

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE EASEMENTS COVERING (I) A 0.057 ACRE TRACT OF LAND AND (II) A 0.141 ACRE TRACT OF LAND, BOTH SITUATED IN THE EUGENE PUCHALSKI SURVEY, ABSTRACT NO. 996, CITY OF DENTON, DENTON COUNTY, TEXAS (COLLECTIVELY THE “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 [HICKORY TO LOCUST TL PROJECT – TRACTS 72 & 73].

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 Exhibits "A-1" and "A-2," and depicted in Exhibits "B-1" and "B-2," 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 at the in the Owsley Park Addition to the City of Denton along Stella Street, 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-1"

ELECTRIC EASEMENT

Car Stand, Ltd. Tract

BEING a 0.057 acre tract of land situated in the Eugene Puchalski Survey, Abstract No. 996, in the City of Denton, Denton County, Texas, being part of Tract One as described in Deed to Car Stand, Ltd., and recorded in Document No. 2008-103685 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being further described as part of Lot 1-A in Block 8 of the Amending Plat of Owsley Park Addition, as recorded in Document No. 2010-20, of the Plat Records of Denton County, Texas (P.R.D.C.T.):

COMMENCING at a 3/4 inch iron rod found at the northeast corner of Lot 3-A in Block 8 of the Amending Plat of Owsley Park Addition as recorded in Cabinet Y, page 468 (P.R.D.C.T.), same being the northeast corner of Tract Two as described in Deeds to Car Stand, Ltd., recorded in Document No. 2008-103685 and Document No. 2008-110095 (O.R.D.C.T.), common with the northwest corner of Lot 8 in Block 8 of Owsley Park Addition, as recorded in Volume 1, Page 6 1/2 (P.R.D.C.T.), and located in the existing south right of way line of Stella Street (called 50.00' R.O.W.);

THENCE South 89°10'51" West, departing the existing west line of said Lot 8, and along the common north line of said Block 8 and the existing south right of way line of said Stella Street, a distance of 272.00 feet to the **POINT OF BEGINNING**, located at the northwest corner of said Lot 3-A and the northeast corner of said Lot 1-A;

THENCE South 00°49'10" East, departing the existing south right of way line of said Stella Street, and along the common east line of said Lot 1-A and the west line of said Lot 3-A, a distance of 22.31 feet to a point for corner;

THENCE South 88°33'47" West, departing the last stated common line, a distance of 108.79 feet to the intersection with the common west line of said Lot 1-A and the existing east right of way line of Avenue F (called 50.00' R.O.W.);

THENCE North 00°21'03" West, along the last stated common line, a distance of 23.49 feet to the northwest corner of said Lot 1-A, same being the northwest corner of said Tract One, and located at the intersection with the existing south right of way line of said Stella Street;

THENCE North 89°10'51" East, departing the existing east right of way line of Avenue F, and along the common north line of said Block 8 and the existing south right of way line of said Stella Street, a distance of 108.59 feet to the **POINT OF BEGINNING**, and containing 0.057 acres of land, more or less.

NOTE: Bearings are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone 4202: 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 Combination Factor of 1.000147317 to scale from grid to surface.

An Easement Exhibit of even date herewith accompanies this Legal Description. See Exhibit "B"

This document is for review purposes only and shall not be recorded for any purpose. Texas Board of Professional Land Surveying rule 633.189 (C).

STELLA STREET (CALLED 50' RIGHT-OF-WAY) POINT OF BEGINNING

15x15 VISIBILITY, PUBLIC UTILITY
AND TRAFFIC CONTROL DEVICES
EASEMENT
DOC. NO. 2010-20
(Item 109)

ASPHALT
PAVING
4' x 4' PUBLIC UTILITY
EASEMENT
DOC. NO. 2010-20
(Item 109)

2' AND 10' SIDEWALK AND
PUBLIC UTILITY EASEMENT
DOC. NO. 2010-20
(Item 109)

10' PUBLIC SIDEWALK EASEMENT
DOC. NO. 2008-121343
O.R.D.C.T.

HANDICAP RAMP
(TYPICAL)

STOP
SIGN

CLEARANCE ZONE FOR EXISTING
OVERHEAD TRANSMISSION LINE
DOC. NO. 2010-20
(Item 109)

CONC. DRIVE

CLEARANCE ZONE FOR
EXISTING OVERHEAD
TRANSMISSION LINE
CAB. Y. PG. 468

CONC.

OWSLEY PARK
ADDITION
VOL. 1, PG. 6 1/2
P.R.D.C.T.

THREE-STORY
BRICK BUILDING
UTILITY AGREEMENT
AND DEDICATION
(UNDEFINED)
VOL. 1259, PG. 231
R.P.R.D.C.T.
(Item 106)

**ELECTRIC
EASEMENT**
0.057 ACRES

CAR STAND LTD.
TRACT TWO
DOC. NO. 2008-103685
DOC. NO. 2008-110095
O.R.D.C.T.

