

4. Approval of Roadway and Utility Easement and Right-of-Way Agreement between Tarrant County and Tarrant Regional Water District



COMMISSIONERS COURT COMMUNICATION

REFERENCE NUMBER _____

PAGE 1 OF 12

DATE: 06/18/2024

**SUBJECT: APPROVAL OF ROADWAY AND UTILITY EASEMENT AND
RIGHT-OF-WAY AGREEMENT BETWEEN TARRANT COUNTY
AND TARRANT REGIONAL WATER DISTRICT**

***** CONSENT AGENDA *****

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court approve a Roadway and Utility Easement and Right-of-Way Agreement between Tarrant County and Tarrant Regional Water District.

BACKGROUND

On April 18, 2023, the Commissioners Court, through Court Order #140754, approved a Resolution and Order Decreeing Public Necessity for a Public Project on Wichita Street authorizing Tarrant County Transportation to acquire all parcels necessary for the project. The project consists of widening and improving a current two (2) lane asphalt road and reconstruct and widening to a five (5) lane reinforced concrete road which includes a continuous center turning lane, a 6'-10' shared use path, illumination, a partially closed storm sewer system and two (2) creek crossings with box culverts.

At this time, Tarrant Regional Water District, being a property owner impacted by this project, has approved the conveyance of a roadway and utility easement to Tarrant County.

The easement has been approved as to form by the Criminal District Attorney's Office.

FISCAL IMPACT

There is no fiscal impact associated with this item.

| | | | |
|---------------|----------------|------------------------------|----------------|
| SUBMITTED BY: | Transportation | PREPARED BY: APPROVED BY: | Miriam Salazar |
|---------------|----------------|------------------------------|----------------|

AFTER RECORDING, RETURN TO:

Tarrant County, Texas
100 E. Weatherford Street
Fort Worth, Texas 76196

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

ROADWAY AND UTILITY EASEMENT AND RIGHT-OF-WAY AGREEMENT

STATE OF TEXAS §
 §
COUNTIES OF TARRANT §

KNOW ALL MEN BY THESE PRESENTS:

THAT **TARRANT REGIONAL WATER DISTRICT**, a Water Control and Improvement District, a body politic and corporate under the laws of the State of Texas, formerly known as Tarrant County Water Control and Improvement District Number 1, whose mailing address is 800 E. Northside Drive, Fort Worth, Texas 76102 (herein called "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to Grantor in hand paid by the **TARRANT COUNTY, TEXAS**, whose mailing address is 100 E. Weatherford Street, Fort Worth, Texas 76196 (herein called "Grantee"), the receipt of which is hereby acknowledged, has BARGAINED, GRANTED, AND CONVEYED, and by these presents does BARGAIN, GRANT, AND CONVEY, unto the said Grantee an easement and right-of-way (the "Easement") for roadway and underground utility purposes only over and across the lands that are described by metes and bounds and depicted on Exhibit "A" attached hereto and incorporated herein for all purposes (the "Land").

The terms and conditions of this Roadway and Utility Easement and Right-of-Way Agreement are as follows:

1. Permitted Use. The Land shall be used by Grantee only for roadway purposes and for the installation and maintenance of underground utilities. No building, structure, or improvement other than a roadway and underground utilities shall be placed, constructed, or maintained in, on, or under the Land.

2. Reservation of Minerals. There is reserved to the Grantor, its successors and assigns, and not conveyed hereby, all of the oil, gas, sulphur and other gaseous minerals in or under the Land, but Grantor waives all rights of ingress and egress to the surface of the Land for the purpose of exploring, developing, mining, or drilling therefor; it being specifically agreed that no operation relating to such mineral reservation will be conducted on the surface of the Land. The foregoing waiver of surface rights shall not be construed to prohibit Grantor from using the surface of any lands other than the Land for activities related to the development or production of the oil, gas, sulphur and other gaseous minerals in and under the Land nor shall such waiver be construed to

prevent Grantor from developing or producing the oil, gas, sulphur and other gaseous minerals in and under the Land by pooling or directional drilling under the Land from well sites located on lands other than the Land. Notwithstanding the foregoing reservation, Grantee shall have the right and privilege to own, use and remove from the Land all sand, gravel, dirt, rock and other similar materials as may be necessary in exercising the rights granted herein.

3. Approval of Plans. The roadway and underground utilities shall be constructed pursuant to plans and specifications (the "Plans") to be submitted to Grantor prior to the commencement of such construction. No operations relating to the construction of the roadway or underground utilities shall be commenced until the Plans therefor have been submitted to and approved in writing by Grantor. Grantor, by giving such approval, shall not assume any responsibility or liability with respect to such Plans.

