

ORDINANCE NO. 5009

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF PUBLIC FACILITIES ON A PORTION OF THE PROPERTY LOCATED AT 8430 FM 2757, FORNEY, TEXAS 75126; AUTHORIZING APPROPRIATION OF THE REAL PROPERTY AND/OR THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE THE REAL PROPERTY FOR PUBLIC USE; AND DELEGATING AUTHORITY TO INITIATE CONDEMNATION PROCEEDINGS TO THE CITY MANAGER.

WHEREAS, the City Council of the City of Mesquite, Texas (the “**City Council**”), authorized the engineering and design of public facilities, including water mains and sewer mains, together with the right to make connections and such other construction, improvements, and associated appurtenances incidental to the construction, maintenance, and operation of such lines, along Farm to Market Road 2757 (the “**Project**”); and

WHEREAS, the Project will require the acquisition of a 96,259 square foot tract of land located at 8430 FM 2757, Forney, Kaufman County, Texas 75126; and

WHEREAS, upon consideration of this matter and for construction, operation, and maintenance of the Project, the City Council has determined that there is a public need and necessity for the health, safety, and welfare of the City of Mesquite (the “**City**”) and the public at large (the “**Public Uses**”) to acquire permanent easement rights and temporary easement rights, if any (the “**Real Property Interests**”), to, on, and across the property as described and depicted in Exhibits “A” and “B” attached hereto and incorporated herein by reference (the “**Property**”); and

WHEREAS, the City Council has investigated and determined that the Project constitutes a public use for a public purpose; and

WHEREAS, the City Council finds that the descriptions of the Real Property Interests for acquisition on and across the Property by eminent domain for the Project complies with applicable law in that the same identifies the Property that will be used by the City for the Project in a way that provides the property owner reasonable notice that the owners’ property may be subject to condemnation proceedings during the planning or construction of the Project; and

WHEREAS, the City is required to make a bona fide offer, as defined by and in compliance with Texas Property Code § 21.0113, to acquire the Real Property Interests on and across the Property for the Public Use, voluntarily, from the subject landowners prior to moving forward with the acquisition by eminent domain; and

WHEREAS, the City Council deems it necessary to authorize the City Manager or his designee (hereinafter collectively referred to as the “**City Manager**”) to comply with all statutory requirements necessary to initiate condemnation proceedings, and to initiate said proceedings, in order to acquire the necessary Real Property Interests in the event negotiations are unsuccessful.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. The City Council hereby finds and determines that the recitals made in the preamble of this ordinance are true and correct, and incorporates such recitals in the body of this ordinance as if copied in their entirety.

SECTION 2. The City Council hereby finds and determines that a public use and necessity exists for the Public Uses and authorizes acquisition of the necessary Real Property Interests on and across the Property for such purposes, as allowed by law, together with all necessary appurtenances, additions, and improvements on, over, under, and through that certain lot, tract, or parcel of land.

SECTION 3. The City Council authorizes the City Manager to negotiate for and to acquire the required Real Property Interests on and across the Property for the City, and to acquire said rights in compliance with State and any other applicable law, including Chapter 21 of the Texas Property Code. Moreover, the City Manager is specifically authorized and directed to do each and every act necessary to acquire the needed Real Property Interests on and across the Property including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser to determine the just compensation for the acquisition of the Real Property Interests on and across the Property being acquired, as well as any other experts or consultants the City Manager deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

SECTION 4. The City Manager is appointed as negotiator for the acquisition of the needed Property Interests and, as such, the City Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. Additionally, if the City Manager determines that an agreement as to damages or compensation cannot be reached after making a bona fide offer, then the City Attorney is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed Real Property Interests on and across the Property, proceedings in eminent domain to acquire the above-stated Real Property Interests on and across the Property.

SECTION 5. Should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 6. This ordinance shall take effect immediately from and after its passage, and it is accordingly so passed and approved.

Public Works / Determining Necessity of Eminent Domain / 8430 FM 2757 / March 6, 2023  
Page 3 of 3

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,  
on the 6th day of March 2023.

DocuSigned by:  
*Daniel Aleman Jr.*  
D999585317D142B...

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Daniel Alemán Jr.  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

DocuSigned by:  
*Sonja Land*  
C2518095973F46A...

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Sonja Land  
City Secretary

DocuSigned by:  
*David Paschall*  
666E18891208434...

