

Office of Public Works Dept.

City of Richland Hills, Texas

Memorandum

To: Honorable Mayor Bill Agan and members of the Richland Hills City Council
From: Michael Barnes, Public Works Director
Date: June 20, 2013
Subject: Acquisition Drainage Easement from Oncor

Council Action Requested:

Consider acquisition of a 20' wide Drainage Easement from Oncor Electric Delivery as described on Exhibit "A" and as made part of the Oncor Easement and Right of Way document.

Background Information:

In Phase II of the Master Drainage Plan the Kingsbury Interceptor (an 8'x7' concrete box culvert) will be constructed within and parallel to the Oncor Transmission Easement between Kingsbury Ave. (approx. 250'in length) and Matthews Dr. Halff Associates designed the location and staff submitted the location to Oncor for approval. After much discussion Oncor approved the location. Normal practice for Oncor is not allowing construction of a facility to parallel within a Transmission Easement because of the danger of electrical arcing. However, because of the short distance of being within the easement and the construction restrictions placed on the contractor, Oncor has approved the easement.

The design proposal of the Kingsbury Project will be submitted to the council within a few weeks after the Matthews Interceptor bidding phase begins. It is anticipated the Matthews Interceptor to begin the bidding phase in late July or early August depending on the acquisition of the easements.

Board/Citizen Input: Citizens along Matthews will be notified of the proposed construction a few weeks prior to start of construction.

Financial Impact: Oncor is not requiring any funds for this permanent easement.

Staff Contacts:

Michael Barnes, P.E. Director of Public Works

817-616-3835

mbarnes@richlandhills.com

Attachments: Oncor Easement and Right of Way Agreement

EASEMENT AND RIGHT OF WAY

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TEXAS §

That **ONCOR ELECTRIC DELIVERY COMPANY LLC**, a Delaware limited liability company, hereinafter referred to as Grantor, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration to it in hand paid by the **City of Richland Hills**, a Texas Municipal Corporation, hereinafter referred to as Grantee, has granted, sold and conveyed and by these presents does hereby grant, sell and convey unto said Grantee a nonexclusive 20 foot wide easement and right of way for the purpose of constructing, reconstructing, replacing, maintaining and operating underground storm drain box culverts, hereinafter referred to as Grantee's Facility, in, over, under, across and along the following described property:

SEE ATTACHED EXHIBIT "A"

There is also granted to Grantee, its successors or assigns, a nonexclusive easement to use only so much of Grantor's adjoining land, during temporary periods, as may be necessary for the construction, maintenance, and repair of said Grantee's Facility. Such use shall not interfere with Grantor's use of such property in the operation of its business and Grantee shall properly maintain such property during construction and at the conclusion of such construction remove all construction debris and other materials from such property and restore such property to the same condition it was in prior to the commencement of Grantee's construction thereon or in proximity thereto. Additional general construction limitations on easement are described and listed, but not limited to, in **Exhibit "B"**, attached hereto and by reference made a part hereof. Use of draglines or other boom-type equipment in connection with any work to be performed on Grantor's property by the Grantee, its employees, agents, representatives or contractors must comply with Chapter 752, Texas Health and Safety Code, the National Electrical Safety Code and any other clearance requirements. Notwithstanding anything to the contrary herein, in no event shall any equipment be within fifteen feet of Grantor's power lines situated on the aforesaid property. Grantee must notify Fort Worth Transmission, (817-991-5746) at least 48 hours prior to the use of any boom-type equipment on Grantor's property except in an emergency. Grantor reserves the right to refuse Grantee permission to use boom-type equipment.

Grantee shall locate its Facility within the easement so as not to interfere with any of Grantor's facilities. Grantee shall not place its facility within 25 feet of any pole or tower leg. Grantee shall reimburse Grantor for any and all costs and expenses incurred by Grantor for any relocation or alteration of its facilities located on or near the easement that Grantor, in its sole discretion, determines are subject to interference from the said Grantee's Facility or from the exercise by Grantee of any of its rights hereunder.

This easement is granted upon the conditions that Grantee's Facility to be constructed shall be maintained and operated by Grantee at no expense to Grantor and Grantor shall not be responsible for any costs of construction, reconstruction, operation, maintenance or removal of Grantee's Facility.

