

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE A PERMANENT EASEMENT COVERING A 0.901 ACRE TRACT OF LAND 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 – TRACT 90].

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 Exhibit "A" and depicted in Exhibit "B" 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 along the west side of Bonnie Brae Street, approximately one hundred seventy feet south of Oak Street, City of 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

HRA University Courtyard, LLC Tract

BEING a 0.901 acre tract of land situated in the Eugene Puchalski Survey, Abstract No. 996, in the City of Denton, Denton County, Texas, being part of a tract of land as described in Deed to HRA University Courtyard, LLC, and recorded in Document No. 2011-79317 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being further described as part of Lot 1 in Block A of University Courtyard Addition, as recorded in Cabinet S, Page 275 of the Plat Records of Denton County, Texas (P.R.D.C.T.), and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod with cap stamped "JBI" found at the most northerly northeast corner of said Lot 1, same being the most northerly northeast corner of said HRA University Courtyard, LLC tract, common with the most easterly corner of Lot 8-A in Block A of the Amending Plat of West Oak Street Offices Addition, as recorded in Cabinet X, Page 805 (P.R.D.C.T.), and located in the existing southwesterly right of way line of West Hickory Street (variable width R.O.W.);

THENCE North 88°46'58" West, departing the existing southwesterly right of way line of said West Hickory Street, and along the common north line of said Lot 1 and the south line of said Lot 8-A, a distance of 64.16 feet to a 5/8 inch iron rod with cap stamped "TNP INC ESMT" set for the **POINT OF BEGINNING**;

THENCE South 00°23'49" West, departing said common line, a distance of 129.86 feet to an "X" Cut set for corner;

THENCE South 00°02'34" West, a distance of 175.14 feet to an "X" Cut set for corner;

THENCE South 77°59'18" East, a distance of 148.71 feet to an "X" Cut set at the intersection with the common east line of said Lot 1 and the existing west right of way line of Bonnie Brae Street (variable width R.O.W.);

THENCE South 00°04'47" West, along the last stated common line, a distance of 76.70 feet to an "X" Cut set for corner;

THENCE North 77°59'18" West, departing the existing west right of way line of said Bonnie Brae Street, a distance of 225.54 feet to an "X" Cut set for corner;

THENCE North 00°02'34" East, a distance of 236.14 feet to an "X" Cut set for corner;

THENCE North 00°23'49" East, a distance of 131.17 feet to a 5/8 inch iron rod with cap stamped "TNP INC ESMT" set at the intersection with the north line of said Lot 1 and the south line of said Lot 8-A;

THENCE South 88°46'58" East, along the common north line of said Lot 1 and the south line of said Lot 8-A, a distance of 75.01 feet to the **POINT OF BEGINNING**, and containing 0.901 acres of land, more or less.

