

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON FINDING THAT A PUBLIC USE AND NECESSITY EXISTS TO ACQUIRE A PERMANENT EASEMENT COVERING A 0.023 ACRE TRACT OF LAND SITUATED IN THE EUGENE PUCHALSKI SURVEY, ABSTRACT NO. 996, 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; AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE TO FILE EMINENT DOMAIN PROCEEDINGS IF NECESSARY; AUTHORIZING THE EXPENDITURE OF FUNDS; MAKING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE. [HICKORY TO LOCUST TL PROJECT – TRACT 76]

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(s) before beginning the acquisition of the Property Interests by eminent domain; and

WHEREAS, an independent professional appraisal report of the Property Interests will be, or has been, 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 owner(s) for the purchase of the Property Interests; **NOW, THEREFORE**,

THE COUNCIL OF THE CITY OF DENTON ORDAINS:

Section I. The City Council ratifies, confirms, and adopts the finding and recitals contained in the preamble to this Ordinance and further 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 II. For the reasons and purposes set forth above, the City Council authorizes acquisition of the Property Interests, as more particularly described and depicted in the attached Exhibits "A" and "B," together with all necessary appurtenances, additions, and improvements on, over, under, and through the Property Interests.

Section III. The City Council authorizes the City Manager, or his designee, to negotiate for and to acquire the Property Interests from the owner(s) for the City, and to acquire the Property Interests in compliance with State and any other applicable law. Specifically, the City Manager, or his designee, in accordance with State and any other applicable law, is directed and authorized 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.

Section IV. The City Council approves and authorizes, without further authorization from City Council, (a) the City Attorney, or her designee, to take any and all actions required to retain additional counsel to prosecute the proceedings in eminent domain to acquire the Property Interests; and (b) the payment, after approval by the City Attorney, or her designee, of all the attorney fees and costs associated with the prosecution of the proceedings in eminent domain to acquire the Property Interests.

Section V. The City Council approves and authorizes, without further authorization from City Council, the payment, after approval by the City Attorney, of all the costs associated with the acquisition of the Property Interests, including but not limited to the costs of purchases or, if necessary, eminent domain proceedings, relocation assistance expenses, appraisal fees, title policies/services, recording fees, court costs, and expert witness fees.

Section VI. 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 VII. 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 VIII. 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 IX. 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 X. 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, CITY ATTORNEY

BY:  _____

EXHIBIT "A"

ELECTRIC EASEMENT STP TX Investing, LLC Tract

BEING a 0.023 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 described in Deed to SPT TX Investing, LLC, Series G, as recorded in Document No. 2016-57566 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being further described as part of Lot 2 in Block 7 of the Owsley Park Addition, as recorded in Volume 1, Page 6 1/2, of the Plat Records of Denton County, Texas (P.R.D.C.T.), and being more particularly described as follows:

BEGINNING at the northwest corner of Lot 2 and the northeast corner of Lot 1 in said Owsley Park Addition, same being the northwest corner of said SPT TX Investing, LLC tract and the northeast corner of a tract of land described in Deed to Dietz Family Trust, as recorded in Document No. 2016-130806 (O.R.D.C.T.), and located in the existing south right of way line of Stella Street (called 50.00' R.O.W.), from which point an "X" Cut found bears North 00°51'50" East, a distance of 0.44 feet;

THENCE North 89°10'51" East, departing the east line of said Lot 1, and along the common north line of said Block 7 and the existing south right of way line of said Stella Street, a distance of 50.00 feet to the northeast corner of Lot 2 and the northwest corner of Lot 3 in said Owsley Park Addition, same being the northwest corner of a tract of land described in Deed to Lazy B Properties, LLC, Etal, as recorded in Document No. 2014-49766 (O.R.D.C.T.);

THENCE South 00°49'09" East, departing the existing south right of way line of said Stella Street, and along the common east line of said Lot 2 and the west line of said Lot 3, a distance of 20.61 feet to a point for corner;

THENCE South 89°45'47" West, departing said common line, a distance of 50.00 feet to the intersection with the common west line of said Lot 2 and the east line of said Lot 1;

THENCE North 00°49'09" West, along the last stated common line, a distance of 20.10 feet to the **POINT OF BEGINNING**, and containing 0.023 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
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940-383-4177
TBPLS Firm No. 10011601
Date: April 21, 2017



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 2011) 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. 146293, 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.

