

Control Number: 47704



Item Number: 1

Addendum StartPage: 0

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2017 OCT 16 PM 12:34

PUBLIC UTILITY COMMISSION  
FILING CLEAR

PETITION BY WYNNE/JACKSON, INC.	§	BEFORE THE
FOR EXPEDITED RELEASE FROM	§	
WATER CCN NO 10846 HELD BY	§	PUBLIC UTILITY COMMISSION
MARKOUT WATER SUPPLY	§	
CORPORATION IN KAUFMAN COUNTY	§	OF TEXAS

**PETITION BY WYNNE/JACKSON, INC. FOR EXPEDITED RELEASE  
PURSUANT TO TEXAS WATER CODE SECTION 13.254(A-5)**

**TO THE PUBLIC UTILITY COMMISSION OF TEXAS:**

COMES NOW, Wynne/Jackson, Inc. ("Petitioner") and files this Petition with the Public Utility Commission of Texas (the "PUC") for expedited release from Certificate of Convenience and Necessity ("CCN") No. 10846, held by Markout Water Supply Corporation ("Markout WSC") pursuant to (i) Texas Water Code Section 13.254(a-5); and (ii) Rule 24.113(I) of the Commission's Rules found at 16 Tex. Admin. Code Section 24.113; and in support thereof would respectfully show as follows:

**I. APPLICABLE REGULATIONS**

Section 13.254(a-5) of the Texas Water Code provides that the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a CCN.<sup>1</sup> For land that is located within a county with a population of at least one million, or a county adjacent to a county with a population of at least one million, the owner of the qualifying tract "is entitled to that release."<sup>2</sup> The rule adopted by the PUC pursuant to Section 13.254(a-5) provides the same, and it recognizes that Kaufman County is a county in

<sup>1</sup> Tex. Water Code Ann. § 13.254(a-5) (West 2008 and Supp. 2016) (TWC).

<sup>2</sup> *Id.*

2

which owners of at least 25 acres are entitled to expedited release.<sup>3</sup> Under Section 13.254(a-6), the PUC “shall grant a petition received under Subsection (a-5) not later than the 60<sup>th</sup> day after the date the landowner files the petition.”

## **II. REQUEST FOR EXPEDITED RELEASE**

Petitioner owns approximately 336.712 acres of contiguous property in Kaufman County (the “Property”). All of the Property is within the boundaries of Water CCN No. 10846, held by Markout WSC. None of the Property receives service from any water or sewer service provider. An Affidavit in support of this Petition is attached hereto as Exhibit “A.” A metes and bounds description of the Property is attached hereto as Exhibit “B.” A map showing the location of the Property is attached hereto as Exhibit “C.” A deed showing ownership of the Property is attached hereto as Exhibit “D.”

## **III. CONCLUSION AND PRAYER**

Texas Water Code Section 13.254(a-5) entitles Petitioner to expedited release of the Property described herein. The Property is greater than 25 acres, is not receiving water or sewer service, and is entirely within Kaufman County. Under Section 13.254(a-6), the PUC should grant this Petition no later than the 60<sup>th</sup> day after the date of filing. Petitioner respectfully requests that the PUC grant this Petition and issue an order under the authority of Section 13.254(a-5) releasing all portions of the Property that are within the boundaries of water CCN No. 10846 from CCN No. 10846.


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<sup>3</sup> 16 Tex. Admin. Code § 24.113(l)

Respectfully submitted,

**COATS ROSE, P.C.**

14755 Preston Road, Suite 600  
Dallas, Texas 75254  
(972) 419-4717 (Telephone)  
(972) 702-0662 (Facsimile)  
scidman@coatsrose.com (Email)

By:   
SCOTT W. EIDMAN  
State Bar No. 24078468

ATTORNEYS FOR PETITIONER  
WYNNE/JACKSON, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of October, 2017, a true and correct copy of the Petition by Wynne/Jackson, Inc. for Expedited Release Pursuant to Texas Water Code Section 13.254(a-5) was sent, via certified mail, return receipt requested to the following recipient at the address indicated.

Markout Water Supply Corporation  
P.O. Box 907  
Forney, Texas 75126

*Via Certified Mail, RRR*

Markout Water Supply Corporation  
10371 Walnut Lane  
Forney, Texas 75126

*Via Certified Mail, RRR*

  
\_\_\_\_\_  
Scott W. Eidman

**EXHIBIT "A"**

**Affidavit of Frank Murphy**

PETITION BY WYNNE/JACKSON, INC.	§	BEFORE THE
FOR EXPEDITED RELEASE FROM	§	
WATER CCN NO 10846 HELD BY	§	PUBLIC UTILITY COMMISSION
MARKOUT WATER SUPPLY	§	
CORPORATION IN KAUFMAN COUNTY	§	OF TEXAS

**AFFIDAVIT OF FRANK MURPHY IN SUPPORT OF PETITION FOR EXPEDITED  
RELEASE FROM WATER CCN NO. 10846 HELD BY MARKOUT WATER SUPPLY  
CORPORATION PURSUANT TO TEXAS WATER CODE SECTION 13.254(A-5)**