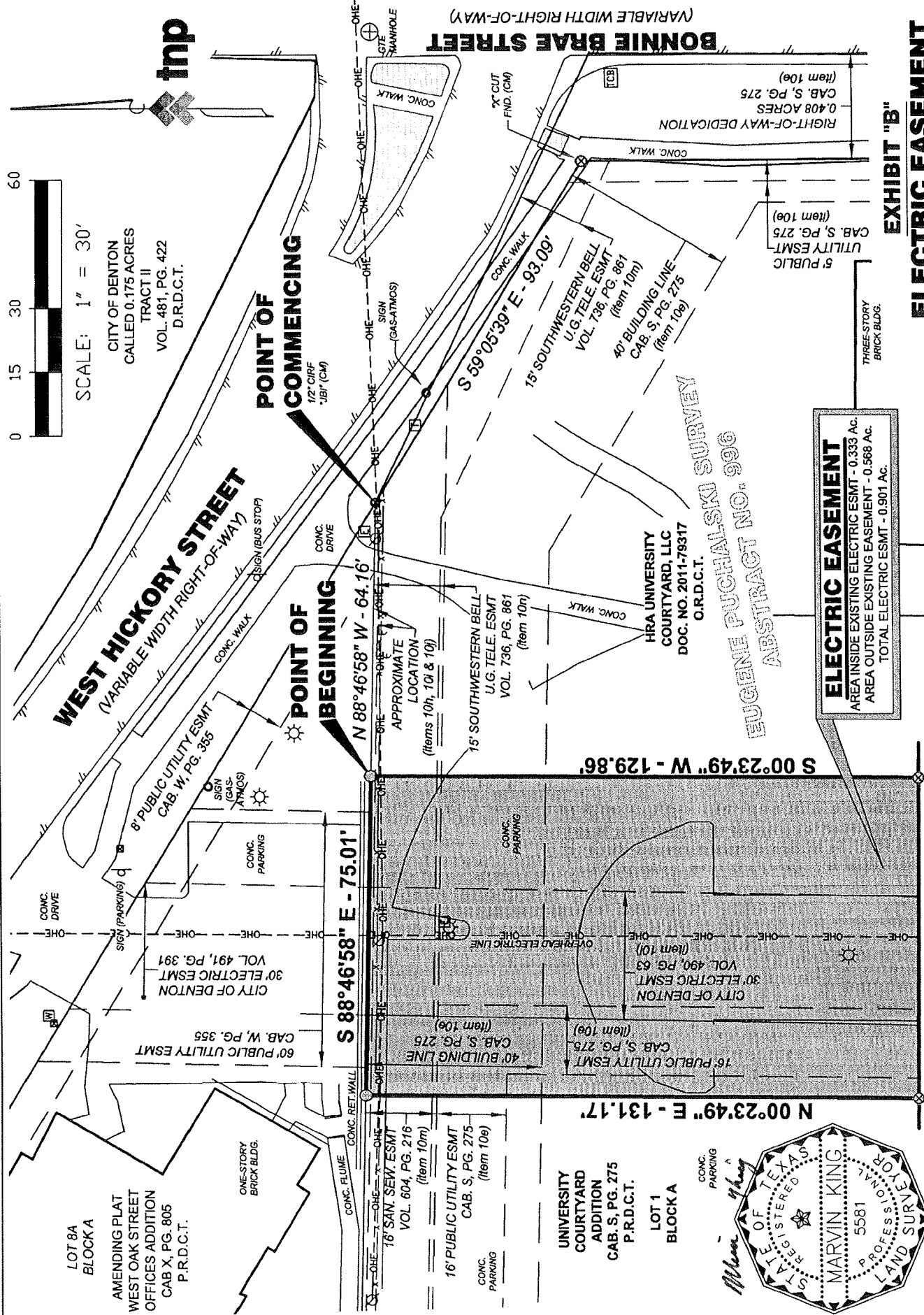
NOTE: Bearings are referenced to Grid North of the Texas Coordinate System of 1983 (North Central Zone 4202: NAD83 (2011) EPOCH 2010) as derived locally from Western Data Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. The distances shown hereon represent 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 4/28/17

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 28, 2017



SCALE: 1" = 30'

CITY OF DENTON
CALLED 0.175 ACRES
TRACT II
VOL. 481, PG. 422
D.R.D.C.T.

EXHIBIT "B"

ELECTRIC EASEMENT

BEING 0.901 ACRE ELECTRIC EASEMENT
SITUATED IN THE EUGENE PUCHALSKI
SURVEY, ABSTRACT NO. 996
CITY OF DENTON, DENTON COUNTY, TEXAS
DME13222

ELECTRIC EASEMENT

AREA INSIDE EXISTING ELECTRIC ESMT - 0.333 AC.
AREA OUTSIDE EXISTING EASEMENT - 0.568 AC.
TOTAL ELECTRIC ESMT - 0.901 AC.

