

RESOLUTION NO. 2023-32(R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, DETERMINING A PUBLIC NECESSITY TO ACQUIRE CERTAIN PROPERTIES FOR PUBLIC USE BY EMINENT DOMAIN FOR RIGHT OF WAY (IN FEE SIMPLE) AND TEMPORARY CONSTRUCTION EASEMENTS AND RELATED IMPROVEMENTS FOR THE CONSTRUCTION, EXPANSION, ACCESS, REPAIR, MAINTENANCE AND REPLACEMENT OF A PORTION OF APPROXIMATELY 1.25 MILES OF E. FM 544 (FROM NORTH OF ALFRED DRIVE TO COUNTY LINE ROAD) ROADWAY PROJECT, LOCATED ON A PORTION OF A 1.99-ACRE TRACT OF LAND CONVEYED TO BRADDOCK PLACE ESTATES HOMEOWNERS ASSOCIATION, INC. AS RECORDED UNDER INSTRUMENT NO. 20160329000367090 IN THE REAL PROPERTY RECORDS OF COLLIN COUNTY, TEXAS, GENERALLY LOCATED ALONG THE WEST SIDE OF E. FM 544 BETWEEN ALANIS DRIVE AND VINSON ROAD, WYLIE, COLLIN COUNTY, TEXAS; GIVING NOTICE OF AN OFFICIAL DETERMINATION TO ACQUIRE CERTAIN PROPERTIES FOR PUBLIC USE BY EMINENT DOMAIN FOR SUCH RIGHT OF WAY (IN FEE SIMPLE), TEMPORARY CONSTRUCTION EASEMENTS AND RELATED IMPROVEMENTS; AUTHORIZING THE CITY MANAGER OF THE CITY OF WYLIE, TEXAS, TO ESTABLISH PROCEDURES FOR ACQUIRING THE RIGHT OF WAY AND EASEMENTS, OFFERING TO ACQUIRE THE PROPERTY INTERESTS, VOLUNTARILY, FROM THE LANDOWNER THROUGH THE MAKING OF BONA FIDE OFFERS; APPROPRIATING FUNDS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Wylie, Texas (“City Council”) finds that there is a public necessity for the acquisition, by eminent domain, of right of way (in fee simple), temporary construction easements, and related improvements (collectively, “Right of Way and Easements”), on that certain property described and depicted in Exhibit A, attached hereto and incorporated herein for all purposes, identifying the general area to be covered by the Project (hereinafter defined) and/or the general route that will be used by Wylie for the Project (“Property”); and

WHEREAS, it is the intent of the City of Wylie, Texas (“Wylie”) to acquire the necessary Right of Way and Easements on the Property for the purpose of, among other things, the construction, access, repair, maintenance and replacement of roadway facilities, utilizing temporary construction easements, and related improvements, which are necessary for the E. FM 544 Project (from north of Alfred Drive to County Line Road) (“Project”); and

WHEREAS, the City Council finds that the description of the Property, attached hereto as Exhibit A, to be acquired by eminent domain for the Project complies with Chapter 2206 of the Texas Government Code, as amended (“Chapter 2206”), in that the same provides property owner(s) in and around the area or along the route reasonable notice that the owners’ properties may be subject to condemnation proceedings during the planning or construction of the Project; and

WHEREAS, the City Council further finds that the Project is necessary for public use; and

WHEREAS, it is necessary to establish procedures for determining the establishment and approval of just compensation for the Right of Way and Easements to be acquired by eminent domain for the Project; and

WHEREAS, there may be improvements located on some of the Property acquired for this Project and such improvements may be required to be moved prior to the beginning of this Project; and

WHEREAS, the City Manager, or his designee (“City Manager”), is required to make a bona fide offer, as defined by and in compliance with Section 21.0113 of the Texas Property Code (“Bona Fide Offer”), to acquire the Right of Way and Easements on the Property for public use, voluntarily, from the subject landowner(s) prior to moving forward with acquisition by eminent domain; and

WHEREAS, the City Council has investigated and determined that the passage of this Resolution complies with Chapter 2206 and other applicable laws.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2: Acquisition of Property. The City Council hereby determines that there is a public necessity for and the public welfare and convenience will be served by the acquisition, by eminent domain, of the Right of Way and Easements on the Property, and it is Wylie’s intent to acquire the Right of Way and Easements for public use as described and depicted in Exhibit A, attached hereto, specifically for the purpose of, among other things, the construction, access, repair, maintenance and replacement of roadway facilities, and related improvements, necessary for the Project.