4. Performance of Work. All work done in connection with the Easement shall be performed in accordance with the Plans, and such work shall be performed as expeditiously as possible. In performing the work or causing the work to be performed, Grantee shall make adequate provisions for the safety and convenience of Grantor, its agents, representatives, employees, licensees, and invitees, and shall cause all work to be cleaned up properly and promptly in order to minimize disruption or inconvenience. Grantee shall construct and maintain the roadway and underground utilities at its sole cost and expense. Grantee shall perform all work necessary in connection with the construction and maintenance of the roadway and underground utilities in a good and workmanlike manner in conformance with sound and accepted engineering practices. The roadway and underground utilities shall at all times be constructed, kept, operated, and maintained in a safe condition and in full compliance with all applicable federal, state, municipal, and other laws, statutes, regulations, ordinances, and orders, specifically including, but not limited to, all laws relating to the environment, the protection of the environment, or environmental conditions.

5. Existing Pipelines and Appurtenances. Grantor owns, operates, and maintains multiple subsurface water transportation pipelines (collectively, the "Existing Pipelines"), together with above ground vaults and other surface and subsurface appurtenances used in connection therewith, which Existing Pipelines extend from Cedar Creek Reservoir and Richland-Chambers Reservoir, respectively, to the Rolling Hills Water Treatment Plant in Fort Worth. The Existing Pipelines run under the Land, and the vaults and other appurtenances are located in, on and under the Land or adjoining land. Grantor contemplates the installation of a third Pipeline in the future (the "Future Pipeline") which also will run under the Land. (The Existing Pipelines and the Future Pipeline are collectively referred to herein as the "Pipelines".) In performing the work authorized hereunder, Grantee, on behalf of itself, and its contractors, subcontractors, employees, agents, representatives, successors and assigns, agrees to take all steps necessary to protect the structural integrity of the Pipelines, as well as all vaults and other appurtenances. If any loss or damage should occur to the Pipelines, or any vaults or other appurtenances, as a result of the construction, operation, maintenance or existence of the roadway or underground utilities, then Grantee shall repair such loss or damage at its sole cost and expense and shall restore the Pipelines, and all vaults and other appurtenances, to the same condition as existed before any such loss or damage. Further, Grantee assumes the risk for any and all damage or destruction that may occur to the roadway or underground utilities as a result of the existence of the Existing Pipelines under the Land and Grantor's operation and maintenance thereof, and the installation of the Future Pipeline and

Grantor's operation and maintenance thereof. Grantee shall be solely responsible for repairing any damage to or destruction of the roadway or underground utilities resulting from the installation, operation and maintenance of the Pipelines or from any leak or rupture of such Pipelines.

6. Reservations and Exceptions to Grant. The Easement is expressly made subject to (i) any and all visible and apparent easements and rights-of-way over or across the Land, whether of record or not; (ii) any and all existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and other instruments, other than conveyances of the surface fee estate, but only to the extent that they affect the Land and are shown of record in Tarrant County, Texas; (iii) all reservations, restrictions, covenants and conditions contained herein; and (iv) any and all zoning laws, regulations, and ordinances of municipal and other governmental authorities relating to the Land, but only to the extent that they are still in force and effect.

7. Automatic Reverter. The Easement, and all rights and privileges granted herein, will automatically terminate if and when the Easement is no longer used for the purposes set out herein or if the Easement is used for any purpose other than as specified herein. In the event of such termination of use, or any unauthorized use, Grantee agrees to execute and deliver to Grantor a document in recordable form releasing all of Grantee's rights hereunder, but the failure to execute such a Release shall not affect Grantor's ownership of the Land free and clear of any claims, rights, or privileges of Grantee.

