

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY FOR CONSTRUCTION OF WATER SUPPLY AND INFRASTRUCTURE IMPROVEMENTS, 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 design of the (1) Kaufman County Large Diameter Transmission Water Main Project, Bid/Contract Number 2019-075 and (2) Kaufman County Pump Station and 3.0 Million Gallon Storage Tank Project, Bid/Contract Number 2019-102, which are water supply and infrastructure improvements (the “Project”); and

WHEREAS, the Project will require the acquisition of multiple tracts or units of property to construct facilities connecting one location to another location; and

WHEREAS, upon consideration of this matter and for construction, maintenance and operation 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 (“City”) and the public at large (the “Public Uses”) to acquire fee simple title, permanent utility easements and temporary construction easements (the “Real Property Interests”) on and across the properties as described and depicted in Exhibits “A” and “B,” attached hereto and incorporated herein by reference, (collectively 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 general area to be covered by the Project or the general route that will be used by the City for the Project in a way that provides the property owners in and around the area reasonable notice that the owners’ properties 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 now deems it necessary to authorize the City Manager or his designee (hereinafter collectively referred to as the “City Manager”) to initiate condemnation 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 those certain lots, tracts or parcels of lands.

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.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on the 5th day of August 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

Parcel No.	Property Owner	Associated Tract	Type of Taking	Area of Taking (Acres)	Fee Simple Total (Acres)	Permanent Easement Total (Acres)	Temporary Construction Easement Total (Acres)
Pump Station Site	Barrel Ranch, LLC	Tract I "Kaufman 30" Volume 4324, Page 203 O.P.R.K.C.T.	Fee Simple	10.978	10.978		
1			Permanent Utility Easement	0.985		0.985	
2		Tract II "Kaufman 2700" Volume 4324, Page 203 O.P.R.K.C.T.	Permanent Utility Easement	1.096		1.096	
3		Tract II "Kaufman 2700" Parcel B , Volume 4324, Page 203 O.P.R.K.C.T.	Permanent Utility Easement	5.851		5.851	
Subtotal Barrel Ranch				18.91	10.978	7.932	0
4 - Part 1	Danny Shaw Family Limited Partnership	Tract 1, Volume 2539, Pagse 209 O.P.R.K.C.T.	Permanent Utility Easement	0.034		0.034	
			Temporary Construction Easement	0.023			0.023
4 - Part 2 (Future TxDOT ROW)			Permanent Utility Easement	0.802		0.802	
			Temporary Construction Easement	0.551			0.551
4 - Part 3			Permanent Utility Easement	0.046		0.046	
			Temporary Construction Easement	0.025			0.025
Subtotal Danny Shaw				1.481	0	0.882	0.599
5 - Part 1 (Future TxDOT ROW)	Beam & Sons, Inc.	Volume 1088, Page 726 D.R.K.C.T.	Permanent Utility Easement	0.032		0.032	
5 - Part 2			Permanent Utility Easement	2.395		2.395	
			Temporary Construction Easement	0.191			0.191
Subtotal Beam & Sons				2.618	0	2.427	0.191
PROJECT TOTAL TAKINGS				23.009	10.978	11.241	0.79

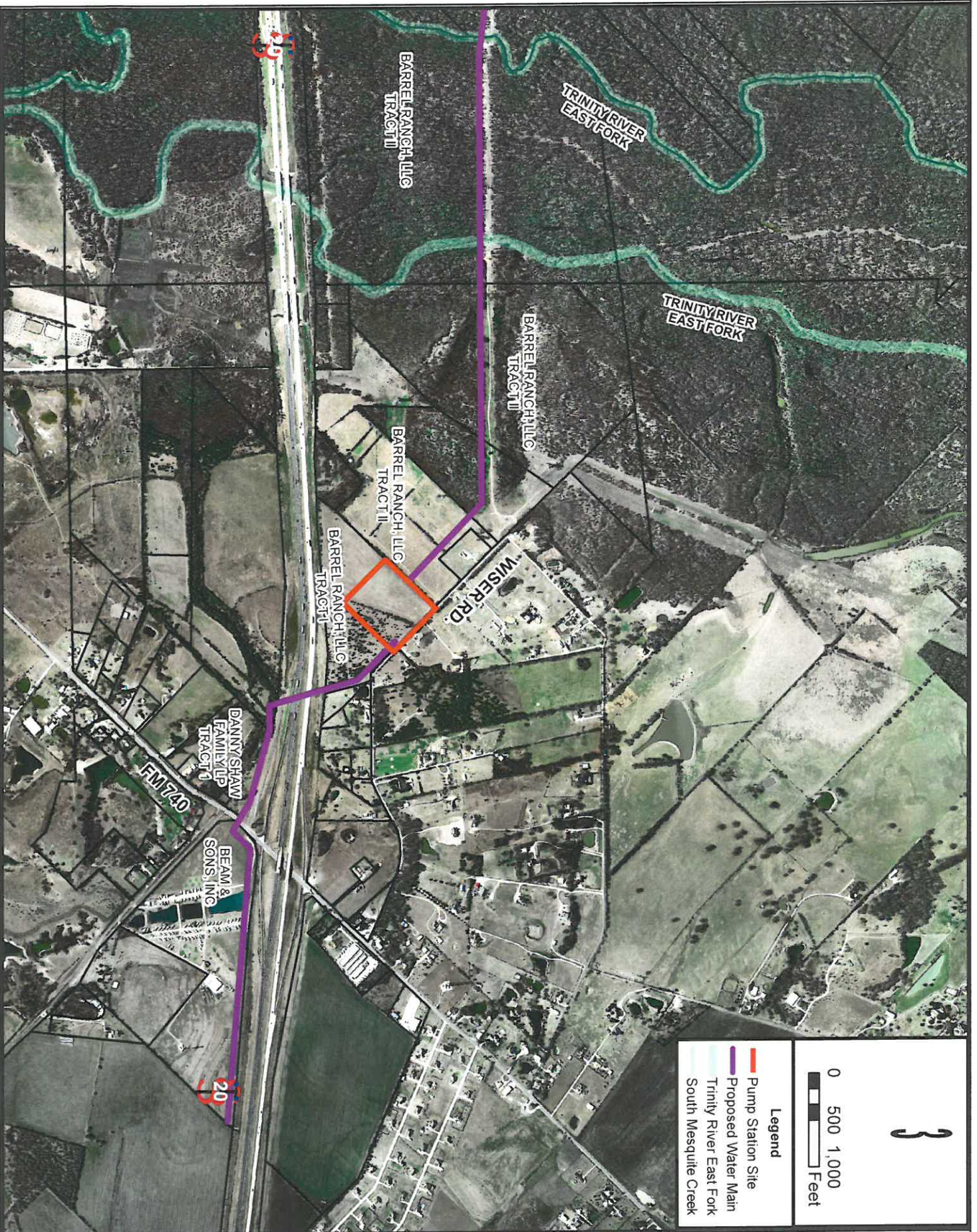


EXHIBIT
"B"

PROPOSED UTILITY
EASEMENT AND FEE
SIMPLE TITLE PROPERTIES

CITY OF MESQUITE
KAUFMAN COUNTY PUMP STATION AND
WATER MAIN IMPROVEMENTS
JULY 2019

Kimley»Horn