

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE FEE SIMPLE TITLE TO (I) A 0.697 ACRE TRACT OF LAND AND (II) A 0.018 ACRE TRACT OF LAND, BOTH SITUATED IN THE ALEXANDER HILL SURVEY, ABSTRACT NO. 623, 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 [TRACTS 34 & 37].

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 Exhibits "A," "A-1," and "B-1" 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 along Johnson Street across from the intersection with Smith 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: _____



LEGAL DESCRIPTION

BEING a 0.697 acre tract of land situated in the Alexander Hill Survey, Abstract No. 623, in the City of Denton, Denton County, Texas, being all of Tract V, a called 0.626 acre tract of land and all of Tract VII, called 0.07 acre tract of land, as described in a Deed to Veldin, LLC, and recorded in Document No. 2016-104553 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a metal corner post found at the southwest corner of said Tract V, common with the northeast corner of said Tract VII, as described in a Deed to Miguel Angel Ruiz Garcia, as recorded in Volume 4152, Page 2258 of the Real Property Records of Denton County, Texas (R.P.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a metal corner post found at the southwest corner of said Tract V, common with the northeast corner of said Tract VII, as described in a Deed to Miguel Angel Ruiz Garcia, as recorded in Volume 4152, Page 2258 of the Real Property Records of Denton County, Texas (R.P.R.D.C.T.), and being more particularly described as follows:

THENCE North 00°08'42" West, departing the north line of said 0.291 acre tract, and along the common east line of said 3.13 acre Tract Three and the west line of said Tract V, a distance of 141.37 feet to a 3/8 inch iron rod found at the northeast corner of said Tract V, the northeast corner of said 3.13 acre Tract Three, and located in the south line of said Tract VII;

THENCE South 89°58'42" West, departing the west line of said Tract V, and along the north line of said 3.13 acre Tract Three, a distance of 122.21 feet to a 1/2 inch iron rod found at the southwest corner of said Tract VII and the southeast corner of Tract Six, a called 2.931 acre tract of land described in a Deed to Pecan Grove Office Park, LLC, as recorded in Document No. 2013-85183 (O.R.D.C.T.);

THENCE North 12°54'18" East, departing the north line of said 3.13 acre Tract Three, and along the east line of said 2.931 acre Tract Six, a distance of 15.27 feet to a 5/8 inch iron rod with cap stamped "TNP" set at the northwest corner of said Tract VII and the southwest corner of a called 0.08 acre tract of land conveyed to Massoud Elbrahimi and Behrooz Anvari by Deed recorded in Volume 4698, Page 377 of the Real Property Records of Denton County, Texas (R.P.R.D.C.T.), and being more fully described in Vol. 362, Page 514 of the Deed Records of Denton County, Texas (D.R.D.C.T.);

THENCE South 88°09'03" East, departing the east line of said 2.931 acre Tract Six, and along the common south line of said 0.08 acre tract and the north line of said Tract VII, a distance of 173.36 feet to an "X" cut set at the northwest corner of a 70 foot by 11 foot tract of land described in a deed to M.M. McCreless and wife, Bessie McCreless by Deed recorded in Volume 362, Page 515 (D.R.D.C.T.);

THENCE South 01°50'57" West, departing the south line of said 0.08 acre tract and along an east line of said Tract VII, a distance of 11.00 feet to a 5/8 inch iron rod with cap stamped "TNP" set at the southwest corner of said McCreless tract, and located in the north line of said Tract V;

THENCE South 88°09'03" East, along the north line of said Tract V, a distance of 70.00 feet to a 5/8 inch iron rod with cap stamped "TNP" set at the southeast corner of said McCreless tract;

THENCE North 01°50'57" East, departing the north line of said Tract V, and along a west line of said Tract VII a distance of 11.00 feet to a 5/8 inch iron rod with cap stamped "TNP" set at the northeast corner of said McCreless tract, and located in the south line of said 0.08 acre tract;

THENCE South 88°09'03" East, departing the east line of said McCreless tract, and along the common north line of said 0.08 acre tract and the north line of said Tract VII, a distance of 74.65 feet to a 3/8 inch iron rod with cap stamped "TNP" set at the northeast corner of said Tract VII and located in the easting west right of way line of Johnson Street (variable width R.O.W.);

THENCE South 00°02'43" West, departing the south line of said 0.08 acre tract, and along the existing west right of way line of said Johnson Street, passing a 3/8 inch iron rod found at the southeast corner of said Tract VII, and continuing for a total distance of 145.04 feet to a 5/8 inch iron rod found at the southeast corner of said Tract V and the northeast corner of said 0.291 acre tract;

