

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE FEE SIMPLE TITLE TO A 10.129 ACRE TRACT OF LAND SITUATED IN THE C.W. BYERLY SURVEY, ABSTRACT NO. 1458, A DRAINAGE EASEMENT IN A 0.430 ACRE TRACT OF LAND AND A TEMPORARY CONSTRUCTION EASEMENT IN A 0.286 ACRE TRACT OF LAND BOTH SITUATED IN THE G. WEST SURVEY, ABSTRACT NO. 1393, CITY OF DENTON, DENTON COUNTY, TEXAS (COLLECTIVELY THE "PROPERTY INTERESTS"), FOR THE EXPANSION, CONSTRUCTION, MAINTENANCE, OPERATION, AND IMPROVEMENT OF ELECTRICAL TRANSMISSION LINES, FACILITIES, AND STRUCTURES, INCLUDING SUBSTATIONS; AUTHORIZING THE CITY TO ACQUIRE THE PROPERTY INTERESTS BY EITHER AGREEMENT OR THROUGH THE USE OF THE POWER OF EMINENT DOMAIN; AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO CONDEMN THE PROPERTY INTERESTS IF AN AGREEMENT CANNOT BE REACHED; AUTHORIZING THE EXPENDITURE OF FUNDS; MAKING FINDINGS; PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE. (Underwood Substation)

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 require, the acquisition of the Property Interests together with all necessary appurtenances, additions and improvements on, over, under, and through the Property Interests ("Related Rights") by the City of Denton, Texas ("City"). The City Council finds that the acquisition of the Property Interests and Related Rights is a valid public use necessary to provide for the expansion, construction, maintenance, operation, and improvement of electric transmission lines, facilities, and structures, including substations, to serve the public and citizens of the City.

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 HEREBY 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,” “B-1,” “A-2,” and “B-2,” which are attached hereto and incorporated herein, for the reasons and purposes set forth above.

SECTION 3. The City Council authorizes the City Attorney, or his designee, to negotiate for and to acquire the related 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 his 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 his 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, operation, and improvement of electric transmission lines, facilities, and structures, including substations. This property is generally located at the southeast corner of FM 2449 and Underwood Road, 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 and approval.


