

**RESOLUTION NO. 2024-02-\_\_\_\_ (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, DETERMINING A PUBLIC NECESSITY TO ACQUIRE PROPERTY EASEMENT RIGHTS FOR PUBLIC USE BY EMINENT DOMAIN FOR A SANITARY SEWER EASEMENT AND A TEMPORARY CONSTRUCTION EASEMENT ASSOCIATED WITH THE SH 5 UTILITY RELOCATION PROJECT (WA1633 & WW1633); AUTHORIZING THE CITY MANAGER TO ESTABLISH PROCEDURES FOR ACQUIRING SAID EASEMENTS, AND TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS**

**WHEREAS**, the City Council of the City of McKinney, Texas, has determined that a public need and necessity exists for the construction of the SH 5 Utility Relocation Project (WA1633 & WW1633), with the location of these necessary easements generally set forth in the map attached hereto as Exhibit B; and

**WHEREAS**, the City Council has considered this project and has determined that a public necessity exists for the acquisition of a Sanitary Sewer Easement and a Temporary Construction Easement, as described and depicted in Exhibit A, Tract I and Exhibit A, Tract II, attached hereto and incorporated herein for all purposes ("Property").

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

- 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 City Manager to execute documents, as needed, to acquire the necessary Property for the SH 5 Utility Relocation Project (WA1633 & WW1633).
- 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 SH 5 Utility Relocation Project (WA1633 & WW1633), and to acquire the necessary Property in that certain tract or parcel of land deemed necessary for that construction as identified in the construction plans and specifications as amended, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of land described and depicted in Exhibit A, Tract I and Exhibit A, Tract II.

Section 4. That the City Manager, or any individual he may so designate, 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 City Manager, or any individual he may so designate, 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 engage a qualified appraiser of the Property to be acquired when such appraisal is necessary, authorize and pay appraisal and litigation expenses incurred through a condemnation process, and, where necessary, the use of Eminent Domain to condemn the Property.

Section 5. That the City Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of the Property 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. That the City Manager is specifically authorized to establish the just compensation for the acquisition of the Property. That, if the 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 subject Property, proceedings in eminent domain to acquire the above-stated interest in the Property.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 20th DAY OF FEBRUARY, 2024.**

CITY OF MCKINNEY, TEXAS:

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GEORGE C. FULLER  
Mayor

ATTEST:

APPROVED AS TO FORM:

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EMPRESS DRANE  
City Secretary  
TENITRUS BETHEL  
Deputy City Secretary

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MARK S. HOUSER  
City Attorney

**EXHIBIT "A"**  
**15' SANITARY SEWER**  
**EASEMENT - P13**  
**CITY OF MCKINNEY,**  
**COLLIN COUNTY, TEXAS**

EXHIBIT A, TRACT I

Being a tract of land, situated in the Samuel McFarland Survey, Abstract No. 558, in the City of McKinney, Collin County, Texas, and being a part of that tract of land, described by deed to CMK FOOD, LLC, as recorded under Document No. 20071031001484970, of the Official Public Records, Collin County, Texas (O.P.R.C.C.T.), said tract being more particularly described as follows:

**BEGINNING** at a point for corner, in the northeasterly line of said CMK FOOD, LLC tract, same being southwesterly monumented line of Franklin Avenue, from which a 3/4" iron rod found for the most northerly corner of said CMK FOOD, LLC tract bears, North 55°20'52" West, a distance of 6.52';

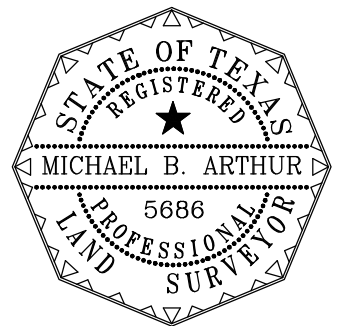
**THENCE** South 55°20'52" East, along said southwesterly monumented line of Franklin Avenue, a distance of 8.48' to a point for corner, said corner being at the beginning of a curve to the left, having a radius of 1130.92', a central angle of 07°16'38", and a chord which bears, South 30°40'38" West, a chord distance of 143.54';

Thence along said curve to the left, in a southwesterly direction, an arc length of 143.64' to a point for corner, being in the southwesterly line of said CMK FOOD, LLC tract, same being in the northeasterly line of Block "A", of **EVANS ADDITION**, an addition to the City of McKinney, as recorded in Volume 12, Page 6, of the Map Records, Collin County, Texas (M.R.C.C.T.);

**THENCE** North 84°16'19" West, along the common line between said Block "A" and CMK FOOD, LLC, a distance of 16.08' to a point for corner, being at the beginning of a curve to the right, having a radius of 1145.92', a central angle of 07°13'39", and a chord which bears, North 30°21'37" East, a chord distance of 144.46';

Thence along said curve to the right, in a northeasterly direction, an arc length of 144.55' to a point for corner;

**THENCE** North 77°38'51" East, over and across said CMK FOOD, LLC tract, a distance of 9.47' to the **POINT OF BEGINNING** and containing 2,190 square feet or 0.050 acre of land, more or less.