8. INDEMNIFICATION AND RELEASE. Grantee, on behalf of itself, its successors and assigns, hereby releases, relinquishes, and discharges, and, to the fullest extent permitted by law, agrees to indemnify, protect, defend and hold harmless Grantor, and Grantor's officers, directors, agents, servants, employees, attorneys, successors, and assigns, from and against any and all claims, demands, liabilities, suits, causes of action, obligations, damages, injuries, losses, penalties, costs, and expenses (**including, without limitation, attorneys' fees, court costs, consultant fees, expert fees, and other litigation related expenses**), of whatsoever kind or character of any person or entity whomsoever, directly or indirectly resulting from, arising out of or in connection with, or relating to (i) the exercise of the rights herein granted to Grantee or the performance of any of the activities contemplated herein; (ii) any condition of the Land or any condition of any improvements situated on or under the Land; (iii) the construction, reconstruction, operation, maintenance, inspection, alteration, repair, or existence of the roadway and/or underground utilities; (iv) any damage to or destruction of the roadway and/or underground utilities occasioned by any leak from or rupture of the Pipelines; or (v) any damage to or destruction of the roadway and/or underground utilities, including any damage resulting from Grantor's installation, operation and maintenance of the Pipelines. This indemnification and release extends to and includes any and all claims for bodily injury, death, sickness, disease, property damage or destruction, consequential damage, or economic loss caused to or suffered by any person or property, including Grantee, and Grantee's agents, servants, employees, contractors, successors or assigns, or any other person or entity. This indemnification and release is not limited to damages, compensation, or benefits payable under insurance policies, workers' compensation, disability benefit acts, or other employee benefit acts. **THE PROVISIONS OF THIS INDEMNIFICATION AND RELEASE SHALL REMAIN AND BE IN FULL FORCE AND EFFECT EVEN IF ANY CLAIM, DEMAND, LOSS, LIABILITY, DAMAGE, OR EXPENSE, OR CLAIM THEREFOR, BY ANY PERSON OR ENTITY DIRECTLY OR**

INDIRECTLY RESULTS FROM, ARISES OUT OF, OR RELATES TO, OR IS ASSERTED TO HAVE RESULTED FROM, ARISEN OUT OF, OR BE RELATED TO, IN WHOLE OR IN PART, STRICT LIABILITY OR ONE OR MORE NEGLIGENT ACTS OR OMISSIONS OF GRANTOR, OR ANY OF GRANTOR'S OFFICERS, DIRECTORS, AGENTS, SERVANTS, EMPLOYEES, OR ANY OTHER PERSON OR ENTITY ACTING ON BEHALF OF GRANTOR, THE PARTIES INTENDING HEREBY TO SATISFY THE EXPRESS NEGLIGENCE DOCTRINE. This indemnification and release shall survive termination of the Easement.

9. Prohibition on Assignment. This Roadway Easement and Right-of-Way Agreement may not be assigned by Grantee, in whole or in part, without the prior written consent of Grantor. Any purported assignment without such written consent shall be void and of no force or effect. Grantor's consent to any assignment shall not relieve Grantee of any of its duties and obligations hereunder, and Grantee shall in all events remain fully responsible to Grantor for compliance with the terms hereof.

10. Acceptance of Roadway Easement and Right-of-Way. By signing this Roadway Easement and Right-of-Way Agreement, Grantee has agreed to and accepted the terms, conditions, benefits, and obligations contained herein. Grantor has agreed to grant the Easement in reliance upon Grantee's representation that Grantee agrees to and accepts the terms, conditions, benefits, and obligations contained herein.

11. Binding Effect. The terms and provisions of this Roadway Easement and Right-of-Way Agreement shall inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and permitted assigns and shall be covenants running with the land.

12. Entire Agreement. This Roadway Easement and Right-of-Way Agreement contains all of the agreements between the parties respecting the subject matter hereof, and no prior representations or statements, verbal or written, have been made modifying, adding to, or changing the terms of this instrument.

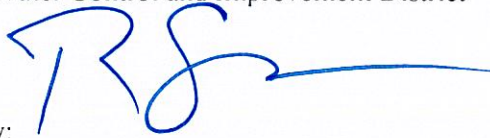
13. Amendments. No amendments, modifications, or revisions of this Roadway Easement and Right-of-Way Agreement shall be effective unless made in writing, dated subsequent to the date hereof, and signed by the parties hereto, or their respective successors or permitted assigns.

TO HAVE AND TO HOLD the above-described Easement, together with all and singular the rights and appurtenances thereto in anywise belonging, subject to all of the terms and conditions stated herein, unto the Grantee, its successors and permitted assigns, for so long as the Easement is used only for the purposes stated herein, and upon cessation of such use, all rights, titles, and interests vesting in Grantee, its successors and permitted assigns, by virtue hereof shall automatically cease and determine. Grantor does hereby bind itself, its successors and assigns, to WARRANT AND DEFEND all and singular the Easement unto the Grantee, its successors and permitted assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise, subject, however, to the automatic right of reverter and all other terms and conditions stated herein.

EXECUTED this 23 day of May, 2024.