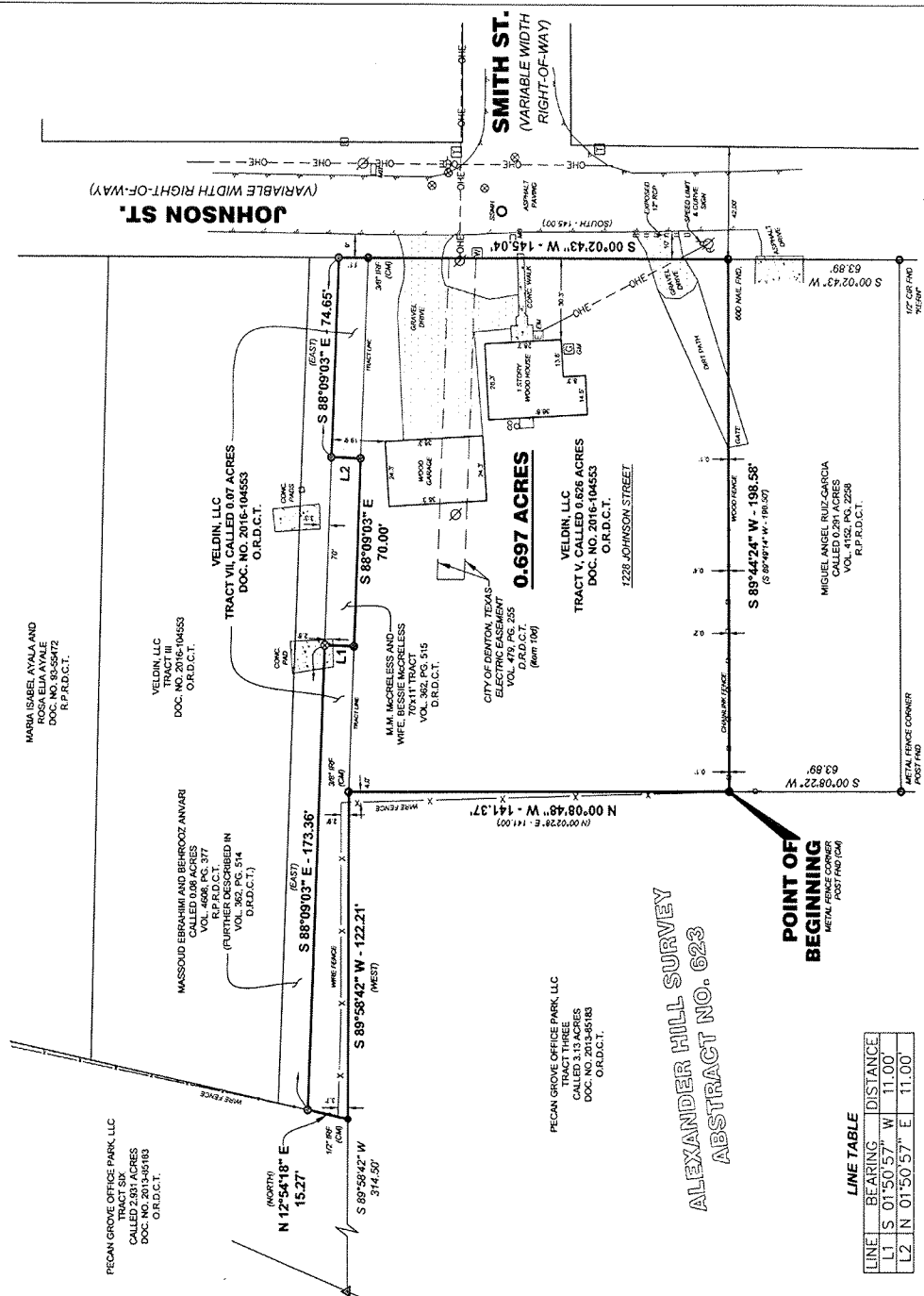
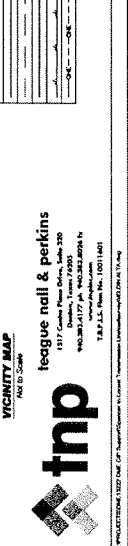
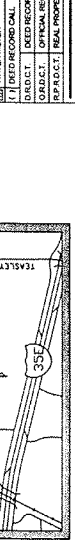
THENCE South 88°44'24" West, departing the existing west right of way line of said Johnson Street, and along the common south line of said Tract V and the north line of said 0.291 acre tract, a distance of 198.58 feet to the POINT OF BEGINNING, and containing 0.697 acres of land, more or less.

SURVEYOR'S CERTIFICATION

TO: THE CITY OF DENTON, TEXAS, VELDIN, LLC AND REUNION TITLE.

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, 2, 3, 4, 7(a), 8, and 13 of Table A thereof. The field work was completed on July 25, 2017.

