

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: September 10, 2013		DATE SUBMITTED: Aug 21, 2013	
DEPARTMENT OF ORIGIN: BTU		SUBMITTED BY: Gary Miller	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consideration of and possible adoption of a proposed Resolution declaring the declaring the public need and necessity and convenience for acquiring an electric utility easement being a 6.22 acre tract out of the ASIS Pedigree L.P. called 43.139 acre tract, vol. 8543, pg. 162, and called 567.689 acre tract, vol. 10633, pg. 1, E.M. Millican Survey, A-40, Brazos County, Texas, and ordering the condemnation of said property if staff is unable to acquire the property by purchase.			
SUMMARY STATEMENT: The BTU Board of Directors recommends that the City Council approve a Resolution declaring the public need for an easement. Load growth in south Brazos County and transmission system reliability requires new substations and transmission lines be built. This easement, which is required in order to serve the load and provide system reliability, is one of twenty-three (23) between Millican Switch and Hwy 6. To date, twenty (20) easements have been acquired. The value of the easement has been appraised at \$99,423.			
STAFF ANALYSIS AND RECOMMENDATION: Staff recommends approval of the Resolution so the easement can be acquired. This easement is necessary to serve the load and provide system reliability. Staff believes the route is the best option for the landowner. To date, the landowners have requested more money for the easement.			
OPTIONS (In Suggested Order of Staff Preference):			
<ol style="list-style-type: none"> 1. Approve the proposed Resolution 2. Do not approve the Resolution. If Council elects this option, construction of the proposed transmission line will be significantly delayed and costs for the project will be higher. 			
ATTACHMENTS: Recommendation Memo; Resolution			
FUNDING SOURCE: Electric Revenue Bonds that will be included in Transmission Cost of Service for payments by the Public Utility Commission.			
APPROVALS: Gary D. Miller – General Manager, Bryan Texas Utilities; BTU Board of Directors; Hugh R. Walker, 08/23/2013			
APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 08-26-2013			
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09-02-2013			

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS DECLARING THE PUBLIC NEED AND NECESSITY AND CONVENIENCE FOR ACQUIRING AN ELECTRIC UTILITY EASEMENT BEING A 6.22 ACRE TRACT OUT OF THE APISPEDIGREE, L.P. CALLED 43.139 ACRE TRACT OF LAND DESCRIBED IN VOL. 8543, PG. 162, AND CALLED 567.689 ACRE TRACT, VOL. 10633, PG. 1, E.M. MILLICAN SURVEY, A-40, BRAZOS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ("SUBJECT PROPERTY") ATTACHED HERETO, INCORPORATED HEREIN AND MADE A PART HEREOF, FOR ALL PURPOSES, FOR THE PUBLIC PURPOSE AND USE FOR PLACING ELECTRICAL DISTRIBUTION LINES AND/OR TRANSMISSION LINES, A VARIABLE NUMBER OF CABLES, CONDUCTORS AND WIRES, INSULATORS, CROSS ARMS, PROTECTIVE DEVICES, METERS, TERMINAL BOXES, TRANSFORMERS, STRUCTURES, POLES, PROPS, GUYS, ANCHORS, CONDUIT, AND ANY AND ALL OTHER NECESSARY AND DESIRABLE DEVICES AND NORMAL FIXTURES AND APPURTENANCES RELATING TO ELECTRICAL ENERGY AND/OR COMMUNICATION SERVICE AND MAINTENANCE THEREOF, INCLUDING, BUT NOT LIMITED TO THE RIGHT AT ANY AND ALL TIMES TO TRIM AND/OR REMOVE ALL TREES, UNDERBRUSH, OR OTHER SIMILAR OR DISSIMILAR OBSTRUCTIONS UPON THE EASEMENT AREA AND TO TRIM AND /OR REMOVE SUCH HAZARDOUS ENCROACHMENTS ON THE ADJACENT LAND AS IN THE JUDGMENT OF THE CITY OF BRYAN, TEXAS WOULD INTERFERE WITH OR ENDANGER THE USE AND OPERATION OF THE ELECTRICAL SERVICES, EQUIPMENT, AND DEVICES OR ELECTRICAL SERVICES OR OPERATION THEREOF, THE RIGHT OF INGRESS AND EGRESS IN, OVER, UPON AND ACROSS THE ADJACENT LAND TO ACCESS THE EASEMENT AREA FOR THE PURPOSES STATED HEREIN, SUCH ELECTRICAL UTILITY EASEMENT TO PASS UPON, OVER, UNDER, AND ACROSS THE SUBJECT PROPERTY, AS A PART OF THE CITY OF BRYAN, TEXAS D/B/A BRYAN TEXAS UTILITIES ELECTRIC SYSTEM FOR THE FURNISHING OF ELECTRIC ENERGY SERVICES AND ELECTRICAL POWER SYSTEMS WITHIN AND OUTSIDE OF THE CITY LIMITS OF THE CITY OF BRYAN, TEXAS, AND ORDERING THE CONDEMNATION OF SAID SUBJECT PROPERTY IF THE CITY STAFF OR ITS DESIGNATED REPRESENTATIVES IS UNABLE TO ACQUIRE THE PROPERTY BY PURCHASE FOR THE AMOUNT OF AN AUTHORIZED OFFICIAL OFFER.