MATCH LINE - SEE SHEET 4 OF 6

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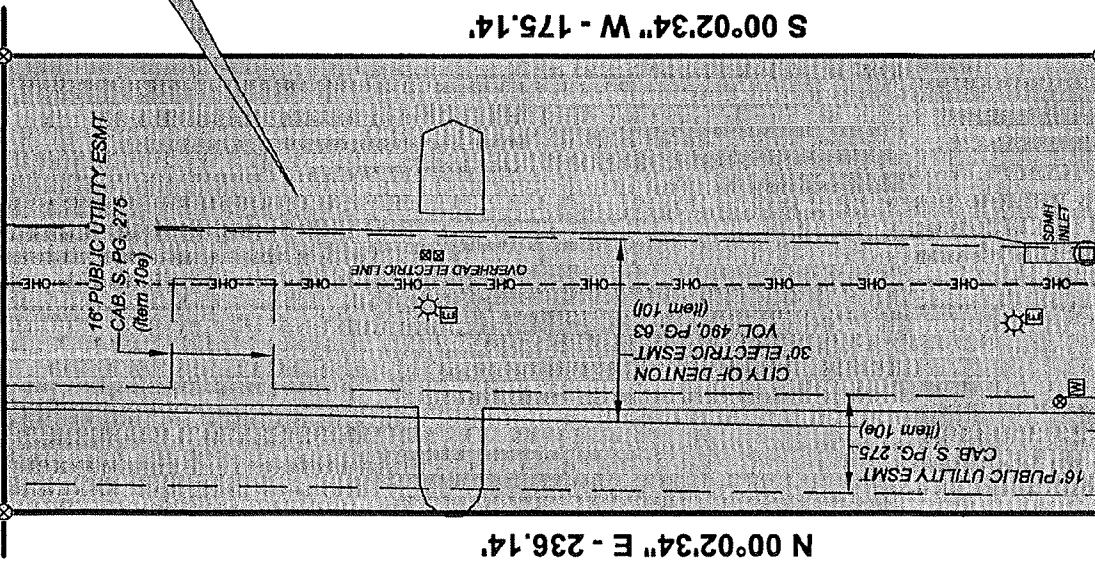


UNIVERSITY
COURTYARD
ADDITION
CAB. S. PG. 275
P.R.D.C.T.

LOT 1
BLOCK A

SEE SHEET 6 OF 6:
FOR LEGEND & NOTES

MATCH LINE - SEE SHEET 3 OF 6



ELECTRIC EASEMENT

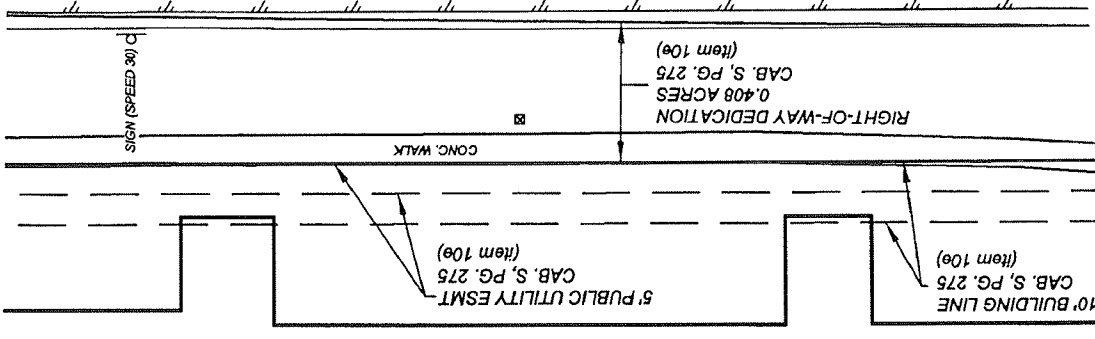
AREA INSIDE EXISTING ELECTRIC ESMT - 0.333 Ac.
 AREA OUTSIDE EXISTING EASEMENT - 0.568 Ac.
 TOTAL ELECTRIC ESMT - 0.901 Ac.

HRA UNIVERSITY
 COURTYARD, LLC
 DOC. NO. 2011-79317
 O.R.D.C.T.

EUGENE PUCHALSKI SURVEY
 ABSTRACT NO. 996

BONNIE BRAE STREET

(VARIABLE WIDTH RIGHT-OF-WAY)

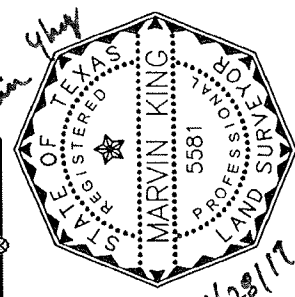
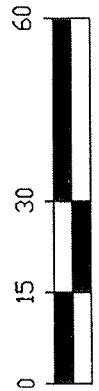