SECTION 3: Authority of City Manager/Bona Fide Offer. The City Manager is hereby authorized to contract, on behalf of the City Council, with professional appraisers for appraisal services and with attorneys for preparation of title opinion(s) needed by Wylie from time to time in connection with the acquisition of the Right of Way and Easements on the Property for the purpose of, among other things, the construction, access, repair, maintenance and replacement of roadway facilities, and related improvements, necessary for the Project. The City Council hereby ratifies any contracts entered into, prior to the effective date of this Resolution, by the City Manager with professional appraisers for appraisal services and with attorneys for preparation of title opinion(s) needed for the acquisition of the Right of Way and Easements on the Property. To this end, the City Manager shall first make a Bona Fide Offer to acquire the Right of Way and Easements on the Property from the subject landowner(s), voluntarily. Should the landowner fail to provide the Easement, voluntarily, through said Bona Fide Offer, the City Manager is authorized to move forward with acquiring the Right of Way and Easements on the Property by eminent domain.

SECTION 4: Determination of Just Compensation. The City Manager is hereby authorized and directed to examine and rely on the independent appraisal reports, and other information, to make a determination as to the establishment and approval of a fair market value offer and the just compensation for the Right of Way and Easements on the Property for the purpose of making the Bona Fide Offer. After such consideration, the City Manager shall establish and approve the amount determined to be just compensation for acquisition of said Right of Way and Easements and shall have the authority to execute any and all documents necessary to complete the acquisition of same.

SECTION 5: Authority to Make an Offer. Upon establishment and approval by the City Manager of the amount of just compensation for the acquisition of the Right of Way and Easements on the Property, the City Manager is authorized to send a written Bona Fide Offer to the landowner(s) of said Property for the acquisition of said Right of Way and Easements at the full amount determined and established to be just compensation therefore, and to negotiate with said landowner on behalf of Wylie to acquire the Right of Way and Easements voluntarily.

SECTION 6: Authority to Execute Documents. The City Manager is hereby authorized to execute all documents necessary to acquire the Right of Way and Easements on the Property needed for the Project, on behalf of Wylie, whether by purchase or eminent domain. The City Council hereby ratifies any documents executed, prior to the effective date of this Resolution, by the City Manager which were necessary for the acquisition of the Right of Way and Easements on the Property for the Project.

SECTION 7: Disposal of Improvements. The City Manager is hereby authorized to sell such surplus improvements, if any, located on the Right of Way and Easements acquired in connection with this Project, should they interfere with the intended use and enjoyment of said Right of Way and Easements.

SECTION 8: Eminent Domain Authorized. Should the City Manager be unable to acquire the Right of Way and Easements, voluntarily, from the landowner(s), through the making of the Bona Fide Offer, the City Manager is authorized to instruct the law firm of Abernathy, Roeder, Boyd & Hullett, P.C., to commence eminent domain proceedings for the acquisition of the Right of Way and Easements on the Property for the Project.

SECTION 9: Source of Funds. The amount to be paid, if any, for acquiring the Right of Way and Easements on the Property for the Project will be appropriated from any lawful source.

SECTION 10: Savings/Repealing. All provisions of any resolution in conflict with this Resolution are hereby repealed to the extent they are in conflict. Any remaining portion of conflicting resolutions shall remain in full force and effect.

SECTION 11: Severability. Should any section, subsection, sentence, clause or phrase of this Resolution be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Resolution shall remain in full force and effect. The City Council hereby declares that it would have passed this Resolution, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 12: Effective Date. This Resolution shall take effect immediately from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, on this 12th day of December, 2023.