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:  _____

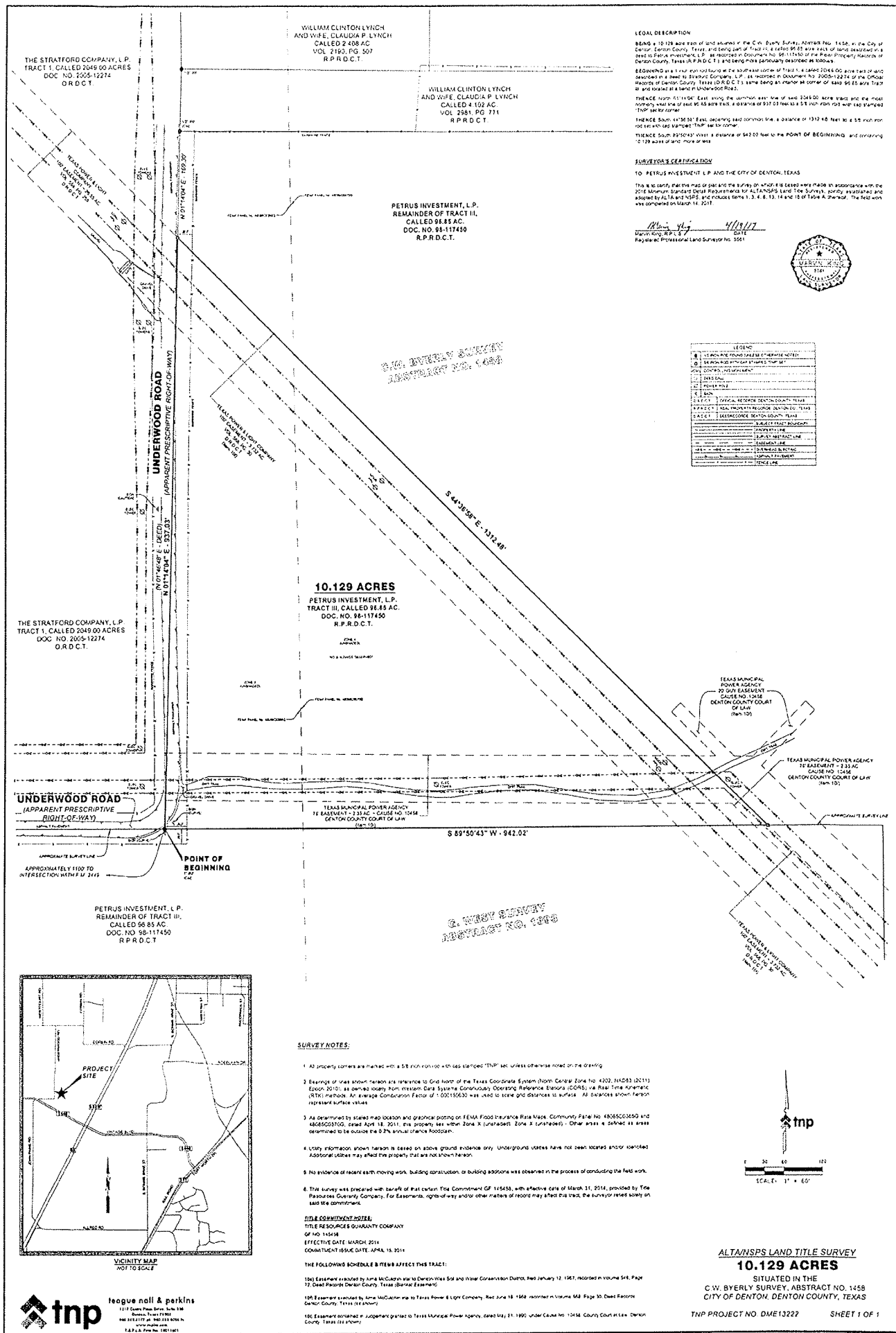


EXHIBIT "A-1"
DRAINAGE EASEMENT
Petrus Investment, L.P. Tract

BEING a 0.430 acre tract of land situated in the G. West Survey, Abstract No. 1393, in the City of Denton, Denton County, Texas, and being part of Tract III, a called 96.85 acre tract of land described in a deed to Petrus Investment, L.P., as recorded in Document No. 98-117450 of the Real Property Records of Denton County, Texas (R.P.R.D.C.T.), and being more particularly described as follows:

COMMENCING at a 1 inch iron rod found at the southeast corner of Tract 1, a called 2049.00 acre tract of land described in a deed to Stratford Company, L.P., as recorded in Document No. 2005-12274 of the Official Records of Denton County, Texas (O.R.D.C.T.), same being an interior ell corner of said 96.85 acre Tract III, and located at a bend in Underwood Road;

THENCE North 89°50'43" East, departing the common east line of said 2049.00 acre tract and the most northerly west line of said 96.85 acre tract, and along the approximate north line of said G. West Survey, a distance of 766.88 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for the **POINT OF BEGINNING**;

THENCE North 89°50'43" East, continuing along said common line, a distance of 35.03 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set at the intersection with the southwesterly line of a 100.00 foot wide Texas Power & Light Company Easement as recorded in Volume 568, Page 30 of the Deed Records of Denton County, Texas (D.R.D.C.T.);

THENCE South 44°36'58" East, departing said common line, and along the southwesterly line of said Texas Power & Light Company Easement, a distance of 226.21 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 17°56'36" East, departing the southwesterly line of said Texas Power & Light Company Easement, a distance of 70.94 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE North 72°03'24" East, a distance of 22.50 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 17°56'36" East, a distance of 159.27 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 72°03'24" West, a distance of 70.01 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE North 17°56'36" West, a distance of 159.27 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE North 72°03'24" East, a distance of 22.50 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

EXHIBIT "A-1"
TEMPORARY CONSTRUCTION EASEMENT
Petrus Investment, L.P. Tract

THENCE North 17°56'36" West, a distance of 65.02 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE North 44°36'58" West, a distance of 244.82 feet to the **POINT OF BEGINNING**, and containing 0.430 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 1.000150630 to scale from grid to surface.

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



Marvin King 4/19/17
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:

UNDERWOOD ROAD

THE STRATFORD COMPANY, L.P.
TRACT 1
CALLED 2049.00 AC.
DOC. NO. 2005-12274
O.R.D.C.T.