THE FOLLOWING SCHEDULE B ITEMS DO NOT AFFECT THIS TRACT:

(10e) Deed of Right-of-Way executed by Richard E. Enlow and Harvey D. Justice, Attorney in fact for Glenn W. Justice, recorded in Volume 1285, Page 170, R.P.D.C.T. (as shown)

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

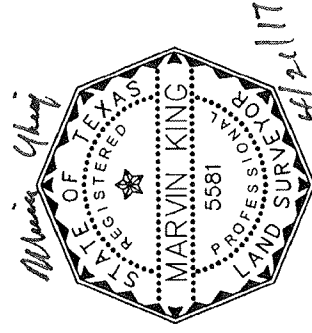
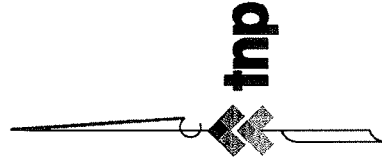


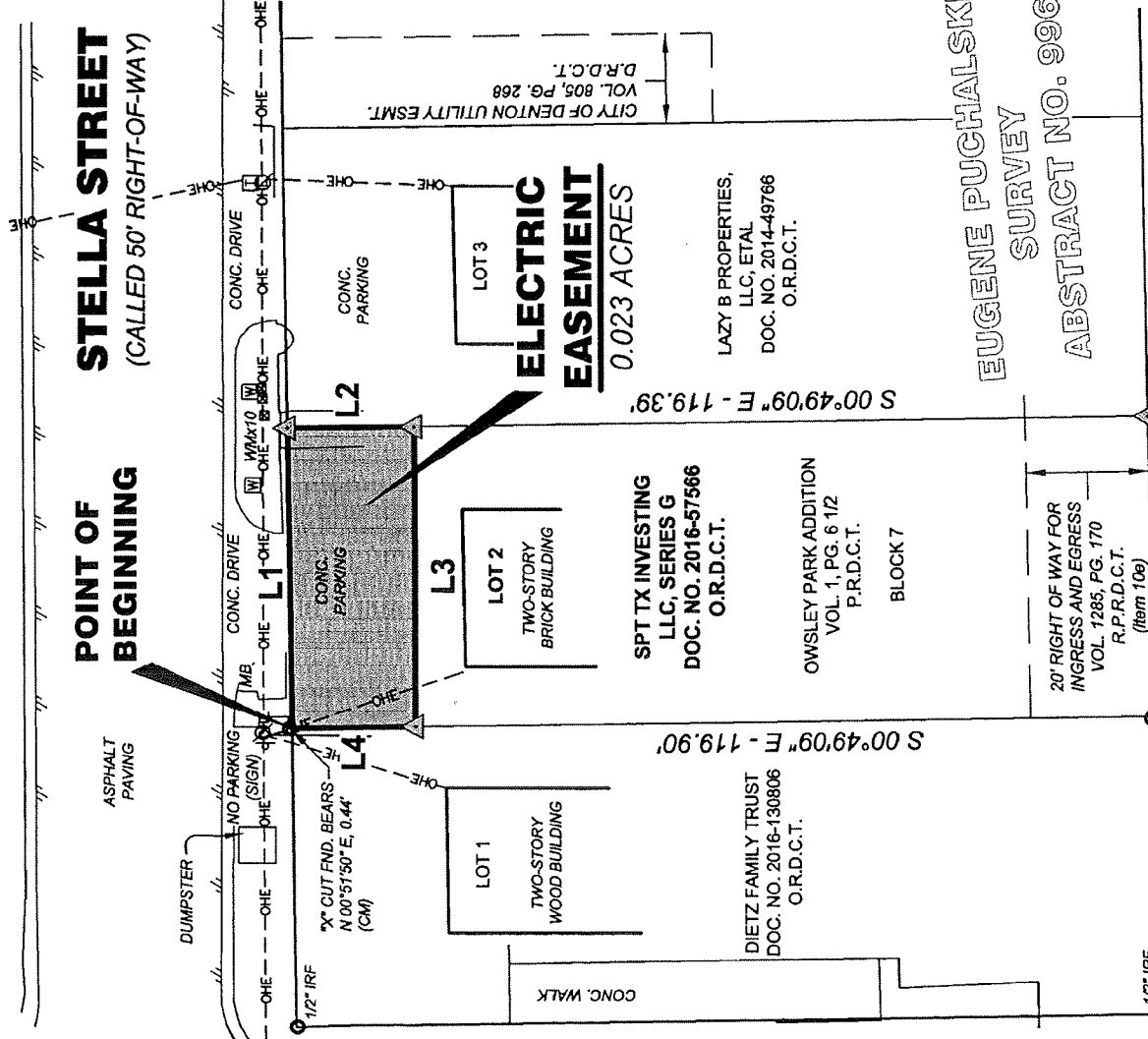
EXHIBIT "B"

ELECTRIC EASEMENT

BEING 0.023 ACRE ELECTRIC EASEMENT
SITUATED IN THE EUGENE PUCHALSKI SURVEY,
ABSTRACT NO. 996
CITY OF DENTON, DENTON COUNTY, TEXAS

DME13222

SHEET 2 OF 2



LINE TABLE

LINE	BEARING	DISTANCE
L1	N 89°10'51\"	E 50.00'
L2	S 00°49'09\"	E 20.61'
L3	S 89°45'47\"	W 50.00'
L4	N 00°49'09\"	W 20.10'

teague nall & perkins

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