MATCH LINE
 SEE SHEET 5 OF 6

SEE SHEET 6 OF 6:
 FOR LEGEND & NOTES

EXHIBIT "B"
ELECTRIC EASEMENT

BEING 0.901 ACRE ELECTRIC EASEMENT
 SITUATED IN THE EUGENE PUCHALSKI
 SURVEY, ABSTRACT NO. 996
 CITY OF DENTON, DENTON COUNTY, TEXAS

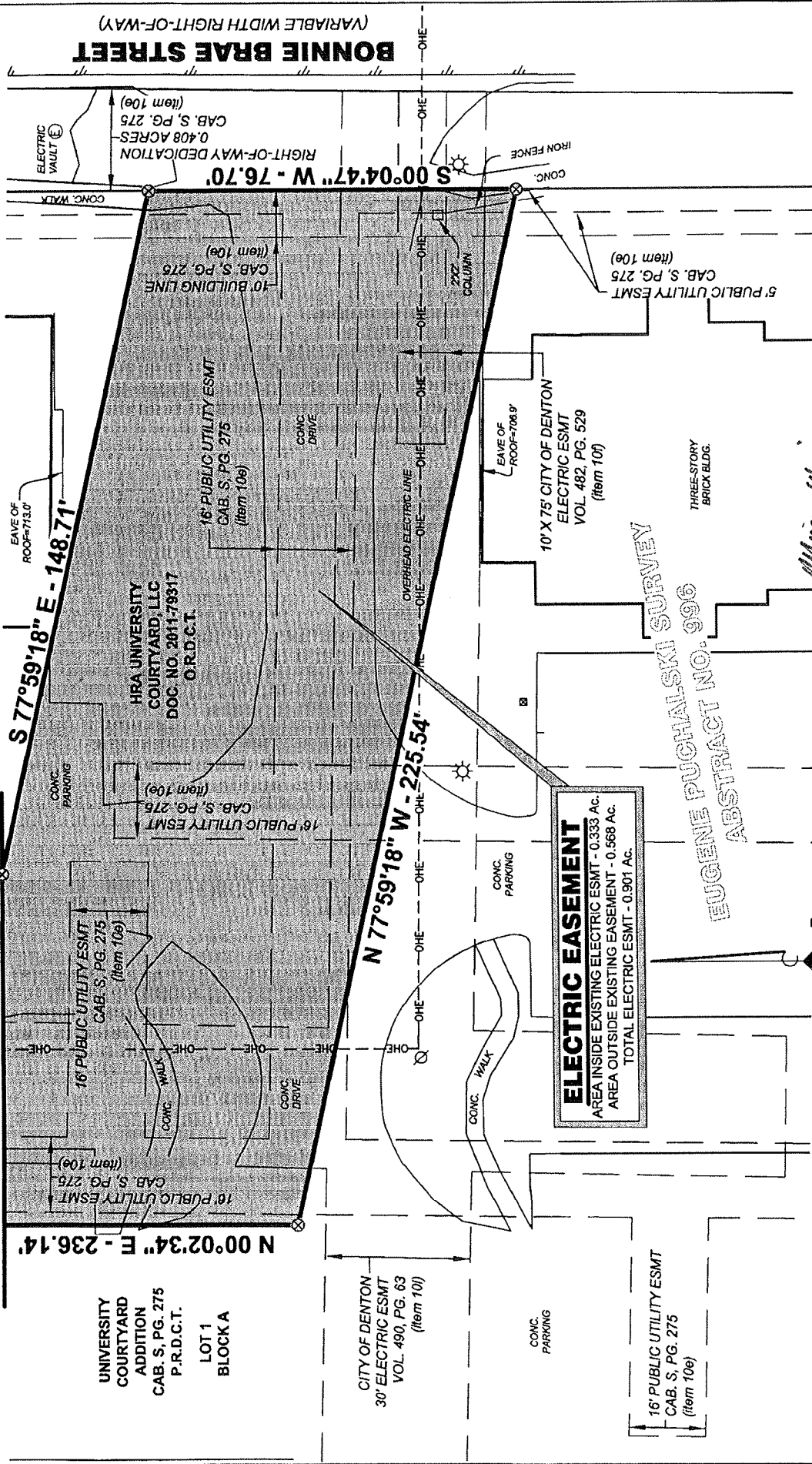


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MATCH LINE - SEE SHEET 4 OF 6



SEE SHEET 6 OF 6:
FOR LEGEND & NOTES

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SCALE: 1" = 30'