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David L. Paschall  
City Attorney

SPSE.05

**EXHIBIT "A"**

BEING A 55,465 SQUARE FOOT CULINARY WATER AND SANITARY SEWER EASEMENT  
OUT OF TRACT 1 JAMES W. & DONNA G. ANDREWS VOLUME 1051, PAGE 654, D.R.K.C.T.  
IN THE MARTHA MUSICK SURVEY, ABSTRACT NO. 132  
KAUFMAN COUNTY, TEXAS

Being a 55,465 square foot tract of land situated in the Martha Musick Survey, Abstract No. 132, Kaufman County, Texas and being a portion of a Tract 1 as described in deed to James W. & Donna G. Andrews, as recorded in Volume 1051, Page 654, Deed Records, Kaufman County, Texas, and being more particularly described as follows:

COMMENCING in the southwest corner of said Tract 1, being in the north right-of-way line of F.M. Road 2757 (having a Variable Width Right-Of-Way), and being in the east right-of-way line of Private Road (having a Variable Width Right-Of-Way). Then North 44°41'35" East along the east right-of-way of said Private Road, a distance of 74.08 feet to the POINT OF BEGINNING;

THENCE North 44°41'35" East along the east right-of-way of said Private Road, a distance of 60.01 feet to a point;

THENCE South 46°09'25" East a distance of 310.79 feet to a point;

THENCE North 43°50'35" East a distance of 10.00 feet to a point;

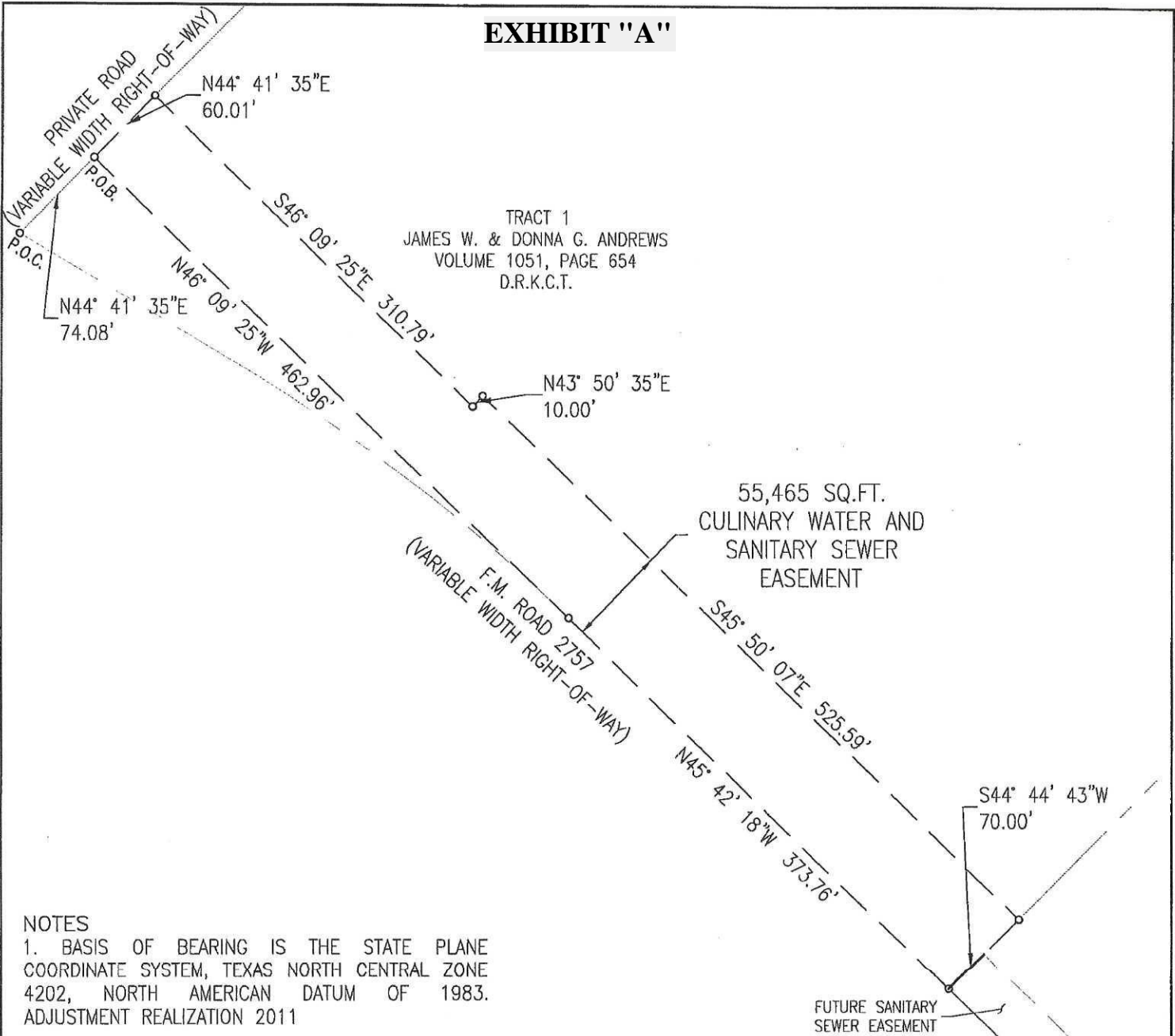
THENCE South 45°50'07" East a distance of 525.59 feet to a point in the west line of Tract 2 as described in deed to James W. & Donna G. Andrews, as recorded in Volume 1051, Page 654 Deed Records, Kaufman County, Texas;