Marvin King, R.P.L.S.
Treasurer Registration No. 5581
Date of Plat or Map: July 27, 2017



SURVEY NOTES:

- All property corners are marked with a 5/8 inch iron rod with cap stamped "TNP" set, unless otherwise noted.
- 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.
- The property shown hereon lies within Zone "X" (unshaded), as depicted by scaled map plotting on the FEMA Flood Insurance Rate Map, Community Panel No. 48121C0360G Map Revision Date April 18, 2011, Zone "X" - Other Areas (unshaded) is defined as "Areas determined to be outside the 0.2% annual chance floodplain".
- Utility information shown hereon is based on above ground visible evidence only. Underground utilities have not been located and/or identified. Additional utilities may affect this property that are not shown hereon.
- There was no visible evidence of current earth moving work, building construction or building additions at time of survey.
- This Survey was prepared with benefit of that certain Title Commitment, OF No. 2027-160161-RU with effective date of August 19, 2015, provided by Reunion Title. For easements, rights-of-way and/or other matters of record that may affect this tract, the Surveyor relied solely on said Title Commitment.

TITLE COMMITMENT NOTES:

THIS TRACT IS SUBJECT TO THE FOLLOWING SCHEDULE B ITEMS.
(100) Electric Easement to the City of Denton, Texas as recorded in Vol. 479, Pg. 255, D.R.D.C.T. (as shown)

LINE	BEARING	DISTANCE
L1	S 01°50'57" W	11.00'
L2	N 01°50'57" E	11.00'

LEGEND
1. CALCULATED POINT
2. 1/2" BORN ROD FOUND (UNLESS NOTED OTHERWISE)
3. 5/8" CAP STAMPED BORN ROD STAMPED "TNP" SET
4. 3/8" SET IN CONCRETE
5. 1/2" SET IN CONCRETE
6. CONTROLLING MONUMENT
7. CEMENT SET (C)
8. 5/8" METAL (M)
9. 3/8" METAL (M)
10. 1/2" METAL (M)
11. 1/4" METAL (M)
12. 1/8" METAL (M)
13. 1/16" METAL (M)
14. 1/32" METAL (M)
15. 1/64" METAL (M)
16. 1/128" METAL (M)
17. 1/256" METAL (M)
18. 1/512" METAL (M)
19. 1/1024" METAL (M)
20. 1/2048" METAL (M)
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195. 1/980797146154169003392815098857338380845056" METAL (M)
196. 1/196159429228833800678563019771467676170112" METAL (M)
197. 1/392318858457667601357126039542935342340224" METAL (M)
198. 1/784637716915335202714252079085870684680448" METAL (M)
199. 1/1569275433830670405428450458171741369280896" METAL (M)
200. 1/3138550867661340810856900916343482738561792" METAL (M)
201. 1/6277101735322681621713801832686965477123584" METAL (M)
202. 1/12554203470645363243427603665373930954247168" METAL (M)
203. 1/2510840694129072648685520733074786190849336" METAL

EXHIBIT "A-1"

LEGAL DESCRIPTION

BEING a 0.018 acre tract of land situated in the Alexander Hill Survey, Abstract No. 623, in the City of Denton, Denton County, Texas, being all of a 70 foot by 11 foot tract of land described in Deed to M.M. McCreless and wife, Bessie McCreless by Quit Claim Deed recorded in Volume 362, Page 515 of the Deed Records of Denton County, Texas (D.R.D.C.T.), and being more particularly described as follows:

COMMENCING at a 3/8 inch iron rod found at the northeast corner of Tract V, a called 0.626 acre tract of land and the southeast corner of Tract VII, a called 0.07 acre tract of land, as described in a Deed to Veldin, LLC, recorded in Document No. 2016-104553 of the Official Records of Denton County, Texas (O.R.D.C.T.), and located in the existing west right of way line of Johnson Street (variable width R.O.W.);

THENCE North 88°09'03" West, departing the existing west right of way line of said Johnson Street, and along the common north line of said Tract V and the south line of said Tract VII, a distance of 75.00 feet to a 5/8 inch iron rod with cap stamped "TNP" set for the **POINT OF BEGINNING** at the southeast corner of said 70 foot by 11 foot tract, and located at an interior ell corner of said Tract VII;

THENCE North 88°09'03" West, departing a west line of said Tract VII, and continuing along the north line of said Tract V, a distance of 70.00 feet to a 5/8 inch iron rod with cap stamped "TNP" set at the southwest corner of said 70 foot by 11 foot tract and located at an interior ell corner of said Tract VII;

THENCE North 01°50'57" East, departing the north line of said Tract V, and along the common west line of said McCreless tract and an east line of said Tract VII, a distance of 11.00 feet to an "X" Cut set at the northwest corner of said 70 foot by 11 foot tract, and located in the south line of a called 0.08 acre tract of land conveyed to Massoud Ebrahimi and Behrooz Anvari by Deed recorded in Volume 4608, Page 377 of the Real Property Records of Denton County, Texas (R.P.R.D.C.T.), and being more fully described in Vol. 362, Pg. 514 (D.R.D.C.T.);

THENCE South 88°09'03" East, departing an east line of said Tract VII, and along the common north line of said McCreless tract and the south line of said 0.08 acre tract, a distance of 70.00 feet to a 5/8 inch iron rod with cap stamped "TNP" set at the northeast corner of said 70 foot by 11 foot tract, and located in a west line of said Tract VII;

THENCE South 01°50'57" West, departing the south line of said 0.08 acre tract, and along the common east line of said 70 foot by 11 foot tract and a west line of said Tract VII, a distance of 11.00 feet to the **POINT OF BEGINNING**, and containing 0.018 acres of land, more or less.

NOTE: Bearings 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.

A Survey Exhibit of even date herewith accompanies this Legal Description. See Exhibit "B"

Marvin King 7/25/17
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: July 25, 2017



ALEXANDER HILL SURVEY ABSTRACT NO. 623

VELDIN, LLC
TRACT III
DOC. NO. 2016-104553
O.R.D.C.T.

TRACT VII, CALLED 0.07 ACRES
DOC. NO. 2016-104553
O.R.D.C.T.

MASSOUD EBRAHIMI AND BEHROOZ ANVARI
CALLED 0.08 ACRES
VOL. 4608, PG. 377
R.P.R.D.C.T.
(DESCRIBED IN VOL. 362, PG. 514)
D.R.D.C.T.

VELDIN, LLC
TRACT VII, CALLED 0.07 ACRES
DOC. NO. 2016-104553
O.R.D.C.T.

M.M. MCCRELESS AND WIFE,
BESSIE MCCRELESS
70'x11' TRACT
VOL. 362, PG. 515
D.R.D.C.T.

PECAN GROVE OFFICE PARK, LLC
TRACT THREE
CALLED 3.13 ACRES
DOC. NO. 2013-85183
O.R.D.C.T.

VELDIN, LLC
TRACT V, CALLED 0.626 ACRES
DOC. NO. 2016-104553
O.R.D.C.T.

TRACT V, CALLED 0.626 ACRES
DOC. NO. 2016-104553
O.R.D.C.T.

POINT OF BEGINNING

POINT OF COMMENCING

JOHNSON ST.
(VARIABLE WIDTH R.O.W.)

SMITH ST.
(VARIABLE WIDTH R.O.W.)

ASPHALT PAVING

WOOD GARAGE

1 STORY WOOD HOUSE

WOOD GARAGE

WOOD GARAGE

WOOD GARAGE

WOOD GARAGE

WOOD GARAGE

WOOD GARAGE

WOOD GARAGE

WOOD GARAGE

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 01°50'57" E	11.00'
L2	S 01°50'57" W	11.00'

NOTES:

- Bearings 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.
- A legal description of even date herewith accompanies this Survey Exhibit. See Exhibit "A".
- This Survey was prepared with benefit of that certain Title Commitment, GF No. 2027-160161-RU with effective date of August 19, 2015, provided by Reunion Title. For easements, rights-of-way and/or other matters of record that may affect this tract, the Surveyor relied solely on said Title Commitment.

THE FOLLOWING EASEMENT DOES NOT AFFECT THIS TRACT:
(10d) Electric Easement to the City of Denton, Texas as recorded in Vol. 479, Pg. 255, D.R.D.C.T. (as shown)

teague nall & perkins

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940.383.4177 ph 940.383.8026 fx
www.tnplc.com
T.B.P.L.S. Firm No. 18011601

7/25/17

EXHIBIT "B-1"

BEING A 0.018 ACRE TRACT OF LAND SITUATED IN
THE ALEXANDER HILL SURVEY, ABSTRACT NO. 623
CITY OF DENTON, DENTON COUNTY, TEXAS

PAGE 2 OF 2

DEM13222

SCALE: 1" = 30'

0 15 30 60

tnp

LEGEND

1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
5/8" CAPPED IRON ROD STAMPED "TNP SET"
"X" SET ON CONCRETE
CONTROLLING MONUMENT
CLEANOUT (CO)
ELECTRIC METER
POWER POLE
DEED RECORDS, DENTON COUNTY, TEXAS
OFFICIAL RECORDS, DENTON COUNTY, TEXAS
REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS
SUBJECT TRACT BOUNDARY
PROPERTY LINE
EXISTING EASEMENT
EXISTING RIGHT-OF-WAY
EDGE OF ASPHALT
OVERHEAD ELECTRIC LINE