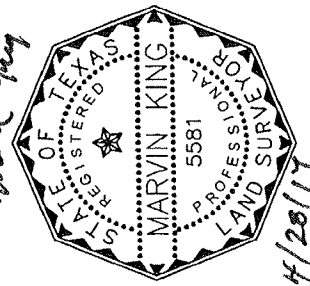


EXHIBIT "B"
ELECTRIC EASEMENT
 BEING 0.901 ACRE ELECTRIC EASEMENT
 SITUATED IN THE EUGENE PUCHALSKI
 SURVEY, ABSTRACT NO. 996
 CITY OF DENTON, DENTON COUNTY, TEXAS

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. 146423, with effective date of February 1, 2017, 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.

THE FOLLOWING SCHEDULE B ITEMS AFFECT THIS TRACT:

(10e) Easements and building lines as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (as shown)

(10f) Easement executed by J. NEWTON RAYZOR to the CITY OF DENTON, TX, recorded in Volume 482, Page 529, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (as shown)

(10g) Easement executed by HRA UNIVERSITY COURTYARD LLC to MARCUS CABLE ASSOCIATES, LLC, recorded under CC# 2012-95451, Real Property Records, Denton County, Texas. *(In regard only to this exception, Item No. 4(a)(i) and 4(c) of the T-19 or T-19.1 endorsement is hereby deleted pursuant to Procedural Rule 50.b) (Blanket Easement, not shown)*

(10h) Easement executed by J. ALFRED A. GRANT etal to SOUTHWESTERN BELL TELEPHONE COMPANY, recorded in Volume 384, Page 203, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (as shown)

(10I) Easement executed by CLIFF MAGERS, JR. etal to SOUTHWESTERN BELL TELEPHONE COMPANY, recorded in Volume 384, Page 206, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (as shown)

(10j) Easement executed by SILAS SMITH GRANT to SOUTHWESTERN BELL TELEPHONE COMPANY, recorded in Volume 384, Page 207, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (as shown)
















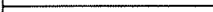




(10I) Easement executed by J. NEWTON RAYZOR to the CITY OF DENTON, TX, recorded in Volume 490, Page 63, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (as shown)

(10m) Easement executed by EUGENIA PORTER RAYZOR, INDIVIDUALLY AND AS EXECUTRIX OF THE ESTATE OF J. NEWTON RAYZOR to the CITY OF DENTON, TX, recorded in Volume 604, Page 216, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275. Plat Records, Denton County, Texas. *(as shown)*

(10n) Easement executed by THE ESTATE OF J. NEWTON RAYZOR AND INTERCOASTAL TOWING & TRANSPORTATION CORP. to SOUTHWESTERN BELL TELEPHONE COMPANY recorded in Volume 736, Page 861, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (as shown)

THE FOLLOWING SCHEDULE B ITEMS DO NOT AFFECT THIS TRACT:

(10k) Easement executed by J. NEWTON RAYZOR to the CITY OF DENTON, TX, recorded in Volume 482, Page 531, Deed Records, Denton County, Texas, as shown on plat recorded in Cabinet S, Page 275, Plat Records, Denton County, Texas. (not shown)

LEGEND	
	CALCULATED POINT
	5/8" IRON ROD SET STAMPED "TNP INC ESMT"
	"X" SET IN CONCRETE
	1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
	CONTROLLING MONUMENT
	POWER POLE
	ELECTRIC METER
	GAS METER
	FIRE HYDRANT (FH)
	SANITARY SEWER MANHOLE (SSMH)
	STORM DRAIN MANHOLE (SDMH)
	SIGN
	WATER METER
	WATER VALVE
	EASEMENT BOUNDARY
	PROPERTY LINE
	EXISTING EASEMENT
	EXISTING RIGHT-OF-WAY
	EDGE OF ASPHALT
	OVERHEAD ELECTRIC LINE



4/28/17

EXHIBIT "B"
ELECTRIC EASEMENT

BEING 0.901 ACRE ELECTRIC EASEMENT
SITUATED IN THE EUGENE PUCHALSKI
SURVEY, ABSTRACT NO. 996
CITY OF DENTON, DENTON COUNTY, TEXAS

DME13222

SHEET 6 OF 6



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