Matthew Porter, Mayor

ATTEST:

Stephanie Storm, City Secretary

Exhibit A

**Parcel 9ROW
Right-of-Way Acquisition
Allen Atterbury Survey, Abstract No. 23
City of Wylie, Collin County, Texas**

BEING a 401 square foot (0.0092 acres) tract of land situated in the Allen Atterbury Survey, Abstract No. 23, in Collin County, Texas, and being part of Lot 13, Block B, Alanis Crossing Phase I, as recorded in Vol. 2014, Page 459, Plat Records of Collin County, Texas (P.R.C.C.T.) and a part of a tract of land described in deed to Braddock Place Estates Homeowners Association, Inc., as recorded in Instrument Number 20160216000173520, Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described as follows:

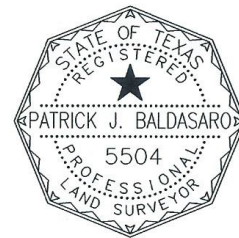
BEGINNING at the northernmost southeast corner of said Lot 13, being in the existing west right-of-way line of F.M. 544 (variable width right-of-way) and the northeast corner of a tract to Tommy Pulliam and wife, Toni Pulliam, as recorded in Vol. 4590, Page 1895, Deed Records of Collin County, Texas (D.R.C.C.T.);


1. **THENCE** North 89 degrees 33 minutes 00 seconds West, with the south line of said Lot 13 and the north line of said Pulliam tract, a distance of 20.06 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set;
2. **THENCE** North 04 degrees 06 minutes 03 seconds West, departing the south line of said Lot 13 and the north line of said Pulliam tract and across said Lot 13, a distance of 20.06 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set in the north line of said Lot 13, being the existing south right-of-way line of Alanis Drive (100 foot right-of-way), from which a 1/2-inch iron rod with cap stamped TXHS found (controlling monument) bears North 89 degrees 33 minutes 17 seconds West, a distance of 626.44 feet;
3. **THENCE** South 89 degrees 33 minutes 17 seconds East, with the north line of said Lot 13 and the existing right-of-way line of said Alanis Drive, a distance of 20.06 feet to the northwest corner of said Lot 13 being in the existing west right-of-way line of said F.M. 544;
4. **THENCE** South 04 degrees 06 minutes 03 seconds East, with the east line of said Lot 13 and the existing right-of-way line of said F.M. 544, a distance of 20.06 feet to the **POINT OF BEGINNING** and containing 401 square feet (0.0092 acres) of land.

