

# **Appendix G**

## Chapter 26 Documentation

### Runyon Creek Park

**South Oak Cliff Corridor (SOC-3) Blue Line Extension  
Chapter 26 Documentation  
Runyon Creek Park**

**A. INTRODUCTION**

The Dallas Area Rapid Transit (DART) South Oak Cliff Corridor (SOC-3) Blue Line Extension project will extend the light rail transit (LRT) Blue Line from its current terminus at Ledbetter Station to the UNT Dallas campus. The project is wholly funded with local funds. A Draft Local Environmental Assessment (EA) was circulated in October 2012 for public and agency review. At that time, the impact assessment relied on preliminary parcel data for parkland impacts. Recent on-ground survey work and deed research have updated those boundaries and it has been determined that a small section of the southernmost tip of Runyon Creek Park would be traversed by the project.

Section 4(f) of the Department of Transportation Act of 1966 (49 USC 1653, now 49 USC 303) declares a national policy that special effort be made to preserve the natural beauty of the countryside, including public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amendment to the Section 4(f) requirements allows the U.S. Department of Transportation (DOT) to determine that certain uses of Section 4(f) land will have no adverse effect on the protected resource. These uses are referred to as *de minimis impacts*.

While Section 4(f) does not apply to this locally funded project, DART projects are consistently evaluated regardless of funding source and thus the concept of *de minimis* impact can be applied. For publicly owned parks, recreation areas, and wildlife and waterfowl refuges, *de minimis impacts* are defined as those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource.

Chapter 26 of the Texas Parks and Wildlife Code was established to protect parks, recreational and scientific areas, wildlife refuges, and historic sites from being used or taken by the state or local agencies for public projects. Chapter 26 applies to this locally funded project.

This report documents the *de minimis* impact assessment for the DART South Oak Cliff Corridor Blue Line Extension direct use of the southern tip of Runyon Creek Park, which is part of the City of Dallas parks system. Documentation of the planning, engineering and coordination activities is provided that demonstrates the use of the property is justified and necessary. Additionally, this report demonstrates that in compliance with Chapter 26 of the Texas Parks and Wildlife Code, there is no feasible and prudent alternative to the use and the project includes all reasonable planning to minimize harm to the land, as a park, resulting from the use.

**A. APPLICATION OF CHAPTER 26**

As stated in Chapter 26 of the Texas Parks and Wildlife Code, a municipality of this state may not approve any program or project that requires the use or taking of any public land designated and used as a park unless the municipality determines that:

- (1) there is no feasible and prudent alternative to the use or taking of such land; and
- (2) the project includes all reasonable planning to minimize harm to the land, as a park, resulting from the use or taking.



## **B. BACKGROUND**

The South Oak Cliff Corridor Blue Line Extension Draft Local EA did not identify any direct, temporary or constructive uses of parkland. The alignment was designed to avoid Runyon Creek Park based on preliminary parcel data at that time. The alignment was also designed to co-exist in an existing utility corridor area that would minimize impacts to Oncor poles and avoid creation of a second utility corridor in this area. In December 2012, on-ground surveys including metes and bounds definitions and deed research was completed to prepare for final design. This information updated the parcel data and determined that the project alignment traverses a small section of the southernmost tip of Runyon Creek Park.

## **C. PROPOSED PROJECT**

In Spring 2013, DART will initiate final design of the South Oak Cliff Corridor Blue Line Extension (known as SOC-3) from Ledbetter Station to UNT Dallas Station in southern Dallas County (See Attachment 1, Figure 1). The project would use newly acquired right-of-way or easements given that no existing railroad corridor exists. Large areas of City of Dallas owned parkland are located near the project (See Attachment 1, Figure 2). The route and alignment for the light rail transit (LRT) guideway would include the tracks, trackbed, overhead electric system (or catenary), and ancillary equipment. LRT vehicles would operate on two-track, two-way continuously welded steel rails. The LRT extension would be integrated into DART operations as an extension of the existing Blue Line service. Service would be provided between approximately 5 a.m. and 1 a.m., with the non-service hours reserved for maintenance as needed. The proposed right-of-way for the project is generally a 100-foot wide corridor with the tracks located in the center of the right of-way.

