

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE EASEMENT INTERESTS IN A 0.728 ACRE TRACT OF LAND SITUATED IN THE ALEXANDER HILL SURVEY, ABSTRACT NO. 623, CITY OF DENTON, DENTON COUNTY, TEXAS (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 [TRACT 37A].

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” and “B,” 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 between Johnson Street and the Texas & Pacific Railroad corridor, north of Daugherty 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 Pecan Grove Office Park, LLC Tract

BEING a 0.728 acre tract of land situated in the Alexander Hill Survey, Abstract No. 623, in the City of Denton, Denton County, Texas, being part of Tract Three, a called 3.13 acre tract of land, and part 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 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being more particularly described as follows:

COMMENCING at a metal fence corner post found at the southwest corner of Tract V, a called 0.626 acre tract of land described in a Deed to Veldin, LLC, as recorded in Document No. 2016-104553 (O.R.D.C.T.), common with the northwest corner of a called 0.291 acre tract of land described in 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 located in the east line of said 3.13 acre Tract Three;

THENCE North 00°08'48" 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 0.626 acre Tract V, a distance of 74.51 feet to the **POINT OF BEGINNING**;

THENCE North 86°50'09" West, departing said common line, a distance of 417.28 feet to a point for corner:

THENCE South 83°49'05" West, a distance of 41.56 feet to the intersection with the westerly line of said Tract Three and the easterly line of the Texas and Pacific Railroad (100 foot R.O.W.);

THENCE North 23°38'59" East, along the easterly line of the Texas and Pacific Railroad right of way, passing the northwest corner of said Tract Three and the southwest corner of said Tract Six at a distance of 52.54 feet, and continuing along the easterly line of said Railroad right of way and the westerly line of said Tract Six for a total distance of 90.20 feet to a point for corner;

THENCE South 72°47'46" East, departing the easterly line of the Texas and Pacific Railroad right of way, a distance of 11.30 feet to a point for corner;

THENCE South 86°50'09" East, a distance of 292.45 feet to the intersection with the east line of said Tract Six, common with the northwest corner of Tract VII, a called 0.07 acre tract of land, as described in a Deed to Veldin, LLC, and recorded in Document No. 2016-104553 (O.R.D.C.T.), and the southwest corner of a called 0.08 acre tract of land conveyed to Massoud Ebrahimi and Behrooz Anvari by Deed recorded in Volume 4608, Page 377 (R.P.R.D.C.T.), and being more fully described in Vol. 362, Pg. 514 of the Deed Records of Denton County, Texas (D.R.D.C.T.);

THENCE South 12°54'18" West, departing the south line of said 0.08 acre tract, and along the west line of said Tract VII, a distance of 15.27 feet to a 1/2 inch iron rod found at the southeast corner of said Tract Six and located at the intersection with the north line of said Tract Three;

THENCE North 89°58'42" East, departing the east line of said Tract Six and along the common north line of said Tract Three and the south line of said Tract VII, a distance of 122.21 feet to a 3/8 inch iron rod found at the northeast corner of said Tract Three and the northwest corner of said Tract V;

THENCE South 00°08'48" East, departing the south line of said Tract VII, and along the common east line of said Tract Three and the west line of said Tract V, a distance of 66.86 feet to the **POINT OF BEGINNING**, and containing 0.728 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 2/10/17
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: February 10, 2017

LOCUST STREET
(100' RIGHT-OF-WAY)

tnp

PECAN GROVE OFFICE PARK, LLC
TRACT SIX
CALLED 2.931 ACRES
DOC. NO. 2013-85183
O.R.D.C.T.

ELECTRIC EASEMENT
0.728 ACRES

N 86°50'09" W - 417.28'

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

ALEXANDER HILL SURVEY
ABSTRACT NO. 623



SCALE: 1" = 80'

NOTES:

- 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.
- This exhibit was prepared with benefit of that current Title Commitment, GF No. 2027-160276-RU, with effective date of August 02, 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.
- A Legal Description of even date herewith accompanies this Easement Exhibit. See "Exhibit 'A'".

teague nall & perkins

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



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 83°49'05" W	41.56'
L2	N 23°38'59" E	90.20'
L3	S 72°47'46" E	11.30'
L4	S 12°54'18" W	15.27'
L5	N 89°58'42" E	122.21'
L6	S 00°08'48" E	66.86'

















LEGEND	
	CALCULATED POINT
	1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
	CONTROLLING MONUMENT
	GAS UTILITY
	FIRE HYDRANT
	SANITARY SEWER MANHOLE (SSMH)
	POWER POLE
	MAIL BOX (MB)
	WATER VALVE
	WATER METER
	EASEMENT BOUNDARY
	PROPERTY LINE
	EXISTING EASEMENT
	EXISTING RIGHT-OF-WAY
	EDGE OF ASPHALT
	OVERHEAD ELECTRIC LINE

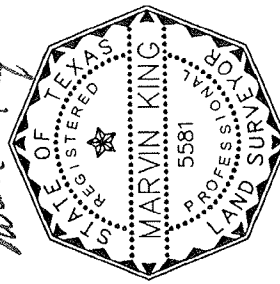
EXHIBIT "B"

ELECTRIC EASEMENT

BEING 0.728 ACRE ELECTRIC EASEMENT
SITUATED IN THE ALEXANDER HILL SURVEY, ABSTRACT NO. 623
CITY OF DENTON, DENTON COUNTY, TEXAS

DME13222

SHEET 3 OF 3



2/10/17

JOHNSON STREET
(VARIABLE WIDTH RIGHT-OF-WAY)

ASPHALT
PAVING

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

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

CITY OF DENTON, TEXAS
ELECTRIC ESMT.
VOL. 479, PG. 255
D.R.D.C.T.

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

MIGUEL ANGEL RUIZ-GARCIA
CALLED 0.291 ACRES
VOL. 4152, PG. 2258
R.P.R.D.C.T.

BILLY GENE BLACKBURN
AND WIFE, VIOLA BLACKBURN
VOL. 544, PG. 143
D.R.D.C.T.