**Parcel 9ROW
Right-of-Way Acquisition
Allen Atterbury Survey, Abstract No. 23
City of Wylie, Collin County, Texas**

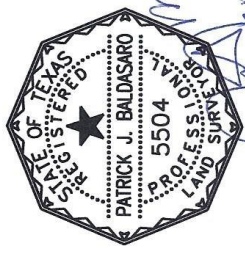
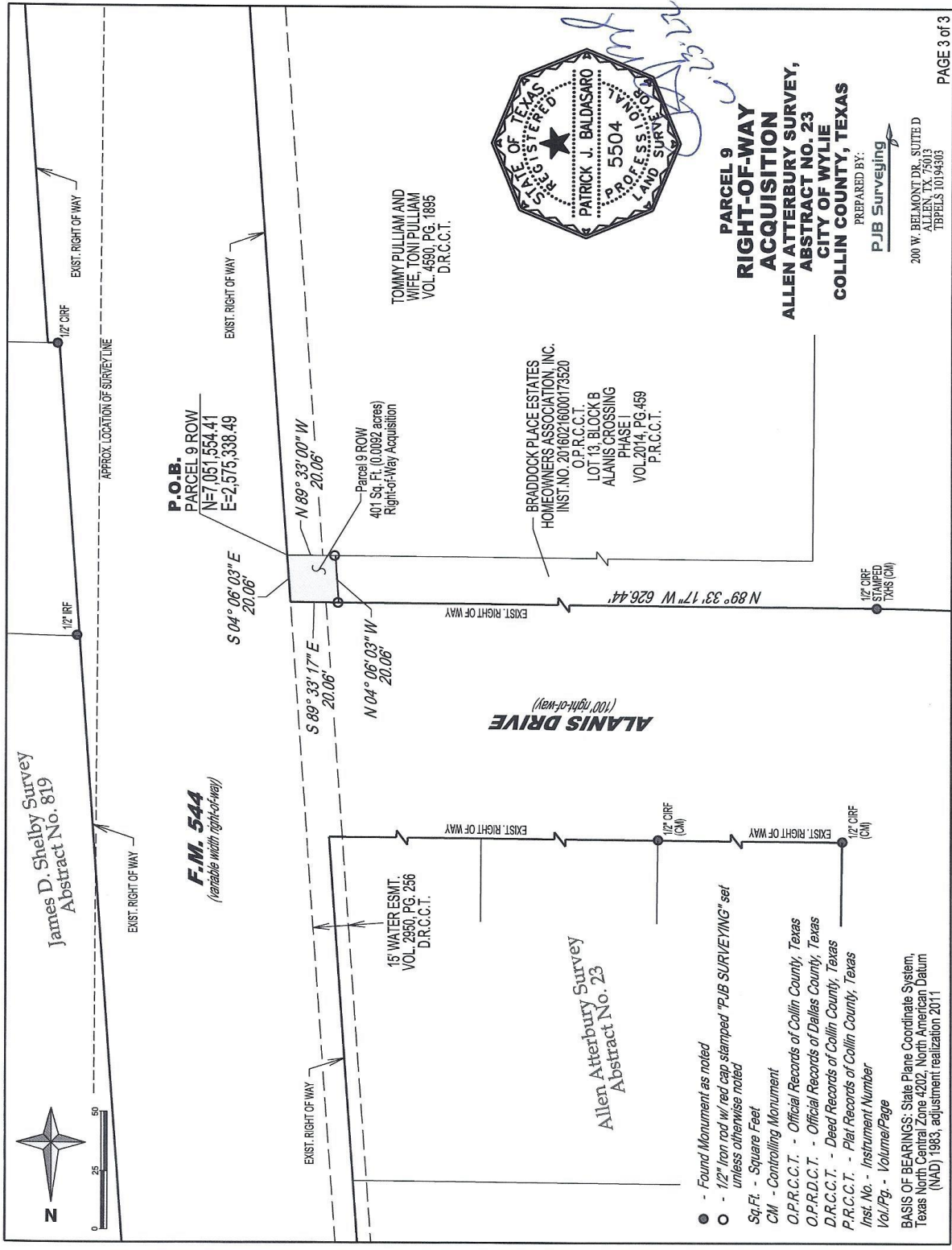
A plat accompanies this legal description.

Bearings and coordinates used hereon are derived from the State Plane Coordinate System, Texas, North Central Zone 4202, American Datum 1983 (NAD83), adjustment realization 2011.



By: 
Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504
PJB Surveying, LLC
TBPELS Firm No. 10194303

Date: 6.23.22



**PARCEL 9
RIGHT-OF-WAY
ACQUISITION**
**ALLEN ATTERBURY SURVEY,
ABSTRACT NO. 23
CITY OF WYLIE
COLLIN COUNTY, TEXAS**

PREPARED BY:
PJB Surveying
200 W. BELMONT DR., SUITE D
ALLEN, TX 75013
714PELS 10194303

**Parcel 11A TCE
Temporary Construction Easement
D.K. Williams Survey, Abstract No. 980
City of Wylie, Collin County, Texas**

BEING a 1,605 square foot (0.0368 acres) tract of land situated in the D.K. Williams Survey, Abstract No. 980, in Collin County, Texas, and being part of Lot 8, Block A, Braddock Place Phase III, as recorded in Vol. 2014, Page 396, Plat Records of Collin County, Texas (P.R.C.C.T.) and being part of a tract of land described in deed to Braddock Place Estates Homeowners Association, Inc., as recorded in Instrument Number 20160329000367090, of the Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described as follows:

BEGINNING at the southeast corner of said Lot 8, being an intersection of the existing west right-of-way line of F.M. 544 (variable width right-of-way) and the existing north right-of-way line of Sun Meadow Drive (50 foot right-of way);


1. **THENCE** North 89 degrees 32 minutes 48 seconds West, with the south line of said Lot 8 and the existing north right-of-way line of said Sun Meadow Drive, a distance of 10.03 feet, from which a 1/2-inch iron rod with cap stamped "Corwin Engineering" found (controlling monument) bears North 89 degrees 32 minutes 48 seconds West, a distance of 24.98 feet;
2. **THENCE** North 04 degrees 06 minutes 03 seconds East, departing the south line of said Lot 8 and the existing north right-of-way line of said Sun Meadow Drive, a distance of 160.51 feet to the north line of said Lot 8 and the south line of a tract of land described to Tommy Pulliam and wife, Toni Pulliam, as recorded in Volume 4590, Page 1895, Deed Records of Collin County, Texas (D.R.C.C.T.);
3. **THENCE** South 89 degrees 32 minutes 48 seconds East, with the north line of said Lot 8 and the south line of said Pulliam tract, a distance of 10.03 feet to the northeast corner of said Lot 8, the southeast corner of said Pulliam tract and being in the existing west right-of-way line of said F.M. 544;
4. **THENCE** South 04 degrees 06 minutes 03 seconds West, along the east line of said Lot 8 and the existing west right-of-line of said F.M. 544, a distance of 160.51 feet to the **POINT OF BEGINNING** and containing 1,605 square feet (0.0368 acres) of land.

**Parcel 11A TCE
Temporary Construction Easement
D.K. Williams Survey, Abstract No. 980
City of Wylie, Collin County, Texas**

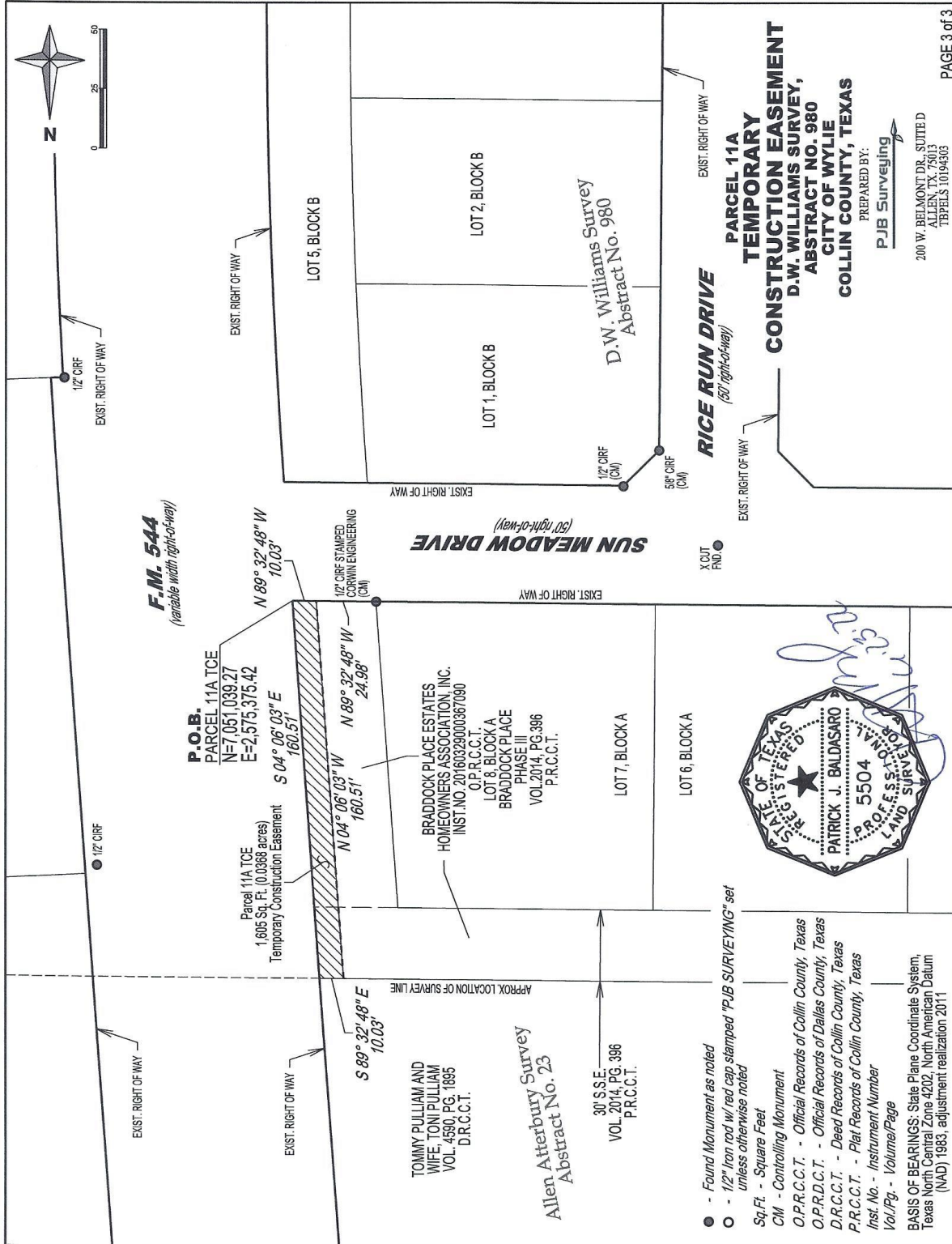
A plat accompanies this legal description.