### **Direct Use of Parkland**

This area of Runyon Creek Park is located in a heavily wooded, rocky area and includes an unnamed tributary of Runyon Springs Branch creek. The park was purchased in 1995 with local bond program funds as part of the City of Dallas open space protection program. It is designated as open space and no formal trails or uses currently exist. The area is unimproved and largely inaccessible by the public. An Oncor 138kV overhead electric transmission line crosses over the southernmost portion of the park. The project is proposed to cross through this small section of the park parallel and immediately north of the Oncor power lines (See Attachment 1, Figure 3). There is also a 72" City of Dallas water main that follows underground parallel to the Oncor power lines.

Based on the 5% level of preliminary engineering, the LRT tracks would be on a shallow aerial structure through this area given the 100-year floodplain elevation associated with the Runyon Springs Branch creek system. The length of the proposed aerial guideway crossing through this section of park would be approximately 120 feet. One or two support columns would be placed within the park area to support the structure. The proposed mass transit easement area consists of 12,184 square feet (Attachment 1, Figure 4). The proposed easement covers the entire southern tip of the parkland parcel to avoid leaving any outlying area in the utility corridor, as well as to provide for flexibility for minor shifts in the horizontal alignment during final design. This easement area accounts for 0.50% of the entire Runyon Creek Park open space area that spans to the north and south of Camp Wisdom Road. The direct use of the parkland would be limited to approximately 3,989 square feet associated with the aerial structure and associated support columns.

This is the only direct use of parkland proposed by the project.



### **Temporary Use of Parkland**

Temporary use of the park would be limited to construction access to place the columns and structure within the proposed Runyon Creek Park easement area

### **Constructive Use of Parkland**

The project would be located at the southernmost point of Runyon Creek Park, in an area that is generally unused, unimproved and inaccessible. It also is an area that is largely dominated by utilities including Oncor overhead power lines and an underground water main. This section of the park includes an unnamed tributary of the Runyon Springs Branch creek, so the LRT structure would be elevated on a shallow aerial structure to avoid floodplain and creek impacts. The top of rail would be approximately 10 feet above ground level. While access would still be available under the LRT structure at the creek crossing, the southern boundary of the park ends approximately 30 feet south of the LRT structure itself and would not likely be accessed by the public. Wildlife would still be able to pass under the structure at the creek. Access to the larger area of the parkland north of the LRT alignment would not be impacted. As a result of these conditions, there would be no constructive use of parkland.

### **De Minimis Impacts**

Although Section 4(f) does not apply to this locally funded project, the concept of *de minimis* impact is applicable to support the justification and need for the easement. For publicly owned parks, *de minimis impacts* are defined as those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource. The proposed use of parkland occurs at the southernmost boundary of undeveloped parkland directly adjacent to existing utility corridors, including Oncor overhead power lines and a Dallas water main. There are no existing or proposed park facilities in the vicinity. While the City of Dallas has plans to extend future Ricketts Branch Trail into Runyon Creek Park, the trail will not extend to this area of the park. As noted above, this proposed easement constitutes only 0.50% of the entire Runyon Creek Park area. Furthermore, this section of the park is a heavily wooded, rocky area that is largely inaccessible to the public. These conditions indicate that no adverse effect to activities, features or attributes of Runyon Creek Park would occur.

## **D. ALTERNATIVES CONSIDERED**

After consideration of avoidance alternatives, the City of Dallas may make a determination that there is no feasible and prudent alternative to the use of the parkland and the project has incorporated all possible planning to minimize harm.