AMENDING PLAT
OWSLEY PARK ADDITION
CAB. Y. PG. 468
P.R.D.C.T.

CAR STAND LTD.
TRACT ONE
DOC. NO. 2008-103685
O.R.D.C.T.

AMENDING PLAT
OWSLEY PARK ADDITION
DOC. NO. 2010-20
P.R.D.C.T.

LOT 1-A
BLOCK 8

S 00°49'10" E - 119.36'

S 00°21'03" E - 215.67'

S 00°23'07" E - 122.44'

POINT OF COMMENCING

3/4" IRF
(CM)

1/2" IR W/ ILLEGIBLE
CAP FND
(CM)

EUGENE PUCHALSKI SURVEY
ABSTRACT NO. 996

SEE SHEET 3 OF 3:
FOR LEGEND & NOTES

LINE	BEARING	DISTANCE
L1	S 00°49'10" E	22.31'
L2	S 88°33'47" W	108.79'
L3	N 00°21'03" W	23.49'
L4	N 89°10'51" E	108.59'

LINE TABLE

THIS DOCUMENT WAS
RELEASED ON FEBRUARY
07, 2017 FOR REVIEW
PURPOSES ONLY, BY
MARVIN KING, RPLS NO.
5581. THIS DOCUMENT
SHALL NOT BE RECORDED
FOR ANY PURPOSE, TEXAS
BOARD OF PROFESSIONAL
LAND SURVEYING RULE
633.189 (C).

EXHIBIT "B-1"

ELECTRIC EASEMENT

BEING 0.057 ACRE ELECTRIC EASEMENT
SITUATED IN THE EUGENE PUCHALSKI SURVEY,
ABSTRACT NO. 996
CITY OF DENTON, DENTON COUNTY, TEXAS

tnp



SCALE: 1" = 30'



teague nall & perkins

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T.B.P.L.S. Firm No. 1001601

DME13222

SHEET 2 OF 3

NOTES:

1. Bearings of lines shown hereon are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone 4202: 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 Combination Factor of 1.000147317 to scale from grid to surface.
2. This exhibit was prepared with benefit of that current Title Commitment, GF No. 146290, with effective date of September 1, 2014, provided by Title Resources Guaranty Company. 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 SCHEDULE B ITEMS:









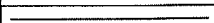
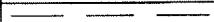
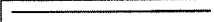



(10e) Terms and conditions contained in Utility Agreement and Dedication between Jimmy Dale Brown, George E. Reaves, and the City of Denton, Texas, recorded in Volume 1259, Page 231, Real Property Records, Denton County, Texas. (undefined, not shown)

(10f) 15' x 15' Visibility Easement, Public Utility Easement and Traffic Control Devices Easement, as shown on plat recorded in Document No. 2010-20, Plat Records, Denton County, Texas. (as shown)

(10g) 2' Sidewalk Easement, 10' Sidewalk Easement, 4' x 4' Public Utility Easement and a Clearance Zone for Existing Overhead Transmission Line Easement, as shown on plat recorded in Document No. 2010-20, Plat Records, Denton County, Texas. (as shown)

THE FOLLOWING SCHEDULE B ITEMS DO NOT AFFECT THIS TRACT:

(10f) 5' x 23' Sidewalk Easement and an 8' x 8' Denton Municipal Electric Easement, as shown on plat recorded in Document No. 2010-20, Plat Records, Denton County, Texas. (not shown)

LEGEND	
	CALCULATED POINT
	1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
	CONTROLLING MONUMENT
	POWER POLE
	SANITARY SEWER CLEANOUT (C/O)
	IRRIGATION CONTROL VALVE
	WATER METER
	VERIZON VAULT
	EASEMENT BOUNDARY
	PROPERTY LINE
	EXISTING EASEMENT
	EXISTING RIGHT-OF-WAY
	EDGE OF ASPHALT
	OVERHEAD ELECTRIC LINE

THIS DOCUMENT WAS
RELEASED ON FEBRUARY
07, 2017 FOR REVIEW
PURPOSES ONLY. BY
MARVIN KING, RPLS NO.
5581. THIS DOCUMENT
SHALL NOT BE RECORDED
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T.B.P.L.S. Firm No. 10011601

EXHIBIT "B"
ELECTRIC EASEMENT

BEING 0.057 ACRE ELECTRIC EASEMENT
SITUATED IN THE MARY L. AUSTIN SURVEY, ABSTRACT NO. 4
CITY OF DENTON, DENTON COUNTY, TEXAS

DME13222

SHEET 3 OF 3

EXHIBIT "A-2"