Bearings and coordinates used hereon are derived from the State Plane Coordinate System, Texas, North Central Zone 4202, American Datum 1983 (NAD83), adjustment realization 2011.



By: 
Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504
PJB Surveying, LLC
TBPELS Firm No. 10194303

Date: 6-23-22



**Parcel 11B TCE
Temporary Construction Easement
D.K. Williams Survey, Abstract No. 980
City of Wylie, Collin County, Texas**

BEING a 4,418 square foot (0.1014 acres) tract of land situated in the D.K. Williams Survey, Abstract No. 980, in Collin County, Texas, and being part of Lot 5, Block B, Braddock Place Phase III, as recorded in Vol. 2014, Page 396, Plat Records of Collin County, Texas (P.R.C.C.T.) and being part of a tract of land described in deed to Braddock Place Estates Homeowners Association, Inc., as recorded in Instrument Number 20160329000367090, of the Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with cap (controlling monument) at the southeast corner of said Lot 5, being in the existing west right-of-way line of F.M. 544 (variable width right-of-way) and the northeast corner of Wally W. Watkins Elementary School, as recorded in Volume 2010, Page 247, P.R.C.C.T.;

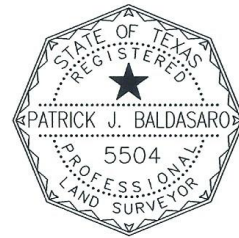
1. **THENCE** North 89 degrees 04 minutes 07 seconds West, with the south line of said Lot 5 and the north line of said Wally W. Watkins Elementary School, a distance of 10.00 feet;
2. **THENCE** North 00 degrees 53 minutes 57 seconds East, departing the south line of said Lot 5 and the north line of said Wally W. Watkins Elementary School and across said Lot 5, a distance of 194.24 feet to the point of curvature of a curve to the left, having a radius of 2,809.78 feet and a central angle of 05 degrees 02 minutes 51 seconds;
3. **THENCE** with said curve to the left, an arc distance of 247.53 feet (Chord Bearing North 01 degrees 37 minutes 29 seconds West – 247.45 feet), to the north line of said Lot 5 and in the existing south right-of-way line of Sun Meadow Drive (50 foot right-of-way), from which a 1/2-inch iron rod with cap found (controlling monument) bears North 89 degrees 32 minutes 48 seconds West, a distance of 132.68 feet;
4. **THENCE** South 89 degrees 32 minutes 48 seconds East, with the north line of said Lot 5 and the existing south right-of-way line of said Sun Meadow Drive, a distance of 10.03 feet to the north corner of said Lot 5, being in the existing west right-of-way line of said F.M. 544, being on a curve to the right, having a radius of 2,819.78 feet and a central angle of 05 degrees 01 minutes 52 seconds;
5. **THENCE** with the east line of said Lot 5, the existing west right-of-line of said F.M. 544 and said curve to the right, an arc distance of 247.60 feet (Chord Bearing South 01 degrees 36 minutes 59 seconds East – 247.52 feet) to the point of tangency;


