



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		8/23/10		
Department:		Public Works & Engineering		
Department Head:		Alan L. Upchurch		
Agenda Coordinator (include phone #):		Irene Pegues (7198)		Project No. 5845
CAPTION				
<p>An Ordinance of the City of Plano, Texas, to determine the public use, need and necessity for the acquisition of a permanent street easement on a 0.0073 acre (317 square feet) tract of land located in the James Beverly Survey, Abstract No. 120 and situated at the northwest corner of the intersection of Jupiter Road and Summit Avenue, in the City of Plano, Collin County, Texas, for the purpose of constructing, reconstructing and maintaining street and highway facilities and related public improvements in the City of Plano, Collin County, Texas; authorizing the City Attorney, or her designee, to file proceedings in eminent domain to acquire the needed real property; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	93,600	467,400	0	561,000
Encumbered/Expended Amount	-93,600	-56,610	0	-150,210
This Item	0	-634	0	-634
BALANCE	0	410,156	0	410,156
FUND(S): STREET IMPROVEMENT CIP				
<p>COMMENTS: Funds are included in the Re-Estimated 2009-10 Street Improvement CIP. This eminent domain street easement purchase, in the amount of \$634, will leave a current year balance of \$410,156 for the Intersection Improvements - Preston, Jupiter and Spring Creek project.</p> <p>STRATEGIC PLAN GOAL: Purchase of street improvement easements relates to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>Staff has made several attempts to contact the owners, Jud and Catherine Ireland and Olivas Owners, LLC, in California concerning the City's need to acquire a 317 sq. ft. street easement for intersection improvements at the northwest corner of Jupiter Road and Summit Avenue. Our most recent attempt was certified mail on July 8, 2010, in which we offered to purchase the street easement for \$634 based on an appraisal that they were provided. Since we have had no response, we are requesting Council approval to begin eminent domain proceedings to acquire the easement.</p>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
N/A		N/A		

An Ordinance of the City of Plano, Texas, to determine the public use, need and necessity for the acquisition of a permanent street easement on a 0.0073 acre (317 square feet) tract of land located in the James Beverly Survey, Abstract No. 120 and situated at the northwest corner of the intersection of Jupiter Road and Summit Avenue, in the City of Plano, Collin County, Texas, for the purpose of constructing, reconstructing and maintaining street and highway facilities and related public improvements in the City of Plano, Collin County, Texas; authorizing the City Attorney, or her designee, to file proceedings in eminent domain to acquire the needed real property; and providing an effective date.

WHEREAS, the City Council of the City of Plano, Texas, upon consideration of this matter, has determined that there is a public need and necessity for the health, safety, and welfare of the City of Plano and the public at large to acquire an easement on certain real property to construct, reconstruct and maintain highway and street facilities and related public improvements at the northwest corner of the intersection of Jupiter Road and Summit Avenue, in the City of Plano, Collin County, Texas; and

WHEREAS, in accordance with the above, the City Council of the City of Plano, Texas, hereby finds that there is a public need and necessity to acquire the street easement for such purposes set forth above. The public improvements will be for the benefit and enjoyment to the citizens of the City of Plano, Texas, and the public at large; and

WHEREAS, the easement to be acquired consists of a 0.0073 acre (317 square feet) tract of land, together with improvements thereon and appurtenances thereto (the "Easement"); all more particularly described in Exhibit "A" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The City Council hereby finds and determines that there is a public need and it is necessary for the health, safety, and welfare of the City of Plano, Texas, to acquire the Easement for the purpose of constructing, reconstructing and maintaining highway and street facilities and related public improvements, which shall inure to the benefit of the public and the citizens of the City of Plano, Texas.

Section II. The City Manager and his designees have attempted to agree with the property owner regarding the compensation to be paid to the property owner for the acquisition of the Easement by providing the property

owner with a copy of the Landowner's Bill of Rights and by offering the property owner an amount equal to an appraisal obtained by the City. Despite the City's best efforts, the City and the property owner are not able to agree on said compensation.

Section III. The City Council hereby finds that the City is unable to agree with the property owner as to compensation to be paid to the property owner. Therefore, the City Council authorizes the City Attorney, or her designee, to file or cause to be filed against the property owner and interested parties of the property proceedings in eminent domain to acquire the Easement for the above stated purposes.

Section IV. It is the intent of the City Council that this Ordinance authorize the condemnation of the Easement required by the City's Public Works and Engineering Department to construct the necessary public improvements. If it is later determined that there are any errors in the descriptions contained in Exhibit "A", the City Attorney or her designee is authorized to have such errors corrected without the necessity of obtaining a new City Council Ordinance authorizing the condemnation of the corrected property.