**ABBREVIATIONS**

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| I.R.F. = Iron Rod Found                                      |
| (R.M.) = Reference Monument                                  |
| C.I.R.F. = Capped Iron Rod Found                             |
| M.R.C.C.T. = Map Records, Collin County, Texas               |
| D.R.C.C.T. = Deed Records, Collin County, Texas              |
| O.P.R.C.C.T. = Official Public Records, Collin County, Texas |

Bearings are based on the Horizontal and Vertical Control Datasheet, provided by Kimley-Horn, prepared by Baseline Corporation, dated June 02, 2015, for State Highway No. 5 (Cont. 0047; Sect. 04; Job 022). All coordinates shown are surface and may be converted to grid by dividing by a combined scale adjustment factor of 1.000152710. The metes and bounds description shown herein is accompanied by a survey plat of even date.

DATE: 10/04/2021	<b>15' SANITARY SEWER EASEMENT - P13 0.050 ACRES IN THE SAMUEL MCFARLAND SURVEY ABSTRACT NO. 558 CITY OF MCKINNEY, COLLIN COUNTY, TEXAS</b>	<div style="display: flex; align-items: center; justify-content: center;"> <div> <p style="margin: 0;"><b>North Texas Surveying, L.L.C.</b></p> <p style="margin: 0;"><b>Registered Professional Land Surveyors</b></p> <p style="margin: 0; font-size: small;">1010 West University Drive McKinney, Tx. 75069 Ph. (469) 424-2074 Fax: (469) 424-1997 www.northtexassurveying.com Firm Registration No. 10074200</p> </div> </div>
REVISED: 04/03/2023		
SCALE: 1" = 40'		
CHK'D. BY: M.B.A.		
JOB NO.: 2020-0010		



**EXHIBIT "A"**  
**15' TEMPORARY CONSTRUCTION**  
**EASEMENT - T15**  
**CITY OF MCKINNEY,**  
**COLLIN COUNTY, TEXAS**

EXHIBIT A, TRACT II

Being a tract of land, situated in the Samuel McFarland Survey, Abstract No. 558, in the City of McKinney, Collin County, Texas, and being a part of that tract of land, described by deed to CMK FOOD, LLC, as recorded under Document No. 20071031001484970, of the Official Public Records, Collin County, Texas (O.P.R.C.C.T.), said tract being more particularly described as follows:

**BEGINNING** at a point for corner, being in the southwesterly line of said CMK FOOD, LLC tract, same being in the northeasterly line of Block "A" of **EVANS ADDITION**, an addition to the City of McKinney, as recorded in Volume 12, Page 6, of the Map Records, Collin County, Texas (M.R.C.C.T.), from which the most westerly corner of said CMK FOODS, LLC tract bears, North 84°16'19" West, a distance of 16.08', said point for corner, being at the beginning of a curve to the right, having a radius of 1130.92', a central angle of 04°34'13", and a chord which bears, North 29°19'26" East, a chord distance of 90.19';

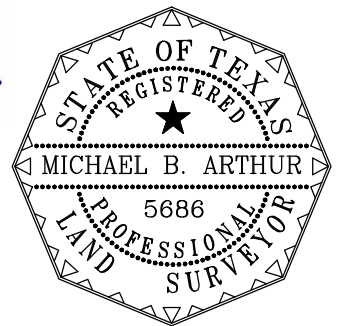
Thence along said curve to the right, in a northeasterly direction, an arc length of 90.21' to a point for corner;

**THENCE** South 58°23'28" East, continuing over and across said CMK FOODS, LLC tract, a distance of 15.00' to a point for corner, said corner being at the beginning of a curve to the left, having a radius of 1115.92', a central angle of 04°16'10", and a chord which bears, South 29°28'27" West, a chord distance of 83.14';

Thence along said curve to the left, in a southwesterly direction, an arc length of 83.16' to a point for corner, being in the southwesterly line of said CMK FOOD, LLC tract, same being in the northeasterly line of Block "A", of **EVANS ADDITION**, an addition to the City of McKinney, as recorded in Volume 12, Page 6, of the Map Records, Collin County, Texas (M.R.C.C.T.);

**THENCE** North 84°16'19" West, along the common line between said Block "A" and CMK FOOD, LLC, a distance of 16.08' to the **POINT OF BEGINNING** and containing 1,300 square feet or 0.030 acre of land, more or less.