**Parcel 11B TCE
Temporary Construction Easement
D.K. Williams Survey, Abstract No. 980
City of Wylie, Collin County, Texas**

6. **THENCE** South 00 degrees 53 minutes 57 seconds West, continuing with the east line of said Lot 5 and the existing west right-of-line of said F.M. 544, a distance of 194.25 feet to the **POINT OF BEGINNING** and containing 4,418 square feet (0.1014 acres) of land.

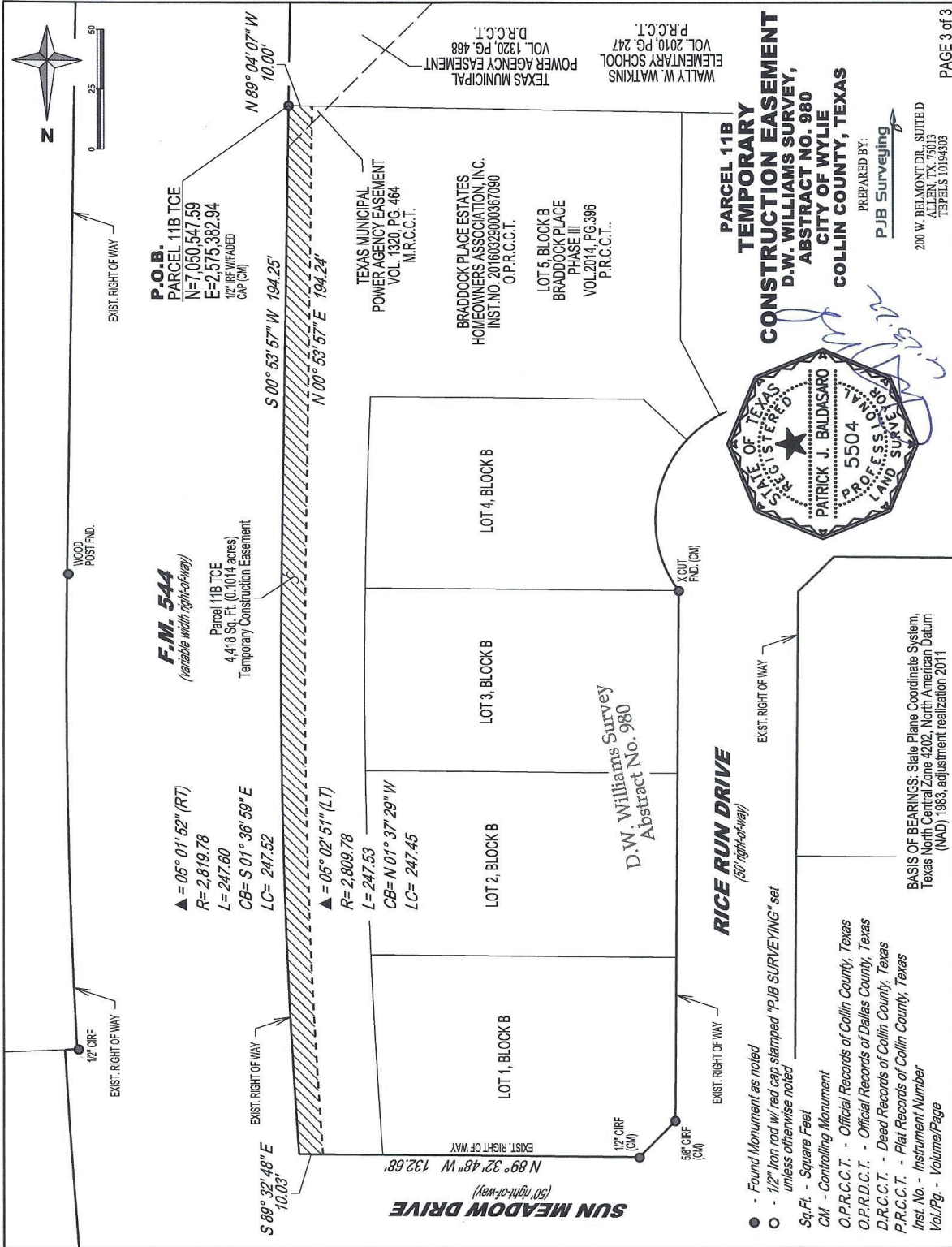
A plat accompanies this legal description.

