

**RESOLUTION NO. 2014-03-\_\_\_ (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING A PUBLIC NECESSITY TO ACQUIRE CERTAIN PROPERTY FOR PUBLIC USE BY EMINENT DOMAIN FOR RIGHT-OF-WAY (IN FEE SIMPLE) FOR THE CONSTRUCTION, ACCESS AND MAINTENANCE ASSOCIATED WITH THE STACY ROAD ELEVATED STORAGE TANK PROJECT, LOCATED ALONG STACY ROAD APPROXIMATELY 2400 FEET EAST OF ALMA ROAD; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE DEPUTY CITY MANAGER TO ESTABLISH PROCEDURES FOR ACQUIRING THE RIGHT-OF-WAY (IN FEE SIMPLE) , AND TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS**

**WHEREAS**, the City Council of the City of McKinney, Texas, has determined that a public need and necessity exists for the construction of the Stacy Road Elevated Storage Tank, along Stacy Road and approximately 2400 feet east of Alma Road; the location of which is generally set forth in the map attached hereto as Exhibit A; and

**WHEREAS**, the City Council has considered this project and has determined that a public necessity exists for the acquisition of right-of-way (in fee simple), as described on Exhibit B, attached hereto and incorporated herein for all purposes ("Property").

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

- Section 1. All of the above premises to be true and correct legislative and factual findings of the City Council, and they are hereby approved, ratified and incorporated into the body of this resolution as if copied in their entirety.
- Section 2. That the City Council of the City of McKinney, Texas hereby authorizes the Deputy City Manager to execute documents, as needed, to acquire the necessary Property for the Stacy Road Elevated Storage Tank Project.
- Section 3. That the City Council hereby finds and determines that a public use and necessity exists for the City of McKinney for the construction of the Stacy Road Elevated Storage Tank Project and to acquire the necessary property rights in that certain lot, tract or parcel of land deemed necessary for that construction as identified for construction of an elevated storage tank in the City of McKinney Capital Improvements Program, the boundary survey and specifications as amended, together with all necessary appurtenances, additions and improvements on, over, under, and through that certain lot, tract or parcel of land, described in Exhibit B.
- Section 4. That the Deputy City Manager is authorized and directed to negotiate for and to acquire the required Property for the City of McKinney, and to acquire said rights in compliance with State and Federal law. That the Deputy City Manager is specifically authorized and directed to do each and every act necessary to acquire the needed Property including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to designate a qualified appraiser of the Property to be acquired when such appraisal is necessary and, where necessary, the use of Eminent Domain to condemn the Property.
- Section 5. That the Deputy City Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of the Property and, as such, the Deputy 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. That the Deputy City Manager is specifically authorized to establish the just compensation for the acquisition of the Property. That, if the Deputy

City Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the City Attorney or his designee is hereby authorized and directed to file or cause to be filed, against the owners and interested parties of the Property, proceedings in eminent domain to acquire the above-stated interest in the Property.

Section 6. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 18<sup>TH</sup> DAY OF MARCH, 2014.**

CITY OF MCKINNEY, TEXAS

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TRAVIS USSERY  
Mayor Pro Tem

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary

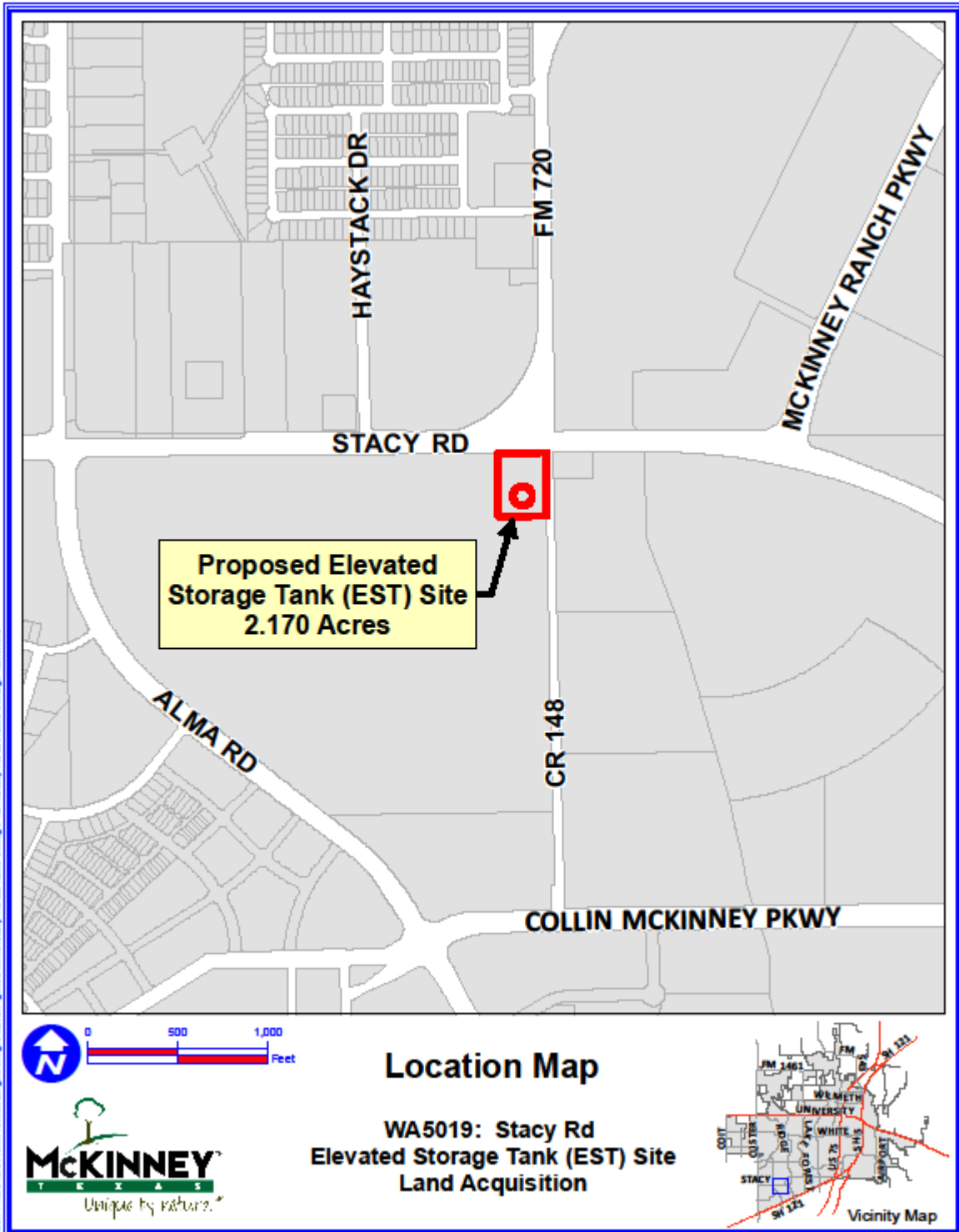
APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney

# EXHIBIT "A"

## Location Map



Path: Y:\GIS\BIS\Work\AGreen\Engineering\Council\Agenda Items\Stacy Rd Elevated Storage Tank\Stacy Rd Elevated Storage Tank.mxd

DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of McKinney. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of McKinney, its officials or employees for any discrepancies, errors, or variances which may exist.

EXHIBIT "B"

Boundary Survey and Description of Fee Simple Right of Way on Lehner Property