STATE OF TEXAS           §

COUNTY OF DALLAS       §

BEFORE ME, the undersigned notary, personally appeared Frank Murphy, the affiant, a person who is known to me. After administering an oath, the affiant testified that:

1.     " My name is Frank Murphy. I am over the age of eighteen years, of sound mind, and am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2.     I am Senior Vice President and Chief Financial Officer of Wynne/Jackson, Inc., the Petitioner in the above-captioned matter. Wynne/Jackson, Inc. owns approximately 336.712 acres of land (the "Property"), which is located within the boundaries of Water CCN No. 10846 issued to Markout Water Supply Corporation. The Property is located in Kaufman County, Texas, is over 25 acres in size, and consists of contiguous tracts of land. Exhibit "C" attached to this Petition is a true and correct copy of a map identifying the Property, its location, and the area of the CCN.

3.     The Property is not receiving water service from Markout Water Supply Corporation or any other water service provider. Wynne/Jackson, Inc. has not requested water service from Markout Water Supply Corporation or paid any fees or charges to initiate or maintain water service, and there are no billing records or other documents indicating an existing account for the Property.

4.     I request that the Public Utility Commission of Texas release this Property from Water CCN No. 10846."

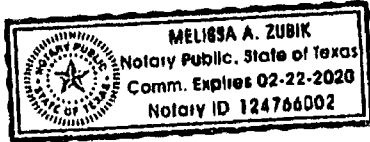


FURTHER AFFIANT SAYETH NOT.

Frank Murphy  
Frank Murphy

SWORN TO AND SUBSCRIBED TO BEFORE ME by Frank Murphy on  
October 13, 2017

Melissa A. Zubik  
Notary Public, State of Texas



**EXHIBIT "B"**

**Metes and Bounds Description**

**PROPERTY DESCRIPTION**

BEING A 336.712 ACRE TRACT OF LAND SITUATED IN THE JAMES S. RAMSEY SURVEY, ABSTRACT NO. 414, CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, AND BEING ALL OF A CALLED 336.39 ACRE TRACT OF LAND, CONVEYED TO GLENN "RED" WHALEY BY DEED RECORDED IN COUNTY CLERK'S FILE NUMBER 2008-00004549, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS, SAID 336.712 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (NAD83(2011) EPOCH 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM DALLAS CORS ARP (PID-DF8984) AND ELLIS CORS ARP (PID-DF8988), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A CONCRETE TXDOT MONUMENT FOUND FOR THE MOST SOUTHERN CORNER OF SAID 336.39 ACRES, SAID POINT BEING ON THE NORTH LINE A 2.0399 ACRE TRACT OF LAND CONVEYED TO THE STATE OF TEXAS, BY DEED RECORDED IN VOLUME 1698, PAGE 170, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS, SAME BEING FARM-TO-MARKET ROAD NO. 548 (ALSO KNOWN AS WALNUT LANE - VARIABLE WIDTH RIGHT-OF-WAY), AND BEING ON THE NORTHEAST LINE OF BEDERKESA ADDITION SECTION 2, AN ADDITION TO THE CITY OF FORNEY, ACCORDING TO THE PLAT RECORDED IN CABINET 1, PAGE 561, PLAT RECORDS, KAUFMAN COUNTY, TEXAS;

THENCE, NORTH 46 DEGREES 11 MINUTES 26 SECONDS WEST, ALONG THE COMMON LINE OF SAID 336.39 ACRE TRACT AND SAID BEDERKESA ADDITION SECTION 2, PASSING AT A DISTANCE OF 2007.12 FEET A NORTH CORNER OF SAID BEDERKESA ADDITION SECTION 2 AND THE COMMON EAST CORNER OF BEDERKESA ADDITION, AN ADDITION TO THE CITY OF FORNEY, ACCORDING TO THE PLAT RECORDED IN CABINET 1, PAGE 399, PLAT RECORDS, KAUFMAN COUNTY, TEXAS, AND CONTINUING ALONG THE COMMON SOUTHEAST LINE OF SAID 336.39 ACRE TRACT, NORTHEAST LINE OF SAID BEDERKESA ADDITION, AND THE NORTHEAST LINE OF A 17.447 ACRE TRACT OF LAND CONVEYED TO GREGORY KEITH BELL AND WIFE ANNETTE BELL BY DEED RECORDED IN VOLUME 1124, PAGE 884, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS, IN ALL A TOTAL DISTANCE OF 3512.43 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER ON THE SOUTHEAST LINE OF FARM-TO-MARKET ROAD NO. 740 (A 60 FOOT RIGHT-OF-WAY) DESCRIBED IN DEED TO STATE OF TEXAS RECORDED IN VOLUME 317, PAGE 538, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS;

THENCE, ALONG THE SOUTHEAST RIGHT-OF-WAY LINE OF SAID FARM-TO-MARKET ROAD NO. 740 AND THE COMMON NORTHWEST LINE OF SAID 336.39 ACRE TRACT THE FOLLOWING COURSES AND DISTANCE:

NORTH 37 DEGREES 53 MINUTES 49 SECONDS EAST, A DISTANCE OF 483.19 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 38 DEGREES 11 MINUTES 49 SECONDS EAST, A DISTANCE OF 599.96 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 38 DEGREES 03 MINUTES 49 SECONDS EAST, A DISTANCE OF 538.32 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A

CENTRAL ANGLE OF 39 DEGREES 46 MINUTES 00 SECONDS, A RADIUS OF 333.78 FEET, AND A LONG CHORD THAT BEARS NORTH 57 DEGREES 56 MINUTES 49 SECONDS EAST, A DISTANCE OF 227.04 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 231.66 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 77 DEGREES 49 MINUTES 49 SECONDS EAST, A DISTANCE OF 369.07 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 67 DEGREES 30 MINUTES 00 SECONDS, A RADIUS OF 320.10 FEET, AND A LONG CHORD THAT BEARS NORTH 44 DEGREES 04 MINUTES 49 SECONDS EAST, A DISTANCE OF 355.68 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 377.11 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 10 DEGREES 19 MINUTES 49 SECONDS EAST, A DISTANCE OF 598.35 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 10 DEGREES 29 MINUTES 49 SECONDS EAST, A DISTANCE OF 800.08 FEET TO A 1/2" IRON ROD WITH CAP STAMPED "EUC&D" FOUND FOR CORNER,

NORTH 10 DEGREES 00 MINUTES 49 SECONDS EAST, A DISTANCE OF 120.73 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 01 DEGREE 48 MINUTES 47 SECONDS, A RADIUS OF 7609.45 FEET, AND A LONG CHORD THAT BEARS NORTH 10 DEGREES 55 MINUTES 13 SECONDS EAST, A DISTANCE OF 240.79 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 240.80 FEET TO A PK NAIL SET FOR CORNER AT THE NORTH CORNER OF SAID 336.39 ACRE TRACT AND THE NORTHWEST CORNER OF COLONIAL ACRES, AN ADDITION TO THE CITY OF FORNEY, ACCORDING TO THE PLAT RECORDED IN CABINET 1, PAGE 185, PLAT RECORDS, KAUFMAN COUNTY, TEXAS, SAID POINT BEING IN THE CALLED CENTER LINE OF PECAN DRIVE, (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, SOUTH 46 DEGREES 12 MINUTES 31 SECONDS EAST, ALONG THE COMMON NORTHEAST LINE OF SAID 336.39 ACRE TRACT AND THE SOUTHWEST LINE OF SAID COLONIAL ACRES, A DISTANCE OF 4418.12 FEET TO A PK NAIL SET FOR CORNER ON THE NORTH RIGHT OF WAY LINE OF AFORESAID FARM-TO-MARKET NO. 548;

THENCE, ALONG THE COMMON SOUTHEAST LINE OF SAID 336.39 ACRE TRACT AND THE NORTHWEST RIGHT-OF-WAY LINE OF SAID FARM-TO-MARKET NO. 548, THE FOLLOWING COURSES AND DISTANCE:

SOUTH 44 DEGREES 22 MINUTES 05 SECONDS WEST, A DISTANCE OF 265.69 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 44 DEGREES 48 MINUTES 59 SECONDS WEST, A DISTANCE OF 10.67 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

SOUTH 44 DEGREES 20 MINUTES 01 SECOND WEST, A DISTANCE OF 1115.64 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

SOUTH 45 DEGREES 37 MINUTES 55 SECONDS EAST, A DISTANCE OF 10.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

SOUTH 44 DEGREES 22 MINUTES 05 SECONDS WEST, A DISTANCE OF 459.31 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

NORTH 46 DEGREES 29 MINUTES 03 SECONDS WEST, A DISTANCE OF 10.14 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

SOUTH 44 DEGREES 21 MINUTES 53 SECONDS WEST, A DISTANCE OF 1279.59 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

SOUTH 46 DEGREES 51 MINUTES 17 SECONDS EAST, A DISTANCE OF 10.07 FEET TO A CONCRETE TXDOT MONUMENT FOUND FOR CORNER;

SOUTH 44 DEGREES 25 MINUTES 48 SECONDS WEST, A DISTANCE OF 846.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 336.712 ACRES LAND, MORE OR LESS.

A PARCEL PLAT OF EQUAL DATE HERewith ACCOMPANIES THIS PROPERTY DESCRIPTION.