Bearings and coordinates used hereon are derived from the State Plane Coordinate System, Texas, North Central Zone 4202, American Datum 1983 (NAD83), adjustment realization 2011.



By: 
Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504
PJB Surveying, LLC
TBPELS Firm No. 10194303

Date: 4.23.22



Parcel 16ROW
Right-of-Way Acquisition
Elisha M. Price Survey, Abstract No. 725
and Elisha M. Price Survey, Abstract No. 1114
City of Wylie, Collin County, Texas

BEING a 904 square foot (0.0208 acres) tract of land situated in the Elisha M. Price Survey, Abstract No. 725, in Collin County, Texas and the Elisha M. Price Survey, Abstract No. 1114, in Dallas County, Texas and being part of Lot 16, Block 1, Braddock Place, Phase V, as recorded Volume 2017, Page 618, Map Records of Collin County, Texas (M.R.C.C.T.) and described in deed to Braddock Place Homeowners Association, Inc. as recorded in Instrument Number 20170831001174830, of the Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set in the new west right-of-way line of F.M. 544, being in the southeasterly line of said Lot 16 and in the existing northerly right-of-way line of Vinson Road (variable width right-of-way), from which a found 1/2-inch iron rod with cap stamped "Vortex RPLS 4813" bears North 48 degrees 49 minutes 04 seconds East, a distance of 22.75 feet;


1. **THENCE** North 25 degrees 57 minutes 21 seconds East, with the new west right-of-way line of F.M. 544, a distance of 89.08 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set in the east line of said Lot 16 and the west right-of-way of F.M. 544 (variable width right-of-way);
2. **THENCE** South 00 degrees 25 minutes 54 seconds East, departing the new west right-of-way of F.M. 544 and with the east line of said Lot 16 and the west right-of-way line of said F.M. 544, a distance of 45.68 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set at the southeast corner of said Lot 16, being in the northerly right-of-way line of said Vinson Road, from which a found 1/2-inch iron rod with cap stamped "Vortex RPLS 4813" bears North 52 degrees 10 minutes 09 seconds East, a distance of 88.47 feet;
3. **THENCE** South 48 degrees 49 minutes 04 seconds West, with the south line of said Lot 16 and the north right-of-way line of said Vinson Road, a distance of 52.26 feet to the **POINT OF BEGINNING** and containing 904 square feet (0.0208 acres) of land.

Parcel 16ROW
Right-of-Way Acquisition
Elisha M. Price Survey, Abstract No. 725
and Elisha M. Price Survey, Abstract No. 1114
City of Wylie, Collin County, Texas

A plat accompanies this legal description.

Bearings and coordinates used hereon are derived from the State Plane Coordinate System, Texas, North Central Zone 4202, American Datum 1983 (NAD83), adjustment realization 2011.



By: 
Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504
PJB Surveying, LLC
TBPELS Firm No. 10194303

Date: 6-23-22