ELECTRIC EASEMENT

Car Stand, Ltd. Tract Two

BEING a 0.141 acre tract of land situated in the Eugene Puchalski Survey, Abstract No. 996, in the City of Denton, Denton County, Texas, being part of Tract Two as described in Deeds to Car Stand, Ltd., recorded in Document No. 2008-103685 and Document No. 2008-110095 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being further described as part of Lot 3-A in Block 8 of the Amending Plat of Owsley Park Addition as recorded in Cabinet Y, Page 468, of the Plat Records of Denton County, Texas (P.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a 3/4 inch iron rod found at the northeast corner of said Lot 3-A, same being the northeast corner of said Tract Two, common with the northwest corner of Lot 8 in Block 8 of Owsley Park Addition, as recorded in Volume 1, Page 6 1/2 (P.R.D.C.T.), same being the northwest corner of a called 0.341 acre tract of land described in Deed to the State of Texas f/b/o University of North Texas, Denton Texas, as recorded in Document No. 2004-73036 (O.R.D.C.T.), and located in the existing south right of way line of Stella Street (called 50.00' R.O.W.);

THENCE South 00°23'07" East, departing the existing south right of way line of said Stella Street, and along the common east line of said Lot 3-A and the west line of said Lot 8, a distance of 22.86 feet to a point for corner;

THENCE South 89°18'58" West, departing said common line, a distance of 264.24 feet to a point for corner;

THENCE South 88°33'47" West, a distance of 7.59 feet to the intersection of the common west line of said Lot 3-A with the east line of Lot 1-A in Block 8 of the Amending Plat of Owsley Park Addition, as recorded in Document No. 2010-20, (P.R.D.C.T.), same being the east line of Tract One as described in Deed to Car Stand, Ltd., and recorded in Document No. 2008-103685 (O.R.D.C.T.);

THENCE North 00°49'10" West, along the last stated common line, a distance of 22.31 feet to the northwest corner of said Lot 3-A, the northeast corner of said Lot 1-A, and located in the existing south right of way line of said Stella Street;

THENCE North 89°10'51" East, departing the existing east line of said Lot 1-A, and along the common north line of said Lot 3-A, same being the north line of said Tract Two, and the existing south right of way line of said Stella Street, a distance of 272.00 feet to the **POINT OF BEGINNING**, and containing 0.141 acres of land, more or less.

NOTE: Bearings are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone 4202: 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 Combination Factor of 1.000147317 to scale from grid to surface.

An Easement Exhibit of even date herewith accompanies this Legal Description. See Exhibit "B"

Marvin King 4/21/17
Marvin King, R.P.L.S. No. 5581
Teague Nall & Perkins
1517 Centre Place Drive, Suite 320
Denton, Texas 76205
940-383-4177
TBPLS Firm No. 10011601
Date: April 21, 2017



NOTES:

1. Bearings of lines shown hereon are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone 4202: 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 Combination Factor of 1.000147317 to scale from grid to surface.
2. A Legal Description of even date herewith accompanies this Easement Exhibit. See Exhibit "A"
3. This exhibit was prepared with benefit of that current Title Commitment, GF No. 146289, with effective date of September 1, 2014, provided by Title Resources Guaranty Company. 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 SCHEDULE B ITEMS:

(10e) Terms and conditions contained in Utility Agreement and Dedication between Jimmy Dale Brown, George E. Reaves, and the City of Denton, Texas, recorded in Volume 1259, Page 231, Real Property Records, Denton County, Texas. (undefined, not shown)

(10f) Clearance Zone for Existing Overhead Transmission Line Easement, as shown on plat recorded in Cabinet Y, Page 468, Plat Records, Denton County, Texas. (as shown)

(10g) Public Sidewalk Easement executed by Richard Martino Childrens Trust to the City of Denton, Texas, recorded in Document No. 2008-121343, Official Records Denton County, Texas. (as shown)

LEGEND	
	CALCULATED POINT
	1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
	CONTROLLING MONUMENT
	MAILBOX (MB)
	FIRE HYDRANT (FH)
	POWER POLE
	SIGN
	WATER METER
	WATER VALVE
	IRRIGATION CONTROL VALVE
	VERIZON VAULT
	EASEMENT BOUNDARY
	PROPERTY LINE
	EXISTING EASEMENT
	EXISTING RIGHT-OF-WAY
	EDGE OF ASPHALT
	OVERHEAD ELECTRIC LINE



EXHIBIT "B"
ELECTRIC EASEMENT

BEING 0.141 ACRE ELECTRIC EASEMENT
SITUATED IN THE EUGENE PUCHALSKI SURVEY, ABSTRACT NO. 996
CITY OF DENTON, DENTON COUNTY, TEXAS

DME13222

SHEET 3 OF 3



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