UNDERWOOD ROAD
(APPARENT PRESCRIPTIVE
RIGHT-OF-WAY)

**POINT OF
COMMENCING**
1" IRF
(CM)

APPROXIMATE
SURVEY LINE



SCALE: 1" = 40'

LEGEND

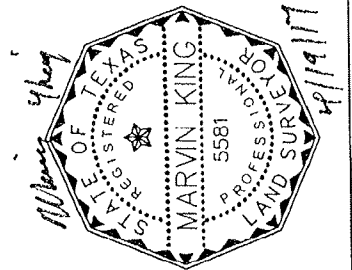
⊗	5/8" IRON ROD WITH CAP STAMPED "TNP INC ESM" SET
○	1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
☒	CONTROLLING MONUMENT
⊠	POWER POLE
---	EASEMENT BOUNDARY
---	PROPERTY LINE
---	SURVEY ABSTRACT LINE
---	EXISTING EASEMENT
---	OVERHEAD ELECTRIC
---	FENCE LINE

SEE SHEET 4 OF 4 FOR
LINE TABLE & NOTES



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T.B.P.L.S. Firm No. 10011601



**G. WEST SURVEY
ABSTRACT NO. 1393**

PETRUS INVESTMENT, L.P.
TRACT III, CALLED 98.85 AC.
DOC. NO. 98-117450
R.P.R.D.C.T.

**POINT OF
BEGINNING**

N 89°50'43" E 766.88'

APPROXIMATE
SURVEY LINE

**C.W. BYERLY SURVEY
ABSTRACT NO. 1458**

TEXAS MUNICIPAL
POWER AGENCY
20' GUY EASEMENT
CAUSE NO. 10458
DENTON COUNTY
COURT OF LAW
(Item 10)

TEXAS MUNICIPAL
POWER AGENCY
75' EASEMENT - 2.33 AC.
CAUSE NO. 10458
DENTON COUNTY
COURT OF LAW
(Item 10)

TEXAS MUNICIPAL
POWER AGENCY
75' EASEMENT - 2.33 AC.
CAUSE NO. 10458
DENTON COUNTY
COURT OF LAW
(Item 10)

TEXAS POWER & LIGHT
COMPANY
100' EASEMENT - 3.732 AC.
VOL. 589, PGS. 20
D.R.D.C.T.
(Item 10)

TEMPORARY CONSTRUCTION
EASEMENT
(BY SEPARATE INSTRUMENT)

**DRAINAGE
EASEMENT**
0.430 ACRES

**S. PRICHETT SURVEY
ABSTRACT NO. 1021**

SOUTHWEST DENTON
JOINT VENTURE
PARCEL NO. 2
CALLED 35.6 AC.
DOC. NO. 94-094865
R.P.R.D.C.T.

EXHIBIT "B-1"

DRAINAGE EASEMENT
BEING A 0.430 ACRE TRACT OF LAND SITUATED
IN THE G. WEST SURVEY, ABSTRACT NO. 1393
CITY OF DENTON, DENTON COUNTY, TEXAS

SHEET 3 OF 4

DME 13222

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 an Average Combination Factor of 1.000150630 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 certain Title Commitment GF 145458, with effective date of March 31, 2014, provided by Title Resources Guaranty Company. For Easements, rights-of-way and/or other matters of record may affect this tract, the surveyor relied solely on said title commitment.

THE FOLLOWING SCHEDULE 'B' ITEMS AFFECT THIS TRACT:

10e) Easement executed by Alma McCutchin etal to Denton-Wise Soil and Water Conservation District, filed January 12, 1967, recorded in Volume 546, Page 72, Deed Records Denton County, Texas (*Blanket Easement*)

THE FOLLOWING SCHEDULE 'B' ITEMS DO NOT AFFECT THIS TRACT:

- 10f) Easement executed by Alma McCutchin etal to Texas Power & Light Company, filed June 18, 1968, recorded in Volume 568, Page 30, Deed Records Denton County, Texas (*as shown*)
- 10j) Easement contained in Judgement granted to Texas Municipal Power Agency, dated May 21, 1990, under Cause No. 10458, County Court at Law, Denton County, Texas (*as shown*)

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 89°50'43" E	35.03'
L2	S 17°56'36" E	70.94'
L3	N 72°03'24" E	22.50'
L4	S 17°56'36" E	159.27'
L5	S 72°03'24" W	70.01'
L6	N 17°56'36" W	159.27'
L7	N 72°03'24" E	22.50'
L8	N 17°56'36" W	65.02'



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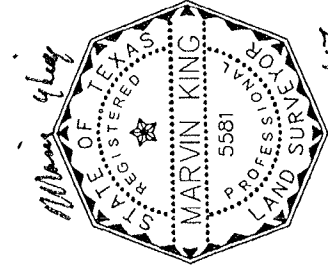