To the extent permitted by law, Grantee agrees to defend, indemnify and hold Grantor, its officers, agents and employees, harmless against any and all claims, lawsuits, judgements, costs, and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons that may arise out of, or be occasioned, by any negligent act or omission of Grantee, its officers, agents, associates, employees or subconsultants; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of Grantor, its officers, agents, or employees or separate contractors, and in the event of joint and concurrent negligence of both Grantor and Grantee, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity or other defenses available to the parties under Texas Law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Grantee shall, at its own cost and expense comply with all applicable laws, including but not limited to existing zoning ordinances, governmental rules and regulations enacted or promulgated by any governmental authority and shall promptly execute and fulfill all orders and requirements imposed by such governmental authorities for the correction, prevention and abatement of nuisances in or upon or connected with said premises because of Grantee's use thereof.

This easement, subject to all liens of record, shall continue only so long as Grantee shall use this right of way for the purpose herein described and the same shall immediately lapse and terminate upon cessation of such use.

TO HAVE AND TO HOLD the above described easement and rights unto the Grantee, its successors and assigns, for the purposes aforesaid and upon the conditions herein stated until the same shall be abandoned for use by the Grantee for the purpose herein stated, then and thereupon this conveyance shall be null and void and the use of said land and premises shall absolutely revert to Grantor herein, its successors and assigns, and no act or omission on the part of them shall be construed as a waiver of the enforcement of such condition.

AND Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the above described easement and rights unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor but not otherwise.

EXECUTED as of this _____ day of _____, 2013.

GRANTOR:

Oncor Electric Delivery Company

By: _____
Dennis L. Patton
Attorney-in-Fact

GRANTEE:

City of Richland Hills

By: _____

Name: _____

Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, as the _____ of **The City of Richland Hills**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he/she is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A. D. 2013.

Notary Public in and for the State of Texas

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Dennis L. Patton as the Attorney-In-Fact of **Oncor Electric Delivery Company LLC**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A. D. 2013.

Notary Public in and for the State of Texas

EXHIBIT "A"
LEGAL DESCRIPTION
DRAINAGE EASEMENT

Being a tract of land in the A. S. Trimble Survey, Abstract No. 1529, in Richland Hills, Tarrant County, Texas being a part of that property described in Warranty Deed to Texas Electric Service Company (TESCO), as recorded in Volume 2356, Page 563 in the Deed Records of Tarrant County, Texas (D.R.T.C.T.) and being a part that property described in Warranty Deed to Texas Electric Service Company (TESCO), as recorded in Volume 2382, Page 561 D.R.T.C.T., and being more particularly described as follows:

COMMENCING on the west right-of-way line of Kingsbury Avenue (50 foot wide right-of-way), being on the east line of Lot 9A, Block 45 of the plat recorded as Lots 16 through 24 and Tract "A" in Block 28; Lots 3 through 8 and Lot 9-A in Block 45 of Richland Hills Addition, an addition to the City of Richland Hills, Tarrant County Texas as recorded in Volume 388-21, Page 3 of the Plat Records of Tarrant County, Texas and being the point of reverse curvature of a circular curve to the right, having a radius of 170.90 feet, whose chord bears North 28 degrees 14 minutes 28 seconds West, a distance of 64.69 feet, from which a 3/8-inch found iron rod bears North 56 degrees 26 minutes 56 seconds East, a distance of 0.29 feet;

THENCE Northeasterly, along said west right-of-way line and along said circular curve to the right, through a central angle of 21 degrees 49 minutes 10 seconds, passing the northeast corner of said Lot 9A at an arc length of 7.93 feet and continuing for a total arc length of 65.08 feet to a 1/2-inch set iron rod with blue plastic cap stamped "HALFF ESMT" (hereinafter referred to as "with blue cap") for the POINT OF BEGINNING;

THENCE South 77 degrees 53 minutes 38 seconds West, departing said west right-of-way line, a distance of 229.03 feet to a 1/2-inch set iron rod with blue cap for corner;