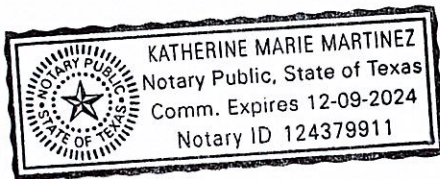
GRANTOR:

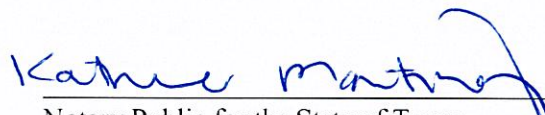
TARRANT REGIONAL WATER DISTRICT,
a Water Control and Improvement District


By: _____
R. Steve Christian
Real Property Director

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 23 day of May, 2024, by R. Steve Christian, Real Property Director of Tarrant Regional Water District, a Water Control and Improvement District, on behalf of said District.





Notary Public for the State of Texas

GRANTEE:

TARRANT COUNTY, TEXAS

By: _____

Printed Name: _____

Title: _____

STATE OF TEXAS §

 §

COUNTY OF TARRANT §

The foregoing instrument was acknowledged before me on this _____ day of _____, 2024, by _____, _____ of Tarrant County, Texas, on behalf of said County.

Notary Public, State of Texas

EXHIBIT “A”

Description for Parcel 12

BEING a 4,022 square feet (0.0923 acres) tract of land located in Block 15 of the Shelby County School Land Survey, Abstract No. 1375, City of Forest Hill, Tarrant County, Texas, said 4,022 square feet tract of land being a portion of a called 3.34 acre tract of land conveyed to **TARRANT COUNTY WATER AND IMPROVEMENT DISTRICT NUMBER ONE**, by deed thereof filed for record in Tarrant County Clerk's Instrument Number (Ins. No.) D165069245, Official Public Records, Tarrant County, Texas (O.P.R.T.C.T.), said 4,022 square feet tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found (Controlling Monument) at the southwest property corner of the said 3.34 acre tract, same being the northwest property corner of a called 14.700 acre tract of land identified as "Tract III" and being conveyed to MSC-I, Ltd., by deed thereof filed for record in Ins. No. D203351886, O.P.R.T.C.T., said beginning point also being on the east right-of-way line of Wichita Street (being a variable width public right-of-way), said beginning point having a NAD83 Texas North Central Zone (4202) surface coordinate of N: 6,925,468.68 and E: 2,343,573.62;

- 1) **THENCE** North 11°52'51" East, along the west property line of the said 3.34 acre tract, and along the said right-of-way line, 129.82 feet to 1/2" iron rod found (Controlling Monument) at the northwest property corner of the said 3.34 acre tract, same being the southwest property corner of a called 13.489 acre tract of land identified as "Tract I" and being conveyed to MSC-I, Ltd., by deed thereof filed for record in Ins. No. D203351886, O.P.R.T.C.T.;
- 2) **THENCE** South 79°15'57" East, along the north property line of the said 3.34 acre tract, and along the south property line of the said 13.489 acre tract, 31.04 feet to a 5/8" iron rod with a cap stamped "SPOONER 5922" set at Station No. 76+93.08, 44.39 feet right;
- 3) **THENCE** South 11°55'03" West, over and across the said 3.34 acre tract and along the new right-of-way line of Wichita Street, 129.69 feet to a 5/8" iron rod with a cap stamped "SPOONER 5922" set on the south property line of the said 3.34 acre tract, same being on the north property line of the said 14.700 acre tract, said iron rod set being at Station No. 75+63.39, 44.33 feet right;
- 4) **THENCE** North 79°30'35" West, along the said property lines, 30.96 feet to the **POINT OF BEGINNING** containing **4,022 square feet (0.0923 acres)** of land, more or less.

County: Tarrant
Road: Wichita Street
STA. 75+63.39 to 76+93.08

EXHIBIT "A"

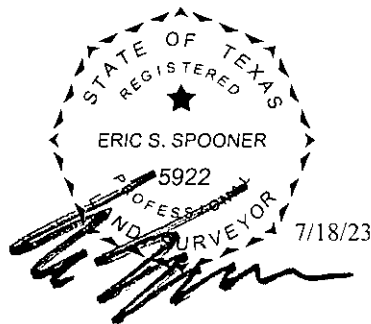
Page 2 of 3
June 4, 2023

Description for Parcel 12

The bearings, distances and coordinates shown hereon are based on a local coordinate system based on NAD 83, Texas North Central Zone 4202, scaled from grid to surface at 0,0, using a combined scale factor of 1.000120000. (Maintained by Allterra Central, Inc.) Distances and areas shown hereon are surface measurements.

The Station and Offset Information refers to the baseline described on the control sheet, dated _____, _____, as prepared by DEC, INC.

I, Eric S. Spooner, a Registered Professional Land Surveyor in the State of Texas, hereby certify that the land description and plat represent an actual survey made on the ground under my supervision.