EXHIBIT "B-1"

DRAINAGE EASEMENT

BEING A 0.430 ACRE TRACT OF LAND SITUATED
IN THE G. WEST SURVEY, ABSTRACT NO. 1393
CITY OF DENTON, DENTON COUNTY, TEXAS

DME13222

SHEET 4 OF 4

EXHIBIT "A-2"
TEMPORARY CONSTRUCTION EASEMENT
Petrus Investment, L.P. Tract

BEING a 0.286 acre tract of land situated in the G. West Survey, Abstract No. 1393, in the City of Denton, Denton County, Texas, and being part of Tract III, a called 96.85 acre tract of land described in a deed to Petrus Investment, L.P., as recorded in Document No. 98-117450 of the Real Property Records of Denton County, Texas (R.P.R.D.C.T.), and being more particularly described as follows:

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THENCE North 89°50'43" East, departing the common east line of said 2049.00 acre tract and the most northerly west line of said 96.85 acre tract, and along the approximate north line of said G. West Survey, a distance of 731.84 feet to the **POINT OF BEGINNING**;

THENCE North 89°50'43" East, continuing along said common line, a distance of 35.03 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 44°36'58" East, departing said common line, a distance of 244.82 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 17°56'36" East, a distance of 65.02 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 72°03'24" West, a distance of 22.50 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 17°56'36" East, a distance of 159.27 feet to a 5/8 inch iron rod with cap stamped "TNP ESMT" set for corner;

THENCE South 72°03'24" West, a distance of 25.00 feet to a point for corner;

THENCE North 17°56'36" West, a distance of 184.27 feet to a point for corner;

THENCE North 72°03'24" East, a distance of 22.50 feet to a point for corner;

THENCE North 17°56'36" West, a distance of 34.09 feet to a point for corner;

THENCE North 44°36'58" West, a distance of 263.43 feet to the **POINT OF BEGINNING**, and containing 0.286 acres of land, more or less.

EXHIBIT "A-2"
TEMPORARY CONSTRUCTION EASEMENT
Petrus Investment, L.P. Tract

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 1.000150630 to scale from grid to surface.

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UNDERWOOD ROAD

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CALLED 2049.00 AC.
DOC. NO. 2005-12274
O.R.D.C.T.

UNDERWOOD ROAD
(APPARENT PRESCRIPTIVE
RIGHT-OF-WAY)