Considering that the South Oak Cliff Corridor Blue Line Extension is fully funded and supported by the City of Dallas, a No-Build Alternative was not considered to be a feasible or prudent alternative. Shifting the alignment west before it turns southwest towards UNT Dallas is not feasible as it would create additional parkland impacts and may affect the placement of the City's future Ricketts Branch Trail. Increasing the elevated structure height to minimize impacts is not prudent as it would create additional conflicts with the Oncor power lines. One potential avoidance alternative that would modify the horizontal alignment and avoid the use of the property was considered.

### **1. Shift the LRT alignment south to avoid the parkland**

The project as currently proposed was designed to "thread" the LRT alignment through a kink in the Oncor overhead power lines and to enter a previously identified corridor dedication area developed in cooperation with UNT Dallas. The avoidance alternative



would shift the LRT alignment south of the Oncor power lines in this area to avoid the parkland.

The environmental impacts associated with this potential alignment modification have not been fully examined in the Draft EA. However, this alternative would have the following consequences:

- In order to maintain acceptable speeds and minimize curves (and therefore noise) the revised alignment would impact two additional parcels. First, a privately owned parcel would require a partial acquisition. This parcel includes a single-family home of which the current use is unknown. Second, a large undeveloped privately-owned parcel south of the Oncor power lines and north of Wheatland Road would be affected by the alignment. This large parcel is a key redevelopment area within the UNT-Dallas Area Plan. The traversing of the northern portion of this parcel by the Avoidance Alternative would sever a larger part of this parcel and result in a more extensive isolated remainder. This remainder parcel would be inaccessible, and thus would have no redevelopment opportunities.
- The City of Dallas plans to construct the Ricketts Branch Trail from the future Five Mile Creek Trail and the Camp Wisdom Station area through Runyon Creek Park to connect with and use the DART rail right-of-way to continue towards the UNT-Dallas Station. Shifting the alignment south to avoid the parkland could complicate the City trail connection by requiring the City of Dallas to construct additional trail length, which would increase costs and would require additional right-of-way acquisition or agreements from one or two private properties rather than maintaining the trail only in City parkland and the DART corridor.
- As with the proposed alignment, the avoidance alignment would also require raising Oncor overhead power line poles to accommodate the LRT alignment. The poles that would need to be raised would be closer to the Lancaster/Camp Wisdom intersection which is at a higher elevation, and thus would create a greater visual impact for the existing community and future development.
- The avoidance alignment would penetrate further south into the UNT Dallas nature preserve area, which is outside of the previously agreed UNT dedication corridor for the LRT alignment. This would result in new negotiations with UNT for an alternative corridor and may affect their campus master plan for this area.
- The avoidance alignment would be longer than the preferred alignment and would add travel time and costs to the project.
- The current proposed alignment places the LRT infrastructure parallel with an existing utility corridor occupied by Oncor and the City water main. The avoidance alignment would shift the LRT alignment outside of this corridor and would create another transportation/utility corridor in the area, limiting the overall redevelopment area.
- Shifting the alignment south to avoid the parkland limits flexibility for the City to locate their future thoroughfare in the redevelopment area.

Alignment modification to avoid the impact to this small section of Runyon Creek Park does not appear to be a prudent and feasible alternative to the current plans to span the approximately 120-foot section of parkland with a shallow aerial structure. The proposed alignment is in the southernmost tip of the park and is designed so that it will not adversely affect the activities, features and attributes of the park.



## Conclusions

Although it results in a small use of parkland, the proposed project alignment is the most prudent and feasible alignment for this area for several reasons. First, it places the alignment in an area of existing utilities to avoid creating a second utility corridor that would reduce developable land in the area. Second, it takes advantage of the existing “kink” in the Oncor alignment to weave the LRT through this area and avoid relocation of any Oncor poles. Third, it provides the best opportunity for a future City of Dallas trail (Ricketts Branch Trail) to connect with the DART LRT corridor, without having to use property from private property owners and without adding length to the trail. Fourth, it only affects the southernmost tip of the park which is closest to the utility corridor, unimproved and generally inaccessible to the public given the wooded, rocky nature of the area.