*Michael J. Baitup*

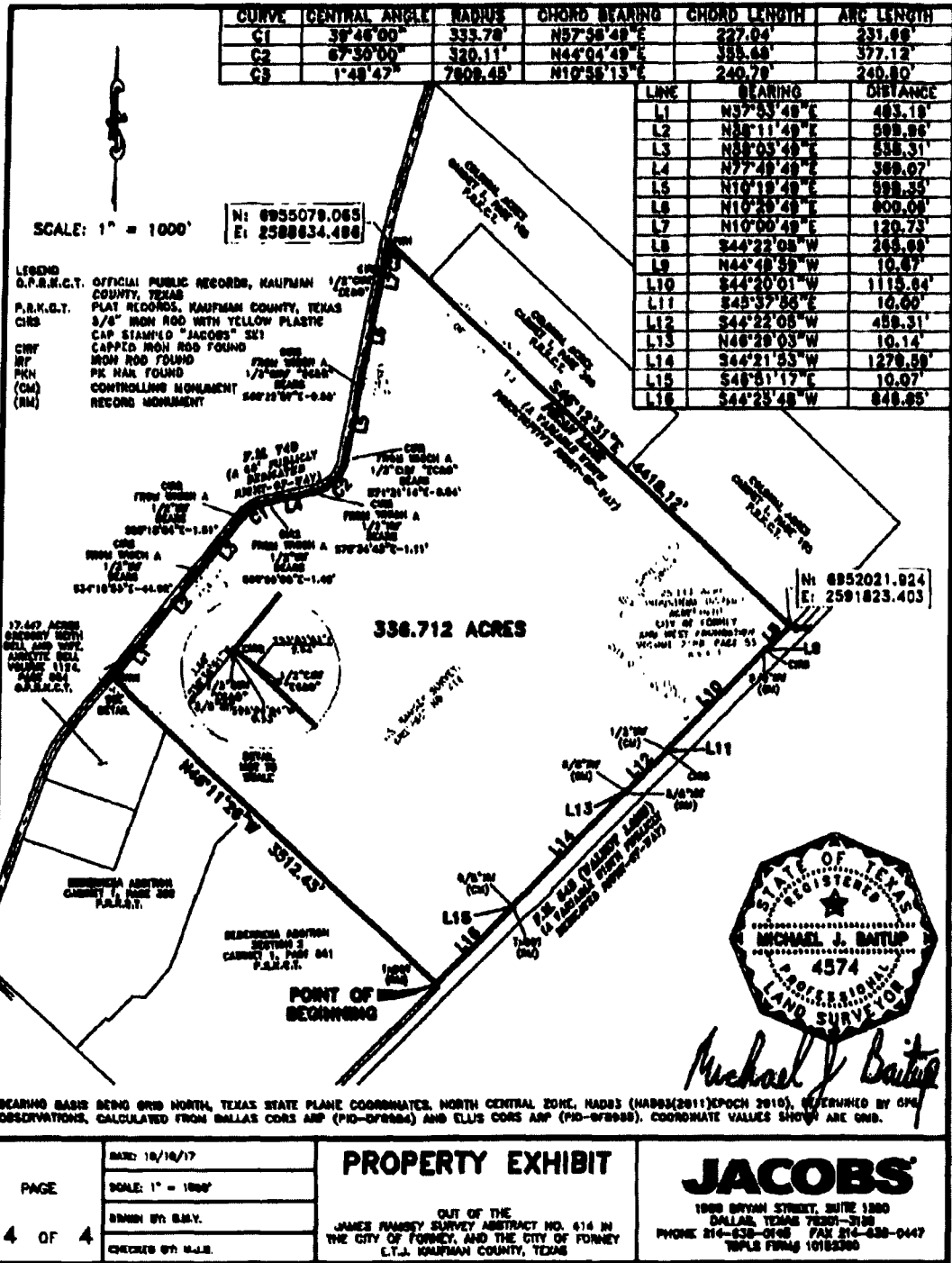
Michael J. Baitup, R.P.L.S.  
Registered Professional Land Surveyor  
Texas Registration No. 4574  
Jacobs Engineering Group, Inc.  
1999 Bryan Street, Suite 1200  
Dallas, Texas 75201-3136  
Phone 214-638-0145 Fax 214-638-0447  
TXBPLS Firm # 10152300

October 10, 2017



**EXHIBIT "C"**

**Map Showing Location of Property**



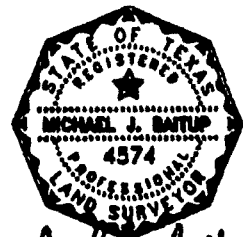
CURVE	CENTRAL ANGLE	RADIUS	CHORD BEARING	CHORD LENGTH	ARC LENGTH
C1	39°46'00"	333.70'	N57°35'48" E	227.04'	231.69'
C2	67°30'00"	320.11'	N44°04'49" E	355.68'	377.12'
C3	1°49'47"	7809.49'	N10°58'13" E	240.70'	240.80'

LINE	BEARING	DISTANCE
L1	N37°35'48" E	483.18'
L2	N38°11'49" E	899.86'
L3	N58°03'49" E	536.31'
L4	N77°48'48" E	389.07'
L5	N10°19'48" E	899.35'
L6	N10°20'49" E	800.08'
L7	N10°00'48" E	120.73'
L8	S44°22'08" W	265.60'
L9	N44°48'58" W	10.87'
L10	S44°20'01" W	1115.64'
L11	S43°57'58" E	10.60'
L12	S44°22'08" W	456.31'
L13	N46°28'03" W	10.14'
L14	S44°21'53" W	1270.58'
L15	S46°51'17" E	10.07'
L16	S44°25'48" W	848.85'

SCALE: 1" = 1000'  
 N: 8955078.065  
 E: 2588834.486

LEGEND  
 O.P.R.N.C.T. OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS  
 P.R.N.C.T. PLAT RECORDS, KAUFMAN COUNTY, TEXAS  
 CIRS 3/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" S21  
 CWF CAPPED IRON ROD FOUND  
 IRF IRON ROD FOUND  
 RNF RE BAR FOUND  
 (CM) CONTROLLING MONUMENT  
 (RM) RECORD MONUMENT

I:\SLD\WFXR2000\700 CAD0\713 SURVEY\713.6 MAPPING\CGN - BOUNDARY.DWG 10/10/2017 4:53 PM



*Michael J. Baitup*

BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (NAD83(2011)EPOCH 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM BALLAS CORN ARP (PID-078984) AND ELLIS CORN ARP (PID-078980). COORDINATE VALUES SHOWN ARE GRID.

PAGE 4 OF 4	DATE: 10/16/17	<b>PROPERTY EXHIBIT</b>	<b>JACOBS</b> 1800 BRYAN STREET, SUITE 1800 DALLAS, TEXAS 75201-3108 PHONE 214-638-0100 FAX 214-638-0447 TELE FIRM# 10182380
	SCALE: 1" = 1000'		
	DRAWN BY: B.M.V.		
	CHECKED BY: M.J.B.		
PART OF THE JAMES HANCOY SURVEY ABSTRACT NO. 614 IN THE CITY OF FORNEY, AND THE CITY OF FORNEY E.T.J. KAUFMAN COUNTY, TEXAS			

**EXHIBIT "D"**

**Deed**



Kaufman County  
Laura Hughes  
County Clerk

Instrument Number: 2017-0022239

WARRANTY DEED

Party: WHALEY HELEN MARIE

Billable Pages: 9  
Number of Pages: 10

FILED AND RECORDED - REAL RECORDS

CLERKS COMMENTS

On: 09/28/2017 at 12:16 PM  
Document Number: 2017-0022239  
Receipt No: 17-00489  
Amount: \$ 58.00  
Vol/Pg: V.5465 P.204

E-RECORDING



STATE OF TEXAS  
COUNTY OF KAUFMAN

I hereby certify that this instrument was filed on the date and time stamped hereon by me  
and was duly recorded in the Official Public Records of Kaufman County, Texas.

*Laura A. Hughes*

Laura Hughes, County Clerk

Recorded By: Kylie Davis - Deputy

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED  
REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER  
FEDERAL LAW.

Record and Return To:  
RANGER TITLE CO  
409 N. MC GRAW ST.  
FORNEY, TX 75126



FI42739K

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OF YOUR DRIVER'S LICENSE NUMBER.**

**SPECIAL WARRANTY DEED  
WITH VENDOR'S LIEN**

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS THAT:

COUNTY OF KAUFMAN

**HELEN MARIE WHALEY, INDIVIDUALLY; AS INDEPENDENT EXECUTRIX OF THE ESTATE OF SAMUEL GLENN WHALEY ALSO KNOWN AS GLENN RED WHALEY, DECEASED; AS TRUSTEE OF THE SAMUEL GLENN WHALEY MARITAL EXEMPT TRUST; AS TRUSTEE OF THE SAMUEL GLENN WHALEY FAMILY EXEMPT TRUST; AND AS TRUSTEE OF THE SAMUEL GLENN WHALEY FAMILY NON-EXEMPT TRUST ("Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration to Grantor in hand paid by WYNNE/JACKSON, INC., a Texas corporation ("Grantee"), whose mailing address is 600 North Pearl Street, Suite 650, Dallas, Texas 75201, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by Grantee of a Promissory Note of even date herewith in the original principal amount of Four Million Fifty Thousand Six Hundred Eighty Dollars (\$4,050,680.00) (the "Note") payable to the order of Grantor, secured in part by a Vendor's Lien retained herein, and additionally secured by a Deed of Trust (herein so called) of even date herewith to James F. Bowen, as Trustee, for the benefit of Grantor, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents and upon and subject to the terms and provisions hereinafter set forth and described, does hereby GRANT, BARGAIN, SELL and CONVEY, unto Grantee all of the real property (the "Land") more particularly described in the Exhibit A attached hereto and incorporated herein by reference, together with (a) all buildings and other improvements situated on the Land and all fixtures and other property owned by Grantor affixed to the Land, and (b) all easements, rights, privileges, mineral rights, air rights, remainders, reversioners, tenements, hereditaments and appurtenances of Grantor belonging or in any way appertaining to the Land, and all of the estate, right, title, interest, claim or demand whatsoever of Grantor therein, including, without limitation, any right, title and interest of Grantor (but without warranty whether statutory, express or implied) in and to any and all rights to the present or future use of wastewater, wastewater capacity, drainage, water or other utility facilities to the extent same pertain to or benefit the Land and adjacent strips or gores, if any, between the Land and abutting properties, and in and to adjacent streets, alleys or rights-of-way (except to the extent, if any, that such strips or gores or such streets, alleys or rights-of-way abut or provide access to other properties owned by Grantor), either at law or in equity, in possession or expectancy (all of the foregoing together with the Land are hereinafter collectively called the "Property").**

This conveyance is made subject and subordinate to those matters described in Exhibit B attached hereto and incorporated herein by reference and to the reservation provided in the next following paragraph (the "Permitted Exceptions"), to the extent the Permitted Exceptions are valid and subsisting and affect the Property.

Atmos Energy Corporation has previously initiated a condemnation proceeding for an easement across approximately 6.99 acres of land out of the Land, which condemnation proceeding is currently pending in the County Court at Law #2, Kaufman County, under Cause No. 93186-CC2 (herein called the "Atmos Condemnation"). Grantor hereby retain all rights regarding in the Atmos Condemnation, including without limitation, the value of the interest condemned by Atmos Energy Corporation in the easement tract and, therefore, the proceeds payable in connection with such condemnation.

TO HAVE AND TO HOLD the Property unto Grantee and Grantee's successors and assigns, forever; and Grantor does hereby bind Grantor and Grantor's heirs, administrators, personal representatives, successors and assigns to **WARRANT AND FOREVER DEFEND** all and singular the Property unto Grantee and Grantee's 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, subject, however, to the Permitted Exceptions.

All standby fees, taxes and assessments for the Property for the current calendar year have been prorated by the parties hereto as of the date hereof, and by Grantee's acceptance hereof, Grantee expressly assumes liability for the payment of standby fees, taxes and assessments for the Property for the year 2017 and subsequent years.

It is expressly agreed that a vendor's lien (the "Vendor's Lien"), as well as the superior title in and to the Property, is retained against the Property until the Note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Special Warranty Deed shall become absolute. The Note represents a portion of the purchase price hereof and is payable directly to Grantor, and in consideration thereof, the Grantor does hereby retain the Vendor's Lien and superior title herein against the Property to secure payment of the Note. The full release of the lien of the Deed of Trust and the recordation of such releases shall constitute a full, final and complete release of the Vendor's Lien as well as superior title retained herein.

4027.36930.203/D11.4A

[SIGNATURE PAGE TO FOLLOW]

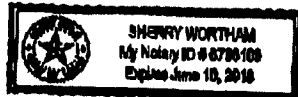
IN WITNESS WHEREOF, this Special Warranty Deed has been executed by Grantor on this 28 day of September, 2017.

**GRANTOR:**

Helen Marie Whaley  
**HELEN MARIE WHALEY, INDIVIDUALLY;  
AS INDEPENDENT EXECUTRIX OF THE  
ESTATE OF SAMUEL GLENN WHALEY  
ALSO KNOWN AS GLENN RED WHALEY,  
DECEASED; AS TRUSTEE OF THE SAMUEL  
GLENN WHALEY MARITAL EXEMPT  
TRUST; AS TRUSTEE OF THE SAMUEL  
GLENN WHALEY FAMILY EXEMPT TRUST;  
AND AS TRUSTEE OF THE SAMUEL GLENN  
WHALEY FAMILY NON-EXEMPT TRUST**

STATE OF TEXAS  
COUNTY OF KAUFMAN

This instrument was acknowledged before me on the 28 day of September, 2017, by Helen Marie Whaley, Individually; As Independent Executrix of the Estate of Samuel Glenn Whaley also known as Glenn Red Whaley, Deceased; As Trustee of the Samuel Glenn Whaley Marital Exempt Trust; As Trustee of the Samuel Glenn Whaley Family Exempt Trust; and As Trustee of the Samuel Glenn Whaley Family Non-Exempt Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration therein expressed.



[Signature]  
Notary Public in and for the State of Texas

[SEAL]  
My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public

**AFTER RECORDING, PLEASE RETURN TO:**

**EXHIBIT A**

**PROPERTY DESCRIPTION**

BEING A 336.712 ACRE TRACT OF LAND SITUATED IN THE JAMES S. RAMSEY SURVEY, ABSTRACT NO. 414, CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, AND BEING ALL OF A CALLED 336.39 ACRE TRACT OF LAND, CONVEYED TO GLENN "RED" WHALEY BY DEED RECORDED IN COUNTY CLERK'S FILE NUMBER 2008-00004549, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS, SAID 336.712 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (NAD83(2011)EPOCH 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM DALLAS CORS ARP (PID-DJ8984) AND JELLS CORS ARP (PID-DF8988), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A CONCRETE TXDOT MONUMENT FOUND FOR THE MOST SOUTHERN CORNER OF SAID 336.39 ACRES, SAID POINT BEING ON THE NORTH LINE A 2.0399 ACRE TRACT OF LAND CONVEYED TO THE STATE OF TEXAS, BY DEED RECORDED IN VOLUME 1698, PAGE 170, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS, SAME BEING FARM-TO-MARKET ROAD NO. 548 (ALSO KNOWN AS WALNUT LANE - VARIABLE WIDTH RIGHT-OF-WAY), AND BEING ON THE NORTHEAST LINE OF BEDERKESA ADDITION SECTION 2, AN ADDITION TO THE CITY OF FORNEY, ACCORDING TO THE PLAT RECORDED IN CABINET 1, PAGE 561, PLAT RECORDS, KAUFMAN COUNTY, TEXAS;

THENCE, NORTH 46 DEGREES 11 MINUTES 26 SECONDS WEST, ALONG THE COMMON LINE OF SAID 336.39 ACRE TRACT AND SAID BEDERKESA ADDITION SECTION 2, PASSING AT A DISTANCE OF 2007.12 FEET A NORTH CORNER OF SAID BEDERKESA ADDITION SECTION 2 AND THE COMMON EAST CORNER OF BEDERKESA ADDITION, AN ADDITION TO THE CITY OF FORNEY, ACCORDING TO THE PLAT RECORDED IN CABINET 1, PAGE 399, PLAT RECORDS, KAUFMAN COUNTY, TEXAS, AND CONTINUING ALONG THE COMMON SOUTHEAST LINE OF SAID 336.39 ACRE TRACT, NORTHEAST LINE OF SAID BEDERKESA ADDITION, AND THE NORTHEAST LINE OF A 17.447 ACRE TRACT OF LAND CONVEYED TO GREGORY KEITH BELL AND WIFE ANNETTE BELL BY DEED RECORDED IN VOLUME 1124, PAGE 884, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS, IN ALL A TOTAL DISTANCE OF 3512.43 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER ON THE SOUTHEAST LINE OF FARM-TO-MARKET ROAD NO. 740 (A 60 FOOT RIGHT-OF-WAY) DESCRIBED IN DEED TO STATE OF TEXAS RECORDED IN VOLUME 317, PAGE 538, OFFICIAL PUBLIC RECORDS, KAUFMAN COUNTY, TEXAS;

THENCE, ALONG THE SOUTHEAST RIGHT-OF-WAY LINE OF SAID FARM-TO-MARKET ROAD NO. 740 AND THE COMMON NORTHWEST LINE OF SAID 336.39 ACRE TRACT THE FOLLOWING COURSES AND DISTANCE:

NORTH 37 DEGREES 53 MINUTES 49 SECONDS EAST, A DISTANCE OF 483.19 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 38 DEGREES 11 MINUTES 49 SECONDS EAST, A DISTANCE OF 599.96 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 38 DEGREES 03 MINUTES 49 SECONDS EAST, A DISTANCE OF 538.32 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 39 DEGREES 46 MINUTES 00 SECONDS, A RADIUS OF 333.78 FEET, AND A LONG CHORD THAT BEARS NORTH 57 DEGREES 56 MINUTES 49 SECONDS EAST, A DISTANCE OF 227.04 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 231.66 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 77 DEGREES 49 MINUTES 49 SECONDS EAST, A DISTANCE OF 369.07 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 67 DEGREES 30 MINUTES 00 SECONDS, A RADIUS OF 320.10 FEET, AND A LONG CHORD THAT BEARS NORTH 44 DEGREES 04 MINUTES 49 SECONDS EAST, A DISTANCE OF 355.68 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 377.11 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 10 DEGREES 19 MINUTES 49 SECONDS EAST, A DISTANCE OF 598.35 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 10 DEGREES 29 MINUTES 49 SECONDS EAST, A DISTANCE OF 800.08 FEET TO A 1/2" IRON ROD WITH CAP STAMPED "EC&D" FOUND FOR CORNER;

NORTH 10 DEGREES 00 MINUTES 49 SECONDS EAST, A DISTANCE OF 120.73 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 01 DEGREE 48 MINUTES 47 SECONDS, A RADIUS OF 7609.45 FEET, AND A LONG CHORD THAT BEARS NORTH 10 DEGREES 55 MINUTES 13 SECONDS EAST, A DISTANCE OF 240.79 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 240.80 FEET TO A PK NAIL SET FOR CORNER AT THE NORTH CORNER OF SAID 336.39 ACRE TRACT AND THE NORTHWEST CORNER OF COLONIAL ACRES, AN ADDITION TO THE CITY OF FORNEY, ACCORDING TO THE PLAT RECORDED IN CABINET 1, PAGE 185, PLAT RECORDS, KAUFMAN COUNTY, TEXAS, SAID POINT BEING IN THE CALLED CENTER LINE OF PECAN DRIVE, (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, SOUTH 46 DEGREES 12 MINUTES 31 SECONDS EAST, ALONG THE COMMON NORTHEAST LINE OF SAID 336.39 ACRE TRACT AND THE SOUTHWEST LINE OF SAID COLONIAL ACRES, A DISTANCE OF 4418.12 FEET TO A PK NAIL SET FOR CORNER ON THE NORTH RIGHT OF WAY LINE OF AFORESAID FARM-TO-MARKET NO. 548;

THENCE, ALONG THE COMMON SOUTHEAST LINE OF SAID 336.39 ACRE TRACT AND THE NORTHWEST RIGHT-OF-WAY LINE OF SAID FARM-TO-MARKET NO. 548, THE FOLLOWING COURSES AND DISTANCE:

SOUTH 44 DEGREES 22 MINUTES 05 SECONDS WEST, A DISTANCE OF 265.69 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

NORTH 44 DEGREES 48 MINUTES 59 SECONDS WEST, A DISTANCE OF 10.67 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

SOUTH 44 DEGREES 20 MINUTES 01 SECOND WEST, A DISTANCE OF 1115.64 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

SOUTH 45 DEGREES 37 MINUTES 55 SECONDS EAST, A DISTANCE OF 10.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" SET FOR CORNER;

SOUTH 44 DEGREES 22 MINUTES 05 SECONDS WEST, A DISTANCE OF 459.31 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

NORTH 46 DEGREES 29 MINUTES 03 SECONDS WEST, A DISTANCE OF 10.14 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

SOUTH 44 DEGREES 21 MINUTES 53 SECONDS WEST, A DISTANCE OF 1279.59 FEET TO A 5/8" IRON ROD FOUND FOR CORNER;

SOUTH 46 DEGREES 51 MINUTES 17 SECONDS EAST, A DISTANCE OF 10.07 FEET TO A CONCRETE TXDOT MONUMENT FOUND FOR CORNER;

**SOUTH 44 DEGREES 25 MINUTES 48 SECONDS WEST, A DISTANCE OF 846.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 336.712 ACRES LAND, MORE OR LESS.**



**EXHIBIT B**

**PERMITTED EXCEPTIONS**

1. Easement dated October 19, 1937 from W.A. Brooks Estate to Texas Power & Light Company recorded in Volume 254, Page 108, Deed Records, Kaufman County, Texas, and as noted on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
2. Easement dated February 8, 1945, from W.A. Brooks Estate to Texas Power & Light Company recorded in Volume 295, Page 67, Deed Records, Kaufman County, Texas, and as noted on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
3. Easement dated January 20, 1974, from James K. Brooks to Texas Power & Light Company recorded in Volume 310, Page 85, Deed Records, Kaufman County, Texas, and as noted on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
4. Easement dated May 11, 1951, from Estate of W.A. Brooks to Texas Power & Light Company recorded in Volume 344, Page 389, Deed Records, Kaufman County, Texas, and as noted on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
5. Easement dated May 9, 1953, from James K. Brooks to Texas Power & Light Company recorded in Volume 369, Page 55, Deed Records, Kaufman County, Texas, and as noted on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
6. Easement dated August 1, 1985, from West Foundation to Markout Water Supply Corporation recorded in Volume 863, Page 367, Real Property Records, Kaufman County, Texas, amended by instrument recorded in Volume 869, Page 589, Real Property Records, Kaufman County, Texas, and as shown on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
7. Easement dated May 7, 1986, from West Foundation to Markout Water Supply Corporation recorded in Volume 869, Page 565, Real Property Records, Kaufman County, Texas, and as noted on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
8. Easement dated October 3, 1991, from West Foundation to North Texas Municipal Water District recorded in Volume 1039, Page 560, Real Property Records, Kaufman County, Texas, and as shown on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
9. Easement dated February 16, 2001, from West Foundation to State of Texas recorded in Volume 1698, Page 175, Real Property Records, Kaufman County, Texas, and as shown on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
10. Royalty Deed dated July 28, 1982, from The Estate of Ellen Brooks West and The

Estate of Gordon T West to West Foundation recorded in Volume 720, Page 860, Deed Records, Kaufman County, Texas.

11. Terms, conditions and provisions set out in Industrial District Agreement dated April 22, 2003, executed by and between The City of Forney and The West Foundation, recorded in Volume 2188, Page 53, Real Property Records, Kaufman County, Texas, affecting a 25.117 acre portion of the subject property as shown on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
12. Mineral Deed dated October 6, 2004, from Glenn Red Whaley to Glen Edward Walton et al, recorded in Volume 2512, Page 99, Real Property Records, Kaufman County, Texas.
13. Easement dated March 12, 2012, from Glenn Red Whaley to North Texas Municipal Water District recorded in Volume 4133, Page 527, Real Property Records, Kaufman County, Texas, and as shown on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
14. Easement dated December 2, 2008, from Glenn Red Whaley to Trinity Valley Electric Cooperative, Inc. recorded in Volume 3523, Page 442, Real Property Records, Kaufman County, Texas, and as shown on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.
15. Terms, conditions, stipulations and provisions contained in Development Agreement dated April 4, 2017, by and between Helen Marie Whaley, Independent Executrix of the Estate of Samuel Glenn Whaley and City of Forney, recorded in Volume 5427, Page 504, Official Public Records, Kaufman County, Texas, as affected by assignment to Wynne/Jackson, Inc., a Texas corporation, recorded or to be recorded in Official Public Records, Kaufman County, Texas.
16. Lis Pendens filed June 8, 2015, recorded in Volume 4800, Page 336, Official Public Records, Kaufman County, Texas, as affected by the terms, conditions and stipulations of settlement agreement and easement incorporated into and awarded in Agreed Judgment, in Cause No. 93186-CC2, County Court at Law No. 2 styled Atmos Energy Corporation vs. Helen Marie Whaley, executed by Helen Marie Whaley and Atmos Energy Corporation, filed with the above-mentioned Court for entry to be recorded in the Official Public Records, Kaufman County, Texas, said easement being shown on survey dated September 19, 2017, prepared by Michael J. Baitup, R.P.L.S. No. 4574.

#2017-0022239  
Filed for Record in Kaufman County TX  
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# OVERSIZED MAP(S)

TO VIEW  
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