Section V. All findings of fact, recitations and provisions set out in the preamble of this Ordinance are adopted and made a part of the body of this Ordinance, as if fully set forth herein.

Section VI. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 23rd day of August, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

STREET EASEMENT NO. 2
NW CORNER OF JUPITER/SUMMIT
JAMES BEVERLY SUR., ABST. 120
CITY OF PLANO
COLLIN COUNTY, TEXAS

BEING a tract of land situated in the James Beverly Survey, Abstract No. 120, City of Plano, Collin County, Texas, also being situated in Lot 4R, Block 1 of Central Plano Industrial Park, Phase 1, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Volume 2007, Page 407, Map Records, Collin County, Texas, same being out of and a portion of that certain tract of land conveyed to Jud & Catherine Ireland & Olivas Owners, LLC by Special Warranty Deed with Vendor's Lien dated January 27, 2001, and recorded in Volume 4849, Page 794, Deed Records, Collin County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found being the intersection of the north right-of-way line of Summit Avenue (60' R.O.W.) with the corner cutback line of Jupiter Road and being the most southerly southeast corner of Lot 4R, Block 1 of Central Plano Industrial Park, Phase 1, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Volume 2007, Page 407, Map Records, Collin County, Texas;

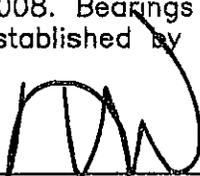
THENCE along the north right-of-way line of said Summit Road, the south line of said Lot 4R, Block 1 and the south line of herein described tract, South 89 degrees 34 minutes 41 seconds West, a distance of 20.00 feet to a 5/8" iron rod set with cap marked "WEBB-4125" to a Point;

THENCE through the interior of said Lot 4R, Block 1 the following two (2) courses:

1. North 42 degrees 08 minutes 20 seconds East, a distance of 35.80 feet to a 5/8" iron rod set with cap marked "WEBB-4125" to a Point being on the west line of a Street Easement five (5.00) feet in width as dedicated by said Central Plano Industrial Park, Phase 1 addition;
2. Along said Street Easement, South 02 degrees 06 minutes 19 seconds East, a distance of 21.39 feet to a 5/8" iron rod set with cap marked "WEBB-4125" to a Point, being in the northwest corner cutback line of said Jupiter Road and said Summit Avenue and same being in the southeast corner cutback line of said Lot 4R, Block 1;

THENCE southwesterly along the northwest corner cutback line of said Jupiter Road and said Summit Avenue and the southeast corner cutback line of said Lot 4R, Block 1, South 43 degrees 44 minutes 11 seconds West, a distance of 6.96 feet to the POINT OF BEGINNING hereof and containing 0.0073 acres or 317 square feet of land, more or less.

Based on an on-the-ground surveyed performed under my supervision on September 04, 2008. Bearings shown hereon based on Grid Bearings, Texas North Central Zone, NAD83, as established by GPS observations performed coincident with the survey.


Kurtis R. Webb
Texas Reg. No. 4125
October 8, 2009



Webb Surveying, Inc.
3400 Silverstone Drive
Suite 124
Plano, TX 75023

Land Surveyors
Phone: (972) 964-1737
Fax: (972) 596-4828
mail@webbsurveying.com

LOT 4R BLOCK 1
CENTRAL PLANO INDUSTRIAL
PARK, PHASE 1 5/8IRS
VOL. 2007-407
M.R.C.C.T.
VISIBILITY EASEMENT

STREET EASEMENT
NO. 2
317 SF 0.0073 AC

SUMMIT AVENUE
(60' R.O.W.)

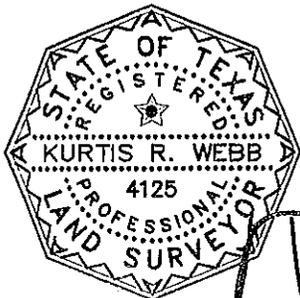
JUPITER ROAD

20' BUILDING LINE



STREET EASEMENT NO. 2
NW CORNER OF JUPITER/SUMMIT
JAMES BEVERLY SUR., ABST. 120
CITY OF PLANO
COLLIN COUNTY, TEXAS

NUMBER	DIRECTION	DISTANCE
L1	S 89°34'41" W	20.00'
L2	N 42°08'20" E	35.80'
L3	S 02°06'19" E	21.39'
L4	S 43°44'11" W	6.96'



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