THENCE North 74 degrees 55 minutes 05 seconds West, a distance of 43.77 feet to a 1/2-inch set iron rod with blue cap for corner on the common line between the north line of said TESCO tract and the south line of that Reserved tract in Block 41, as shown on the plat of Lots 11 through 14 inclusive, Block 41, Lots 7 through 14 inclusive, Block 42, Lot 1, Block 51, Lots 1 through 4 inclusive, Block 50, Lots 1 through 16 inclusive, Block 47, Lots 1 through 11 inclusive, Block 49, Lots 1 through 6 inclusive, Block 48, Block 52 and Block 53, Richland Park, an addition to Richland Hills, Tarrant County, Texas, as recorded in Volume 388-U, Page 5 P.R.T.C.T.;

THENCE North 77 degrees 53 minutes 38 seconds East, along said common line, passing the common most easterly corner of said Reserved tract and an ell corner on the southerly line of Block 41 of the plat of Correction Map of Blocks 29 & 30 and a part of Blocks 22, 23, 29-A, 41 and 42, Richland Park Addition, an addition to Richland Hills, Tarrant County, Texas, as recorded in Volume 388-U, Page 9 P.R.T.C.T., at a distance of 43.77 feet and continuing along the common line between said north line

of the TESCO tract and said Block 41, for a total distance of 267.31 feet to a 1/2-inch set iron rod with blue cap on a circular curve to the left, not being tangent to the preceding course, having a radius of 170.90 feet, whose chord bears South 13 degrees 58 minutes 31 seconds East, a distance of 20.01 feet;

THENCE Southeasterly, departing said common line, along said west right of way and along said circular curve to the left, through a central angle of 06 degrees 42 minutes 45 seconds, an arc length of 20.02 feet to the POINT OF BEGINNING AND CONTAINING 4,959 square feet or 0.1139 acres of land, more or less.

A plat accompanies this legal description.

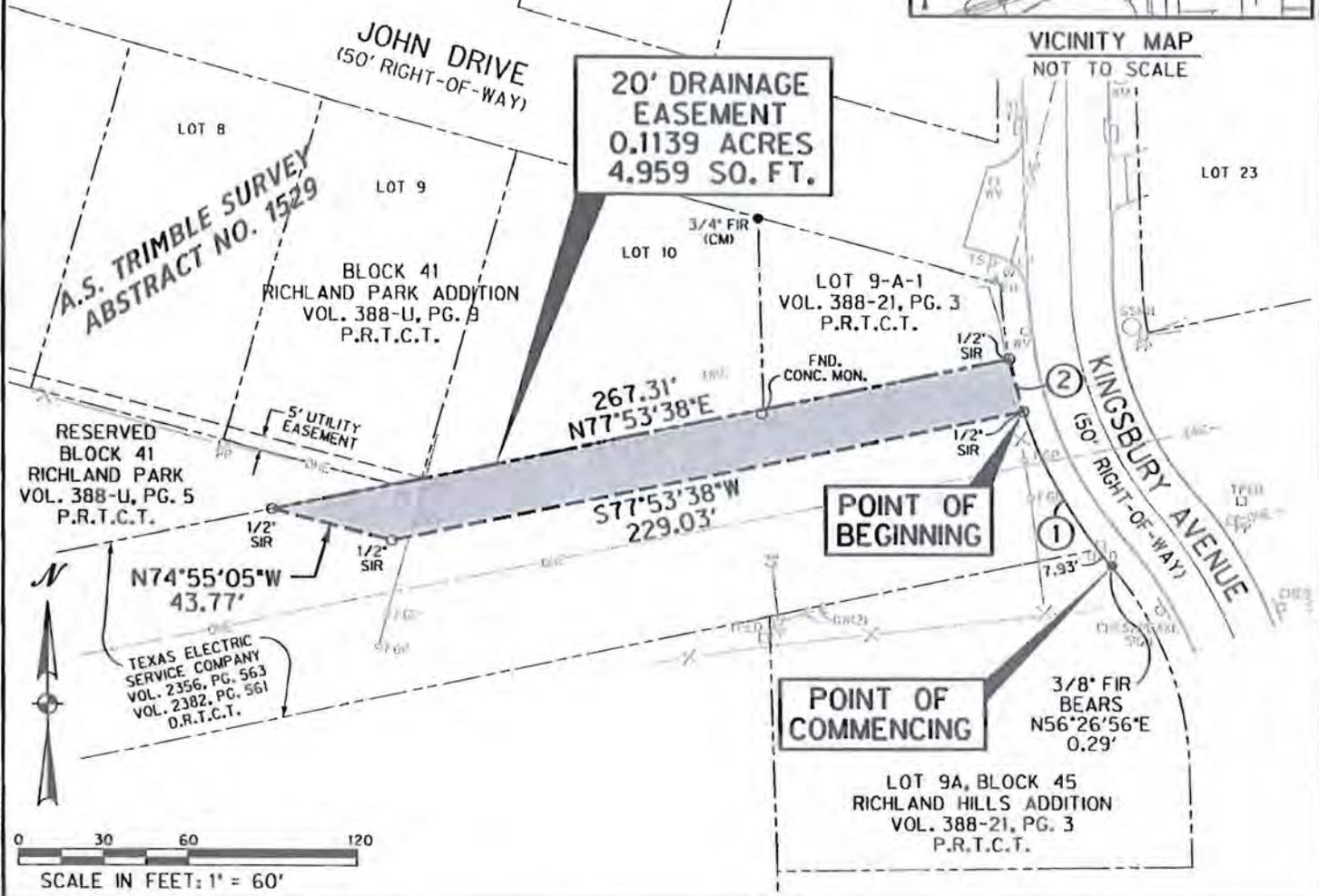
Basis of Bearing is the Texas Coordinate System NAD 83, North Central Zone (4202), Based on City of Richland Hills Monuments 1, 2, 3 and 4 observed by GPS using Western Data Systems Dallas/Fort Worth area RTK Cooperative Network on 9/12/2009 and 3/19/2012 Convergence Angle For City of Richland Hills Monument 1 is 00 degrees 41 minutes 22.24581 seconds, according to Corpscon V6.0.1 as provided by the U.S. Army Corps of Engineers. Distances shown are surface distances, scale factor is 1.00012.

CURVE DATA

- | | |
|--------------------------------|--------------------------------|
| ① $\Delta = 21^{\circ}49'10''$ | ② $\Delta = 06^{\circ}42'45''$ |
| $R = 170.90'$ | $R = 170.90'$ |
| $T = 32.94'$ | $T = 10.02'$ |
| $L = 65.08'$ | $L = 20.02'$ |
| $CB = N28^{\circ}14'28''W$ | $CB = S13^{\circ}58'31''E$ |
| $CL = 64.69'$ | $CL = 20.01'$ |



VICINITY MAP
NOT TO SCALE



20' DRAINAGE EASEMENT
0.1139 ACRES
4.959 SO. FT.

POINT OF BEGINNING

POINT OF COMMENCING



0 30 60 120
SCALE IN FEET: 1" = 60'

NOTE:
BASIS OF BEARING IS TEXAS COORDINATE SYSTEM NAD 83, NORTH CENTRAL ZONE (4202), BASED ON CITY OF RICHLAND HILLS MONUMENTS 1, 2, 3 AND 4 OBSERVED BY GPS USING WESTERN DATA SYSTEMS DALLAS/FORT WORTH AREA RTK COOPERATIVE NETWORK ON 9/12/2009 AND 3/19/2012 CONVERGENCE ANGLE FOR CITY OF RICHLAND HILLS MONUMENT 1 IS 00 DEGREES 41 MINUTES 22.24581 SECONDS, ACCORDING TO CORPSCON V6.0.1 AS PROVIDED BY THE U.S. ARMY CORPS OF ENGINEERS. DISTANCES SHOWN ARE SURFACE DISTANCES, SCALE FACTOR IS 1.00012.
A LEGAL DESCRIPTION ACCOMPANIES THIS PLAT.