THENCE South 44°44'43" West along the west line of said Tract 2, a distance of 70.00 feet to a point in the north right-of-way line of said F.M. Road 2757;

THENCE North 45°42'18" West along the north right-of-way line of said F.M. Road 2757, a distance of 373.76 feet to a point;

THENCE North 46°09'25" West a distance of 462.96 feet to the POINT OF BEGINNING and CONTAINING 55,465 square feet of land more or less.

**EXHIBIT "A"**



**NOTES**

1. BASIS OF BEARING IS THE STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983. ADJUSTMENT REALIZATION 2011

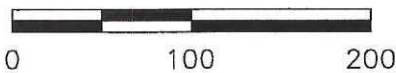
2. THE SUBJECT PROPERTY LIES WITHIN IN IN ZONE X PER FIRM MAP NO. 48257C0175D WITH AN EFFECTIVE DATE OF JULY 03, 2012.

**LEGEND**

P.R.K.C.T. = PLAT RECORDS, KAUFMAN COUNTY, TEXAS  
 D.R.K.C.T. = DEED RECORDS, KAUFMAN COUNTY, TEXAS



GRAPHIC SCALE 1"=100'



**SURVEYOR'S CERTIFICATE:**

I certify that this survey was made on the ground, that this plat correctly represents the facts found at the time of survey.

Date of Map: April 22, 2022

*Michael L. Peterson*  
 MICHAEL L. PETERSON R.P.L.S.  
 Texas Registration No. 5999



JOB NO: SPSE.05

SHEET 2 OF 2



**Graham Associates, Inc.**  
 CONSULTING ENGINEERS & PLANNERS  
 600 SIX FLAGS DRIVE, SUITE 500  
 ARLINGTON, TEXAS 76011 (817) 640-8535  
 TBPE FIRM: F-1191/TBPLS FIRM: 101538-00

CULINARY WATER AND  
SANITARY SEWER EASEMENT EXHIBIT  
 OUT OF TRACT 1 JAMES W. & DONNA G. ANDREWS  
 VOLUME 1051, PAGE 654, D.R.K.C.T.  
 SITUATED IN MARTHA MUSICK SURVEY, ABSTRACT NO. 312  
 KAUFMAN COUNTY, TEXAS

