

STATE OF TEXAS

§

EASEMENT AGREEMENT

COUNTY OF DENTON

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THIS EASEMENT AGREEMENT (hereinafter referred to as this "Agreement"), made the 17<sup>th</sup> day of August, 1993, by and between NATIONS BANK OF TEXAS, N.A. (FORMERLY KNOWN AS NCNB TEXAS NATIONAL BANK, ASSIGNEE OF THE FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER OF FIRST REPUBLICBANK DALLAS, N.A., SUCCESSOR BY MERGER TO REPUBLICBANK DALLAS, N.A., FORMERLY KNOWN AS REPUBLIC BANK OF DALLAS), (hereinafter referred to as "Bank"), the CITY OF DENTON, TEXAS, a municipal corporation of the State of Texas (hereinafter referred to as "City"), and the DENTON INDEPENDENT SCHOOL DISTRICT, a political subdivision of the city of Denton, County of Denton, and State of Texas (hereinafter referred to as "District").

ALL REFERENCES CONTAINED HEREIN to "Bank," "City" or "District" include their respective successors, heirs, legal representatives, assigns, lessees or sublessees as if set forth at length.

RECITALS

WITNESSETH, THAT WHEREAS, City is the owner of all of that land situated in Denton County, Texas, which is described in Exhibit "A" attached hereto and incorporated herein for all purposes (hereinafter referred to as "Tract A"); and

WHEREAS, District is the owner of all of that land situated in Denton County, Texas, which is described in Exhibit "B" attached hereto and incorporated herein for all purposes (hereinafter referred to as "Tract B"); and

WHEREAS, Bank is the owner of a certain parcel of land lying in between and adjacent to both Tract A and Tract B in Denton County, Texas, which is described in Exhibit "C" attached hereto and incorporated herein for all purposes (hereinafter referred to as "Adjacent Tract"); and

WHEREAS, City and District desire that Bank convey to City and District a perpetual and non-exclusive easement benefiting both Tract A and Tract B, in, over, across and through a portion of the Adjacent Tract, to provide for joint driveway access so that City and District have adequate vehicular access to improvements it may construct on Tract A and Tract B; and

WHEREAS, Bank is willing to grant such easement upon the terms and subject to the conditions which are hereinafter set forth;

THENCE South 88 degrees 49 minutes 55 seconds West with the South line of said First State Bank tract 493.17 feet to its Southwest corner;

THENCE North 1 degree 10 minutes 05 seconds West a distance of 250.0 feet to a point for corner;

THENCE North 88 degrees 49 minutes 55 seconds East a distance of 493.17 feet to a point in the Westerly right-of-way line of F. M. 2181;

THENCE South 1 degree 10 minutes 05 seconds East a distance of 250.0 feet to the Point of Beginning and containing 2.8304 acres of land.

The hereinabove described property is also known as Lot A, Block One, R.N.W. Addition, an Addition to the City of Denton, Denton County, Texas, recorded in Cabinet H, Page 338, Plat Records, Denton County, Texas.

## **TRACT TWO**

All that certain lot, tract or parcel of land lying and being situated in the City and County of Denton, State of Texas, and being part of the C. Poulallier Survey, Abstract No. 1006 and being part of tract conveyed to the City of Denton by deed recorded in Volume 2423, Page 154, Real Property Records and also being part of two tracts conveyed to the State of Texas by deeds recorded in Volume 400, Page 341 and Volume 400, Page 334, Deed Records, Denton County Texas and being more particularly described as follows:

BEGINNING at the northeast corner of the herein described tract, said point lying in the South line of F. M. 2181 (Teasley Lane), a public roadway with a right-of-way of 90.0 feet and the West line of Lillian Miller Parkway, a public roadway with a right-of-way of 90.0 feet;

THENCE South 1 deg. 04 minutes 17 seconds East along the East boundary line of the herein described tract, same being the West line of F. M. 2181 (Teasley Lane), passing at 285.79 feet the Northeast line of the old curve portion of F. M. 2181 (Teasley Lane) right-of-way and continuing a total distance of 575.43 feet to a point for corner, said point lying in the Southwest right-of-way line of the old curve portion of F. M. 2181 (Teasley Lane), same being the Northeast boundary line of a tract conveyed to First National Bank by deed recorded in Volume 718, page 57, Deed Records of Denton County, Texas, said point also being the beginning of a curve to the left having a radius of 671.20 feet, a central angle of 66 degrees 33 minutes 54 seconds and a chord bearing and distance of North 41 degrees 00 minutes 11 seconds West, 736.66 feet;

THENCE Northeasterly along said curve and lines an arc length of 779.78 feet to a point for a corner;

THENCE North 70 degrees 12 minutes 43 seconds East along the South line of a F. M. 2181 (Teasley Lane) a distance of 62.74 feet to a point for corner;

THENCE South 89 degrees 44 minutes 37 seconds East continuing along the South line of F.M. 2181 (Teasley Lane) passing at 126.36 feet the Northeast line of the old curve portion of F. M. 2181 (Teasley Lane) right-of-way and continuing a total distance of 413.54 feet to the place of beginning and containing 1.962 acres of land, more or less.

## EXHIBIT "D"

All that certain lot, tract or parcel of land situated in Denton County, Texas in the C. Poulallier Survey, A-1006 and being all of a tract shown by deed to First National Bank, Trustee, recorded in Volume 718, Page 57, Deed Records of Denton County, Texas and part of a tract deeded to the State of Texas, recorded in Volume 400, Page 334, Deed Records and also part of a tract shown by deed to the City of Denton, Texas, recorded in Volume 2423, Page 154, Real Property Records and being more particularly described as follows:

COMMENCING at the Northwest corner of said First National Bank tract and in the existing Southerly right-of-way line of F. M. 2181;

THENCE South 1 degree 10 minutes 05 seconds East a distance of 334.0 feet to a point for a corner;

THENCE South 24 degrees 23 minutes 00 seconds East a distance of 123.63 feet to a point for a corner;

THENCE South 1 degree 10 minutes 05 seconds East a distance of 224.27 feet to the Point of Beginning;

THENCE North 88 degrees 49 minutes 55 seconds East a distance of 220.0 feet to a point for a corner;

THENCE North 1 degree 10 minutes 05 seconds West a distance of 10.0 feet to a point for a corner;

THENCE North 88 degrees 49 minutes 55 seconds East a distance of 273.17 feet to a point on the West right-of-way of Lillian Miller Parkway;

THENCE South 1 degree 10 minutes 05 seconds East with the West right-of-way of Lillian Miller Parkway a distance of 40.0 feet to a point for a corner;

THENCE South 88 degrees 49 minutes 55 seconds West a distance of 493.17 feet to a point for a corner in the most Easterly West line of said "First National Bank" tract to a point for a corner;

THENCE North 1 degree 10 minutes 05 seconds West a distance of 30.0 feet to the Point of Beginning and containing 0.402 acre of land.

FILED 1993 AUG 23 4 27 PM  
DENTON COUNTY, TEXAS  
HONORABLE TIM HODGES  
COUNTY CLERK

On 1993/08/23

At 4:27P

Number: 93-R0058368  
Type : EAS 31.00

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual entry into this Agreement by the parties hereto, and in consideration of the payment of One Dollar (\$1.00), and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each undersigned party, the parties agree as follows:

### GRANT OF EASEMENT

1. Bank hereby grants and conveys to City and District and their respective successors and assigns a perpetual and non-exclusive easement (hereinafter referred to as "Easement") in, under, upon, over and through all of that portion of the Adjacent Tract, which is described in Exhibit "D" attached hereto and incorporated herein for all purposes (hereinafter referred to as "Easement Tract") for vehicular access to improvements City and District may construct upon Tract A and Tract B.

2. Bank hereby reserves the right to itself, its successors, heirs, legal representatives, assigns, lessees, sub-lessees and licensees, and their employees, customers and invitees, the use and enjoyment of all or any portion of the Easement, the Easement Tract and the Access Drive. Bank further reserves the right to grant other easement rights with respect to the Easement Area, but any such grants shall expressly provide that any improvements constructed thereupon, whether underground or overhead, shall be constructed in manner not inconsistent with the use of the Easement Tract as an Access Drive.

3. As used herein, the term "Access Drive" is defined as a driveway constructed upon the Easement Tract. The City has previously constructed the east 250 feet (more or less) of the Access Drive on the Easement Tract. The District agrees to construct the west 250 feet (more or less) of the Access Drive on the Easement Tract at the time it constructs a circular bus unloading drive on Tract B or within one year after the date of this Agreement, whichever occurs first.

4. If City of Denton Ordinance Number 91-007 which relates to Screening between Tract B and the Adjacent Tract has to be amended solely because of this grant or use of the Easement, the District agrees to pay for all costs associated with the amendment, and the parties hereto agree to determine whether such amendment is necessary and, if so, complete the amendment process within one (1) year after the date of this Agreement. As far as any other amendment in City of Denton Ordinance Number 91-007 is concerned, the City and District agree to cooperate in the amendment process.

5. The Access Drive must be constructed so as to comply with the then existing minimum standards for construction for parking lots as established by Appendix A-5, Division III of Subdivision Land Use Regulations of the City of Denton.

6. City and District will each be responsible for one-half (1/2) of all costs of repairing and maintaining the Easement until Bank, its successors, heirs, legal representatives, assigns, lessees or sublessees obtain a building permit to commence construction of buildings on any portion of the Adjacent Tract, which buildings are for uses found in the Table of Permitted Uses attached to the City of Denton, Texas, Ordinance Number 91-007, its amendments and succeeding ordinances. Upon the issuance of a building permit on the Adjacent Tract for the construction of improvements as set forth above, the Bank, City and District will each be responsible for one-third (1/3) of all costs of repairing and maintaining the Easement.

If any party desires for repairs to be made, it shall notify the other parties responsible for the repairs in writing as to the nature of repairs to be made and promptly submit to the other responsible parties a cost estimate for such repairs. If a responsible party is not satisfied with such cost estimate, it shall within twenty (20) days so notify the other responsible parties and deliver to the responsible parties a cost estimate for such repairs from a reputable third party contractor. The party desiring the repairs to be made shall thereupon undertake such repairs for a cost equal to the average of the estimates submitted to and by it. Any notice and estimate delivered by a party beyond twenty (20) days from the date notice was given to it shall be deemed unacceptable and shall not be considered in repairing and maintaining the easement.

7. Bank is executing this Agreement in a representative capacity only, and it is hereby specifically understood and agreed that Bank will not incur any personal liability for breach of warranty or of any other condition, obligation or representation made herein whether made expressly or by implication, and that in the event of such a breach, Bank shall be liable only to the extent to which Bank holds assets and properties for the specific entity on behalf of which this Agreement is executed. Notwithstanding the preceding sentence, Bank hereby represents unto City and District that Bank has the full power and authority to enter into this Agreement and all instruments that may be executed and delivered as required by the Agreement, including, but not limited to, the Bank Deed and Easement Agreement; and the exculpation provision of the preceding sentence shall not apply to the representation contained in this sentence.

8. This Agreement supersedes and replaces that certain Easement Agreement dated May 9, 1991, between the Bank and the City recorded in Volume 3097, Page 84 of the Real Property Records of Denton County, Texas.

AS WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

NATIONS BANK OF TEXAS, N.A.,  
TRUSTEE by:

Howard Compton  
Howard Compton, Vice President

CITY OF DENTON, TEXAS by:

Bob Castleberry  
Bob Castleberry, Mayor

DENTON INDEPENDENT  
SCHOOL DISTRICT by:

Charles R. Stafford  
Charles Stafford, President

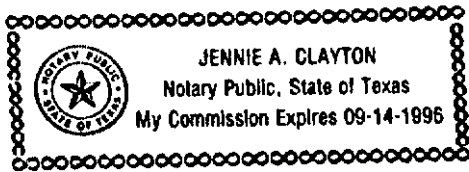


**ACKNOWLEDGMENT**

THE STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on the 16<sup>th</sup> day of August, 1993 by Howard Compton, Vice President of NationsBank, a banking corporation, on behalf of said corporation.



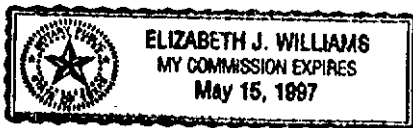
*Jennie A. Clayton*  
\_\_\_\_\_  
Notary Public, State of Texas

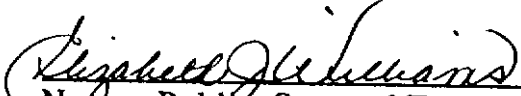
**ACKNOWLEDGMENT**

THE STATE OF TEXAS

COUNTY OF DENTON

This instrument was acknowledged before me on the 18th day of August, 1993 by Bob Castleberry, Mayor of the City of Denton, Texas.

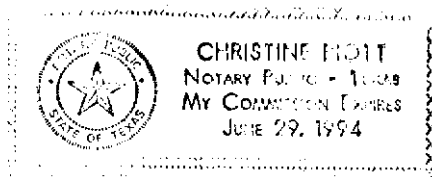


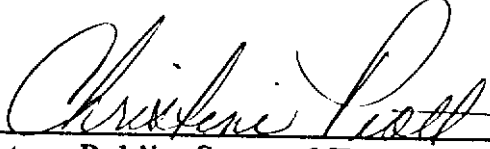
  
Notary Public, State of Texas

THE STATE OF TEXAS

COUNTY OF DENTON

This instrument was acknowledged before me on the 17th day of August, 1993 by Charles Stafford, President of the Board of Trustees of the Denton Independent School District.



  
Notary Public, State of Texas

AFTER RECORDING RETURN TO:

HAYES, COFFEY & BERRY, P.C.  
ATTN: SCOTT ALAGOOD  
101 S. LOCUST, SUITE 601  
DENTON, TX 76201

PREPARED BY THE LAW FIRM OF:

HAYES, COFFEY & BERRY, P.C.  
101 S. LOCUST, SUITE 601  
DENTON, TX 76201

## EXHIBIT "A"

All that certain lot, tract or parcel of land situated in Denton County, Texas, in the C. Poulallier Survey, A-1006 and being part of a tract shown by deed to First National Bank, Trustee, recorded in Volume 718, Page 57, Deed Records of Denton County, Texas, and being more particularly described as follows:

**BEGINNING** at the southeast corner of said First National Bank tract;

**THENCE** South 88 degrees 49 minutes 55 seconds West with the South line of said First National Bank tract 493.17 feet to its Southwest corner;

**THENCE** North 1 degree 10 minutes 05 seconds West a distance of 250.0 feet to a point for corner;

**THENCE** North 88 degrees 49 minutes 55 seconds East a distance of 493.17 feet to a point in the Westerly right-of-way line of F. M. 2181;

**THENCE** South 1 degree 10 minutes 05 seconds East a distance of 250.0 feet to the Point of Beginning and containing 2.8304 acres of land.

The hereinabove described property is also known as Lot A, Block One, R.N.W. Addition, an Addition to the City of Denton, Denton County, Texas, recorded in Cabinet H, Page 338, Plat Records, Denton County, Texas.

## EXHIBIT "B"

All that certain tract or parcel of land situated in the Cyprian Poullalier Survey, A-1006, City of Denton, Denton County, Texas, being part of a tract described in a deed from David W. Gleeson, Trustee to John M. Avinger, et al, on April 20, 1973, recorded on Volume 672, page 78, Deed Records of said County, and being more particularly described as follows:

**BEGINNING** at a steel pin at the Northwest corner of said tract on the South right-of-way of F. M. Road 2181;

**THENCE** South 89 degrees 35 minutes 52 seconds East with the South line of F.M. Road 2181, 537.84 feet to a right-of-way post at the beginning of a curve;

**THENCE** Easterly with said right-of-way and said curve to the right, a central angle of 10 degrees 03 minutes 55 seconds, a chord bearing and distance of South 84 degrees 33 minutes 54 minutes East 118.30 feet, a radius of 674.25 feet, and an arc length of 118.45 feet to a steel pin at the Northwest corner of a certain 9.212 acre tract described in a deed from Alden E. Wagner to First National Bank on August 12, 1974;

**THENCE** South 0 degrees 41 minutes 16 seconds East 334.0 feet to a steel pin;

**THENCE** South 23 degrees 54 minutes 10 seconds East 126.27 feet to a steel pin;

**THENCE** South 0 degrees 41 minutes 16 seconds East 417.84 feet to a steel pin at the Southwest corner of said 9.414 acre tract;

**THENCE** South 89 degrees 18 minutes 44 seconds West 782.62 feet to a steel pin in a fence on West boundary line of said Avinger, et al tract;

**THENCE** North 2 degrees 00 minutes 59 seconds East with said fence 374.30 feet to a steel pin at an angle;

**THENCE** North 1 degree 56 minutes 57 seconds East with said fence 518.08 feet to the Place of Beginning, containing in all 15.00 acres of land, more or less.

**EXHIBIT "C"**

**TRACT ONE**

All that certain tract of land, to-wit:

BEING part of the tract of land conveyed to T. L. Caruthers by R. M. Evers as recorded in Volume 446, Page 291, Deed Records of Denton County, Texas, the same being in the Cyprian Poullalier Survey, Abstract No. 1006 and being more particularly described as follows:

COMMENCING at the Northwest corner of said tract, said point being in the South line of F. M. Road 2181 (a 90 foot right-of-way);

THENCE South 89 degrees 34 minutes 16 seconds East, 573.84 feet to the beginning of a curve to the right, having a central angle of 10 degrees 01 minutes 38 seconds and a radius of 674.25 feet;

THENCE along said curve and said South line of F. M. Road 2181, 118.00 feet to the point of beginning, said point being in a curve to the right, having a central angle of 78 degrees 51 minutes 22 seconds, a radius of 674.25 feet and a tangent bearing of South 79 degrees 32 minutes 38 seconds East;

THENCE along said curve and said Southwesterly line of F. M. Road 2181, 927.97 feet to the end of said curve;

THENCE South 0 degrees 41 minutes 16 seconds East, 293.21 feet along the said West line of F. M. Road 2181;

THENCE South 89 degrees 18 minutes 44 seconds West, 493.17 feet;

THENCE North 0 degrees 41 minutes 16 seconds West, 504.70 feet;

THENCE North 23 degrees 54 minutes 01 seconds West, 126.27 feet;

THENCE North 0 degrees 41 minutes 16 seconds West, 334.00 feet to the POINT OF BEGINNING and containing 9.212 acres of land.

**SAVE AND EXCEPT:**

All that certain lot, tract or parcel of land situated in Denton County, Texas, in the C. Poulallier Survey, A-1006 and being part of a tract shown by deed to First National Bank, Trustee, recorded in Volume 718, Page 57, Deed Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at the southeast corner of said First National Bank tract;