LEGEND

(ICM)	CONTROL MONUMENT
D.R.T.C.T.	DEED RECORDS TARRANT COUNTY, TEXAS
P.R.T.C.T.	PLAT RECORDS TARRANT COUNTY, TEXAS
FIR ●	FOUND IRON ROD
1/2" SIR ○	1/2" SET IRON ROD W/BLUE PLASTIC CAP STAMPED "HALFF ESMT"
-----	PROPOSED EASEMENT LINE
- - - - -	EXISTING EASEMENT LINE
-----	EXISTING PROPERTY LINE

PRELIMINARY
THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE

I, Douglas A. Colhoun, registered Professional Land Surveyor, do hereby certify that this parcel was prepared from a survey made on the ground under my supervision and direction.



4000 FOSSIL CREEK BLVD. FORT WORTH, TEXAS 76137 (817) 847-1422
TBPE Firm No. F-312

EXHIBIT 'A'
20' DRAINAGE EASEMENT

CITY OF RICHLAND
TARRANT COUNTY, TEXAS

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CONSTRUCTION LIMITATIONS ON
ONCOR ELECTRIC DELIVERY COMPANY RIGHT OF WAY
EXHIBIT "B"

1. You are notified, and should advise your employees, representatives, agents, and contractors, who enter the property that they will be working in the vicinity of high voltage electrical facilities and should take proper precautions, included but not limited to the following stipulations and in compliance, at all times, with Chapter 752, V.T.C.A., Health & Safety Code.
2. Blasting is not to be permitted on Oncor right-of-way or under Oncor lines.
3. Construction on electric transmission line easements acquired by Oncor after January 1, 2003 shall comply with the requirements of Public Utility Commission Substantive Rules §25.101, as amended from time to time.
4. Grading will be done in order to leave the right-of-way as near as possible to present condition. Spoil dirt will be removed from the right-of-way and no trash is to be left on right-of-way. Slopes shall be graded so that trucks can go down the right-of-way when required and such that the slopes can be mechanically maintained.
5. Equipment and materials will not be stored on the right-of-way during construction without written approval of the Supervisor of Regional Transmission.
6. Street or road crossings are to be based on drawings submitted. Any change in alignment or elevation will be resubmitted for approval.
7. No signs, lights or guard lights will be permitted on the right-of-way.
8. Equipment shall not be placed within fifteen (15) feet of the power lines.
9. Any pre-approved fencing will not exceed eight (8) feet in height, and if metal in nature, will be grounded, at ten (10) feet intervals, with an appropriate driven ground. Gates

10. No dumpsters will be allowed on Oncor right-of-way or fee owned property.
11. Draglines will not be used under the line or on Oncor right-of-way.
12. The existing grade shall not be disturbed, excavated or filled within 25 feet of the nearest edge of any tower.
13. Right-of-way will be protected from washing and erosion by Oncor approved method before any permits are granted. No discharging of water will be allowed within any portion of the right of way.
14. No obstruction shall be installed on the right-of-way that would interfere with access to Oncor structures or prevent mechanical maintenance.
15. Before any work is done under Oncor lines or by Oncor structures notify the Region Transmission Department, 817-991-5746.
16. No hazardous materials will be stored on the right of way.
17. For purposes of this document, "Hazardous Materials" means and includes those substances, including, without limitation, asbestos-containing material containing more than one percent (1%) asbestos by weight, or the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, chemicals known to cause cancer or reproductive toxicity and includes any items included in the definition of hazardous or toxic waste, materials or substances under any Hazardous Material Law. "Hazardous Material Laws" collectively means and includes any present and future local, state and federal law relating to the environment and environmental conditions including, without limitation, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, ("CERCLA"), 42 U.S.C. §§9601-9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Material Transportation Act, 49 U.S.C. §6901 et seq., the

Federal Water Pollution Control Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §741 et seq., the Clean Water Act, 33 U.S.C. §7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601-2629, the Safe Drinking Water Act, 42 U.S.C. §§300f-330j, and all the regulations, orders, and decrees now or hereafter promulgated thereunder.

18. Brush and cut timber will not be piled or stacked on Oncor right-of-way or will not be burned upon or in close proximity to the conductors or towers.
19. No structures or obstructions, such as buildings, garages, barns, sheds, guard houses, etc., will be permitted on the right-of-way.
20. Landscaping on Oncor right-of-way is permitted when Oncor approves landscaping plans in writing. No lighting or sprinkler systems are allowed on the right-of-way.