WHEREAS, the City Council of the City of Bryan, Texas, hereby determines and declares that a public need and necessity and convenience exist for the acquisition of a 6.22 electric utility easement described in Exhibit "A" attached hereto, incorporated herein and made a part hereof, for the public purpose and use for placing electrical distribution lines and/or transmission lines, a variable number of cables, conductors and wires, insulators, cross arms, protective devices, meters, terminal boxes, transformers, structures, poles, props, guys, anchors, conduit, and any and all other necessary and desirable devices and normal fixtures and appurtenances relating to electrical energy and/or communication service and maintenance thereof, including, but not limited to the right at any and all times to trim and/or remove all trees, underbrush, or other similar or dissimilar obstructions upon the easement area and to trim and /or remove such hazardous encroachments on the adjacent land as in the judgment of the City of Bryan, Texas would interfere with or endanger the use and operation of the electrical services, equipment, and devices or electrical services thereof, the right of ingress and egress in, over, upon and across the adjacent land to access the easement area for the purposes stated herein, such electrical utility easement to pass upon, over, under, and across the Subject Property for construction, maintenance and operation of an electrical power system, including the overhead and/or underground electrical distribution and/or transmission systems upon, over, under, and across the heretofore described Subject Property thereon, as a part of the City of Bryan, Texas d/b/a Bryan Texas Utilities electric system for the furnishing of electric energy services within and outside the city limits of the City of Bryan, Texas.

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

Section 1

That public need and necessity and convenience exists and requires the acquisition of 6.22 acres of land by the City of Bryan, Texas d/b/a Bryan Texas Utilities, for an electric utility easement located out of the Apispedegree, L.P. called 43.139 acre tract of land described in Vol. 8543, Pg. 162, and called 567.689 acre tract, Vol. 10633, Pg. 1, E.M. MILLICAN SURVEY, A-40, Brazos County, Texas, and more particularly described in Exhibit "A" attached hereto, for the public purpose and use for the placing electrical distribution lines and/or transmission lines, a variable number of cables, conductors and wires, insulators, cross arms, protective devices, meters, terminal boxes, transformers, structures, poles, props, guys, anchors, conduit, and any and all other necessary and desirable devices and normal fixtures and appurtenances relating to electrical energy and/or communication service and maintenance thereof, including, but not limited to the right at any and all times to trim and/or remove all trees, underbrush, or other similar or dissimilar obstructions upon the easement area and to trim and /or remove such hazardous encroachments on the adjacent land as in the judgment of the City of Bryan, Texas would interfere with or endanger the use and operation of the electrical services, equipment, and devices or electrical services thereof, the right of ingress and egress in, over, upon and across the adjacent land to access the easement area for the purposes stated herein, such electrical utility easement to pass upon, over, under, and across the Subject Property heretofore described property thereon as a part of the City of Bryan, Texas d/b/a Bryan Texas Utilities electric system for the furnishing of electric energy services within and outside of the city limits of the City of Bryan, Texas; and that public need and necessity and convenience require the condemnation, if necessary, of the easement in order to acquire the easement for such public purpose and use, in the event negotiations for the purchase and acquisition of said easement with the owner thereof fail.

Section 2

That the designated representative of the City of Bryan, Texas d/b/a Bryan Texas Utilities is authorized to negotiate, acquire and execute agreements in the form approved by the City Attorney of Bryan, Texas, for the purchase and acquisition of a utility easement from the determined owner of the land described in Exhibit "A" attached hereto, in an amount that represents the easement's fair market value based upon a reasonably thorough investigation and honest assessment of the fair market value for the property to be acquired and appraisals of the subject property.

Section 3

If efforts to acquire the subject property are unsuccessful, the City of Bryan, Texas Legal Services Division, together with the law firm of Bruchez, Goss, Thornton, Meronoff & Hawthorne, P.C., if necessary, are hereby authorized and directed to institute and prosecute to conclusion proceedings in eminent domain on behalf of and in the name of the City of Bryan, Texas d/b/a Bryan Texas Utilities, against the owner of the land, and against all other interested owners, lienholders and other holders or claimants of an interest in the said land in order to acquire the land, easements, right of way, temporary construction easements, and other interest in land convenient and necessary for the electric power systems project thereto.

THIS resolution shall be effective immediately upon its passage and adoption.

ADOPTED BY VOTE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS,
this 10th day of September, 2013.

ATTEST:

CITY OF BRYAN

Mary Lynn Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney