that are not shown hereon.
3. A Legal Description of even date herewith accompanies this exhibit. See Page 1.
4. Field work was completed on December 19, 2016.

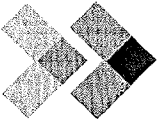
LOT 2, BLOCK 2
MUNICIPAL UTILITY ADDITION
DOC. NO. 2009-139
P.R.D.C.T.

LEGEND	
●	1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
△	CALCULATED POINT
⊙	5/8" IRON ROD SET WITH CAP STAMPED "TNP INC ESM"
(CM)	CONTROLLING MONUMENT
+	IRRIGATION CONTROL VALVE
+	GUY WIRE
⊙	POWER POLE
⊙	SANITARY SEWER MANHOLE (SSMH)
⊙	SIGN
⊙	WATER VALVE (WV)
—	EASEMENT BOUNDARY
—	PROPERTY LINE
—	EXISTING EASEMENT LINE
—	CHAINLINK FENCE

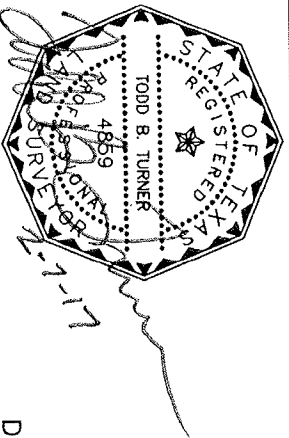


EXHIBIT "B" ELECTRIC EASEMENT

BEING 0.339 ACRES OF LAND
SITUATED IN THE
MARY L. AUSTIN SURVEY
ABSTRACT NO. 4
CITY OF DENTON
DENTON COUNTY, TEXAS



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TNP LLS Firm No. 10011601
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DME13222