Eric S. Spooner, R.P.L.S.
Texas Registration No. 5922
T.B.P.L.S. Firm No. 10054900
Spooner & Associates, Inc.
309 Byers Street, Suite 100
Euless, Texas 76039
(817) 685-8448
S&A JOB NO. 22161

A PLAT OF A SURVEY
OF PARCEL 12 FOR
WICHITA STREET
A 4,022 SQ. FT (0.0923 AC.)
TRACT OF LAND IN BLOCK 15,
SHELBY COUNTY SCHOOL LAND
SURVEY, ABSTRACT NO. 1375
CITY OF FOREST HILL,
TARRANT COUNTY, TEXAS

| LINE TABLE | | |
|------------|-------------|--------|
| NO. | DIRECTION | DIST. |
| L1 | S79°15'57"E | 31.04' |
| L2 | N79°30'35"W | 30.96' |

CALLED 6.21 ACRES
TEXAS ELECTRIC
SERVICE COMPANY
"TRACT NO. 3"
VOL. 1485, PG. 346,
O.P.R.T.C.T.

CALLED: 13.489 ACRES
MSC-I, LTD.
"TRACT I"
INS. NO. D203351886,
O.P.R.T.C.T.

CALLLED 3.34 ACRES
TARRANT COUNTY WATER AND
IMPROVEMENT DISTRICT ONE
INS. NO. D165069245,
O.P.R.T.C.T.

BLOCK 15
SHELBY COUNTY SCHOOL LAND
SURVEY ABSTRACT NO. 1375



CITY OF FORT WORTH
APPROX. CITY LIMITS LINE

CITY OF FOREST HILL
EXISTING RIGHT-OF-WAY LINE

WICHITA STREET
(VARIABLE WIDTH PUBLIC R.O.W.)
N11°52'51"E ~ 129.82'

1/2" IRF (CM)

EXISTING RIGHT-OF-WAY LINE

EX. 15' ESMT. TO
CITY OF FOREST HILL
VOL. 6952, PG. 322,
O.P.R.T.C.T.

STA. 76+93.08
44.39' R

NEW R.O.W. LINE

4,022 SQ. FT.

1/2" IRF (CM)

P.O.B.
N=6,925,468.68
E=2,343,573.62

L2

STA. 75+63.39
44.33' R

○ CIRS - 5/8" IRON
ROD WITH CAP STAMPED
"SPOONER & ASSOCIATES" SET
UNLESS OTHERWISE NOTED

EXISTING ROADWAY
INTERNAL BOUNDARY LINE

EXISTING R.O.W. LINE

NEW R.O.W. LINE

EXISTING EASEMENT LINE

NEW EASEMENT LINE

PROPERTY LINE

SURVEY LINE

APPROX. CITY LIMITS LINE

(CB) = CHORD BEARING

(CL) = CHORD LENGTH

(CM) = CONTROLLING MONUMENT

P.O.B. = POINT OF BEGINNING

CALLLED 14.700 ACRES
MSC-I, LTD.
"TRACT III" IN
INS. NO. D203351886,
O.P.R.T.C.T.

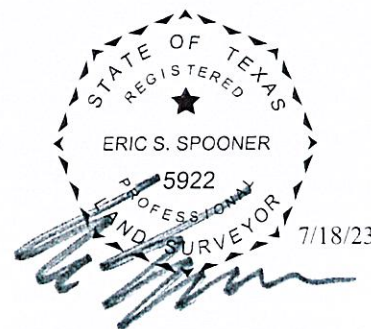
THE BEARINGS, DISTANCES AND COORDINATES SHOWN HEREON
ARE BASED ON A LOCAL COORDINATE SYSTEM BASED ON NAD83,
TEXAS NORTH CENTRAL ZONE 4202, SCALED FROM GRID TO
SURFACE AT 0.0, USING A COMBINED SCALE FACTOR OF 1.000120000.
(MAINTAINED BY ALLTERRA CENTRAL, INC.). DISTANCES AND AREAS
SHOWN HEREON ARE SURFACE MEASUREMENTS.

THE STATION AND OFFSET INFORMATION REFERS TO THE BASELINE
DESCRIBED ON THE CONTROL SHEET, DATED _____,
AS PREPARED BY DEC, INC.

0 20' 40'



GRAPHIC SCALE IN FEET
1" = 40'



ERIC S. SPOONER, R.P.L.S. No. 5922
SPOONER & ASSOCIATES, INC.
TBPLS FIRM NO. 10054900
S&A JOB NO. 22161

APPROVED AS TO FORM:

Criminal District Attorney's Office*

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document from our client's legal perspective. Other parties may not rely on this approval. Instead, those parties should seek contract review from independent counsel.