*MB* *MA*



**ABBREVIATIONS**

I.R.F. = Iron Rod Found
(R.M.) = Reference Monument
C.I.R.F. = Capped Iron Rod Found
M.R.C.C.T. = Map Records, Collin County, Texas
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Bearings are based on the Horizontal and Vertical Control Datasheet, provided by Kimley-Horn, prepared by Baseline Corporation, dated June 02, 2015, for State Highway No. 5 (Cont. 0047; Sect. 04; Job 022). All coordinates shown are surface and may be converted to grid by dividing by a combined scale adjustment factor of 1.000152710. The metes and bounds description shown herein is accompanied by a survey plat of even date.


DATE:	10/04/2021	<b>15' TEMPORARY CONSTRUCTION  EASEMENT - T15  0.030 ACRES IN THE  SAMUEL MCFARLAND SURVEY  ABSTRACT NO. 558  CITY OF MCKINNEY,  COLLIN COUNTY, TEXAS</b>	 <b>North Texas Surveying, L.L.C.</b> Registered Professional Land Surveyors 1010 West University Drive McKinney, Tx. 75069 Ph. (469) 424-2074 Fax: (469) 424-1997 www.northtexassurveying.com Firm Registration No. 10074200
REVISED:	01/13/2023		
SCALE:	1" = 40'		
CHK'D. BY:	M.B.A.		
JOB NO.:	2020-0010		



EXHIBIT A, TRACT II

**MCDONALD STREET**  
(VARIABLE WIDTH PUBLIC RIGHT-OF-WAY)

Radius=1130.92'  
Arc Length=90.21'  
Delta=04°34'13"  
Chrd. Brng.=N29°19'26"E  
Chord=90.19'

Radius=1145.92'  
Arc Length=151.48'  
Delta=07°34'26"  
Chrd. Brng.=N30°32'00"E  
Chord=151.37'

Radius=1115.92'  
Arc Length=83.16'  
Delta=04°16'10"  
Chrd. Brng.=S29°28'27"W  
Chord=83.14'

3/4" I.R.F.  
(R.M.)

S58°23'28"E  
15.00'

CMK FOOD, LLC  
DOCUMENT NO.  
20071031001484970,  
O.P.R.C.T.

15' TEMPORARY CONSTRUCTION  
EASEMENT - T15  
1,300 SQ. FT. / 0.030 ACRES

**FRANKLIN AVENUE**  
(CALLED 50' PUBLIC RIGHT-OF-WAY)

LOT 1, BLOCK 1  
FRANKLIN ADDITION  
VOL. 3, PG. 63,  
M.R.C.C.T.

LOT 23, BLOCK 2  
FRANKLIN ADDITION  
VOL. 3, PG. 63,  
M.R.C.C.T.

BLOCK "A"  
EVANS ADDITION  
VOL. 12, PG. 6,  
M.R.C.C.T.

1/2" I.R.F.  
(R.M.)

CALLED 10' ALLEY

LOT 2, BLOCK 1  
FRANKLIN ADDITION  
VOL. 3, PG. 63,  
M.R.C.C.T.

LOT 22, BLOCK 2  
FRANKLIN ADDITION  
VOL. 3, PG. 63,  
M.R.C.C.T.

1/2" C.I.R.F.  
"ROOMER"  
S23°26'33"W  
146.33'  
N84°16'19"W  
16.08'

POINT OF  
BEGINNING

N84°16'19"W  
16.08'

S84°16'19"E  
73.28'

S84°16'19"E  
151.57'

S84°16'19"E  
150.57'

DATE: 10/04/2021

REVISED: 01/13/2023

SCALE: 1" = 40'

CHK'D. BY: M.B.A.

JOB NO.: 2020-0010

15' TEMPORARY CONSTRUCTION

EASEMENT - T15  
0.030 ACRES IN THE  
SAMUEL MCFARLAND SURVEY  
ABSTRACT NO. 558  
CITY OF MCKINNEY,  
COLLIN COUNTY, TEXAS

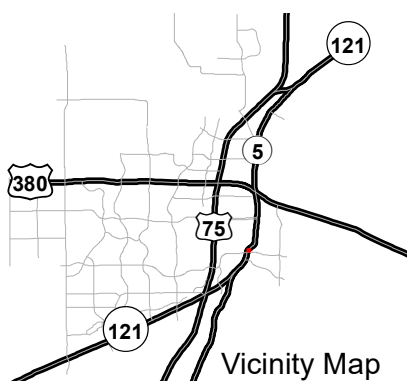
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Registered Professional Land Surveyors

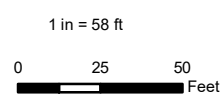
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Firm Registration No. 10074200

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### Location Map

## Exhibit "B" A&D Sweet Buffalo LLC Sanitary Sewer Easement and Temporary Construction Easement



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



Source: City of McKinney GIS  
Date: 1/30/2024