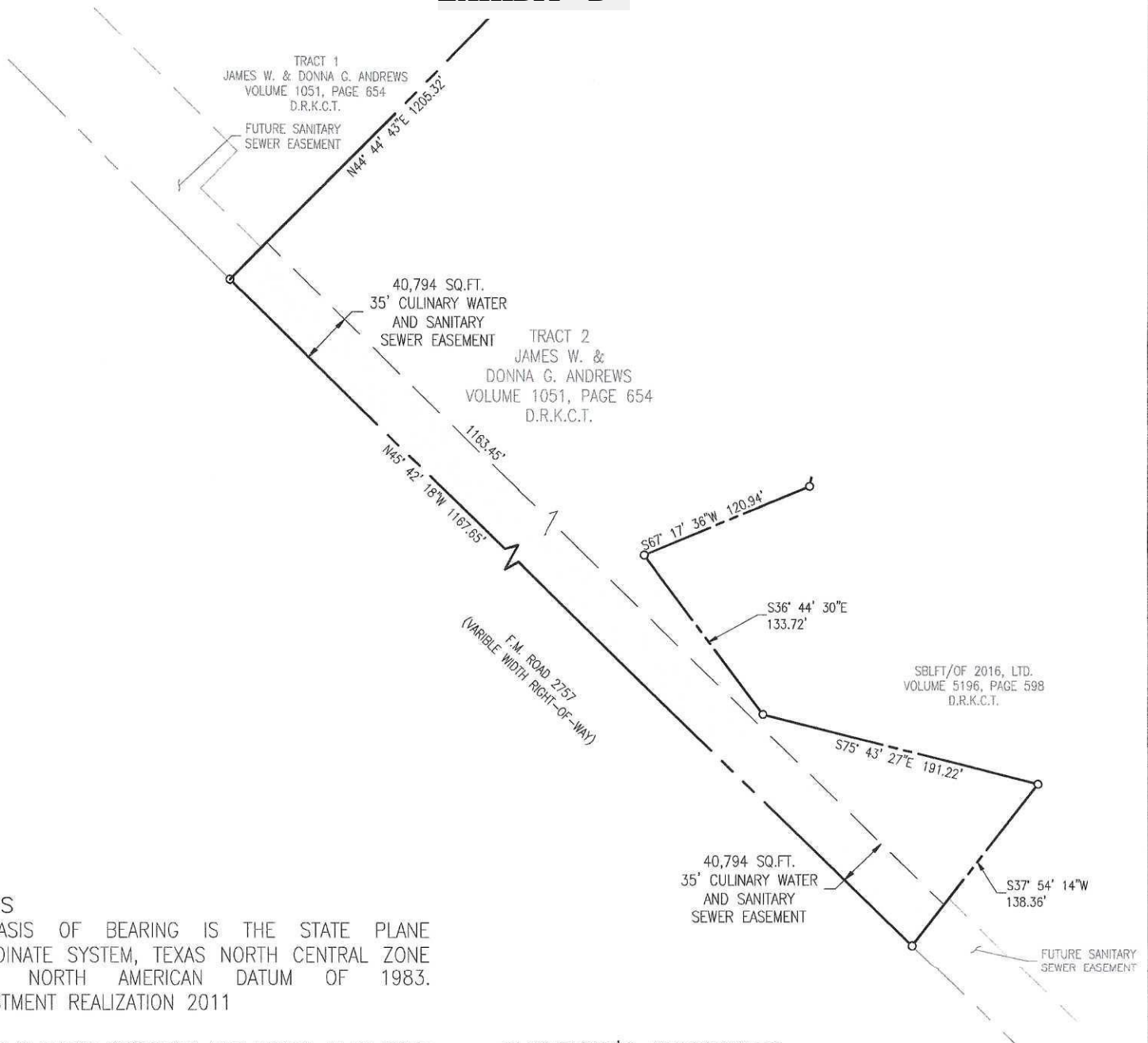
SPSE.06

**EXHIBIT "B"**

BEING A 35 FOOT WIDE 40,794 SQUARE FOOT CULINARY WATER AND SANITARY SEWER EASEMENT  
OUT OF TRACT 2 JAMES W. & DONNA G. ANDREWS VOLUME 1051, PAGE 654, D.R.K.C.T.  
IN THE MARTHA MUSICK SURVEY, ABSTRACT NO. 132  
KAUFMAN COUNTY, TEXAS

Being a Culinary Water and Sanitary Sewer easement out of and running 35 feet for 1163.45 feet parallel to the southwest line of Tract 2 described by deed to James W. & Donna G. Andrews, as recorded in Volume 1051, Page 654, Deed Records, Kaufman County, Texas, situated in the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas.

**EXHIBIT "B"**



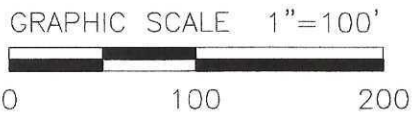
**NOTES**

1. BASIS OF BEARING IS THE STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983. ADJUSTMENT REALIZATION 2011

2. THE SUBJECT PROPERTY LIES WITHIN IN IN ZONE X PER FIRM MAP NO. 48257C0175D WITH AN EFFECTIVE DATE OF JULY 03, 2012.

**LEGEND**

P.R.K.C.T. = PLAT RECORDS, KAUFMAN COUNTY, TEXAS  
 D.R.K.C.T. = DEED RECORDS, KAUFMAN COUNTY, TEXAS



**SURVEYOR'S CERTIFICATE:**

I certify that this survey was made on the ground, that this plat correctly represents the facts found at the time of survey.

Date of Map: September 22, 2022

*Michael L. Peterson*  
 MICHAEL L. PETERSON R.P.L.S.  
 Texas Registration No. 5999



JOB NO: SPSE.06

SHEET 2 OF 2



**Graham Associates, Inc.**  
 CONSULTING ENGINEERS & PLANNERS  
 600 SIX FLAGS DRIVE, SUITE 500  
 ARLINGTON, TEXAS 76011 (817) 640-8535  
 TBPE FIRM: F-1191/TBPLS FIRM: 101538-00

CULINARY WATER AND  
SANITARY SEWER EASEMENT EXHIBIT  
 OUT OF TRACT 2 JAMES W. & DONNA G. ANDREWS  
 VOLUME 1051, PAGE 654 D.R.K.C.T.  
 SITUATED IN MARTHA MUSICK SURVEY, ABSTRACT NO. 312  
 KAUFMAN COUNTY, TEXAS