**POINT OF
COMMENCING**
1" IRF
(CM)

APPROXIMATE
SURVEY LINE

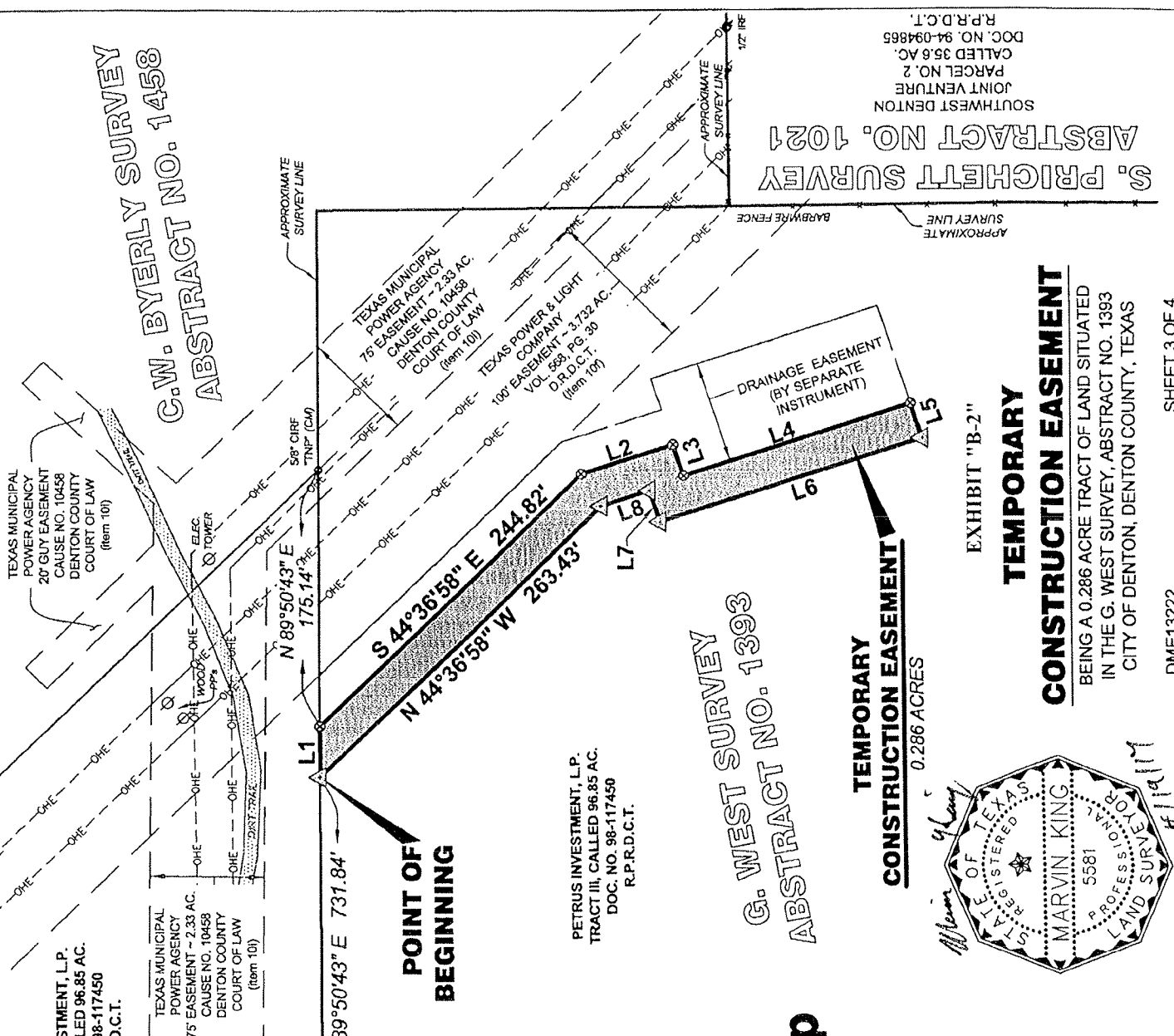


SCALE: 1" = 40'

LEGEND	
△	CALCULATED POINT
⊗	5/8" IRON ROD WITH CAP STAMPED "TNP INC ESMT" SET
○	1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
(CM)	CONTROLLING MONUMENT
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SEE SHEET 4 OF 4 FOR
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**POINT OF
BEGINNING**

PETRUS INVESTMENT, L.P.
TRACT III, CALLED 96.85 AC.
DOC. NO. 98-117450
R.P.R.D.C.T.

**G. WEST SURVEY
ABSTRACT NO. 1393**

**TEMPORARY
CONSTRUCTION EASEMENT**
0.286 ACRES

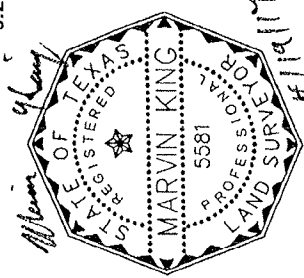


EXHIBIT "B-2"

**TEMPORARY
CONSTRUCTION EASEMENT**

BEING A 0.286 ACRE TRACT OF LAND SITUATED
IN THE G. WEST SURVEY, ABSTRACT NO. 1393
CITY OF DENTON, DENTON COUNTY, TEXAS

DME13222

SHEET 3 OF 4

**S. PRICHETT SURVEY
ABSTRACT NO. 1021**

SOUTHWEST DENTON
JOINT VENTURE
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L3	S 72°03'24" W	22.50'
L4	S 17°56'36" E	159.27'
L5	S 72°03'24" W	25.00'
L6	N 17°56'36" W	184.27'
L7	N 72°03'24" E	22.50'
L8	N 17°56'36" W	34.09'

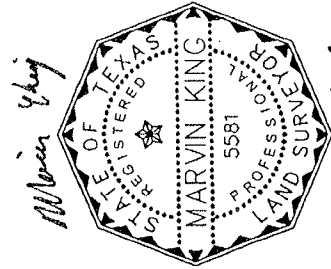


EXHIBIT "B-2"
TEMPORARY
CONSTRUCTION EASEMENT

BEING A 0.286 ACRE TRACT OF LAND SITUATED
IN THE G. WEST SURVEY, ABSTRACT NO. 1393
CITY OF DENTON, DENTON COUNTY, TEXAS

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SHEET 4 OF 4