A less desirable and more costly alignment modification (Avoidance Alternative) is not considered to be a feasible or prudent alternative to the *de minimis* impact of the proposed project. The avoidance alternative requires redesign and additional environmental review, and it would create a new corridor that would create conditions undesirable for the overall UNT Dallas Area planning objectives.

## E. PLANNING TO MINIMIZE HARM

DART has undertaken consultation and planning efforts to insure that all planning to minimize harm will be accomplished. As stated earlier, in order to minimize impact to wildlife and vegetation, and support City development and trail objectives for the area, several mitigation measures are being implemented for the project.

Although the DART right-of-way is exempt from the City of Dallas Tree ordinance, DART has committed to replacing trees of exceptional size and quality within the proposed easement area. During final design, DART will engage an arborist and tree survey staff to identify quality trees in order to preserve them or provide compensation for replacement trees at a location to be determined by the City of Dallas.

DART will maintain a shallow, aerial design through this easement area to allow for wildlife passage under the LRT structure at the creek crossing. This design will also avoid floodplain impacts and limit the footprint of the rail line so as to minimize vegetation impacts. While park users can also pass under the structure at the creek, given that the park boundary ends immediately to the south it is not expected that park users will pass under at this location. The Oncor electric transmission line also lies immediately to the south.

In addition, DART will commit to working with the City of Dallas to provide an appropriate license agreement for the future Ricketts Branch Trail so that it can utilize the DART right-of-way from the area where the trail will connect and then as it continues toward the future UNT Dallas Station. Use of the DART right-of-way will be in accordance with DART Policy III.09: Hike and Bike Trail Use on DART Right-of-Way. Although the trail is not yet designed, it would likely utilize approximately 3,000 linear feet of the DART corridor if it connects near the proposed easement area.

These mitigation measures have been incorporated into the South Oak Cliff Corridor Blue Line Extension Final Local EA and the supporting Mitigation Monitoring Program to ensure their implementation as final design and construction is initiated.



## **F. PROJECT COORDINATION**

DART has coordinated this effort with the City of Dallas Parks and Recreation Department, the entity with jurisdiction over the property. This documentation was provided to the city for review in order to schedule the appropriate actions by the City of Dallas Parks and Recreation Board and Dallas City Council to authorize a public hearing in accordance with Chapter 26 of the Texas Parks and Wildlife Code for the proposed mass transit easement.

The following actions were taken by the City of Dallas:

- February 21, 2013 - Parks and Recreation Board recommended a public hearing for the proposed public mass transit easement.
- March 27, 2013 – Dallas City Council approved a resolution authorizing the Park and Recreation Department to advise, in writing of such proposed use of the park property by delivering a notice for publishing to the official newspaper to be advertised once each week for three consecutive weeks, the last publication to be not less than one week, no more than two weeks before the date of the hearing, which shall be held in the City Council Chambers on April 24, 2013; and, that the approval of the aforementioned project by the City Council, at the close of the public hearing, shall be construed as making the proper findings as to the use, taking and conveyance of park land, consistent with the Texas Parks and Wildlife Code and the Texas Local Government Code.
- City of Dallas advertised the public hearing as noted above on March 29, April 5 and April 12, 2013.

## **G. PUBLIC PARTICIPATION**

The South Oak Cliff Corridor Blue Line Extension planning and EA process included an extensive public participation process. The proposed use and easement through this small section of Runyon Creek Park was not anticipated during the EA process. DART provided a letter to its Technical Work Group and Community Work Group members on February 4, 2013 informing them of the new information and the process to obtain the easement. No comments were received by DART on the proposed easement.

Individuals also had the opportunity to comment at the City of Dallas public hearing on April 24, 2013. No comments were received at that public hearing.

## **H. CITY OF DALLAS DETERMINATION**

On April 24, 2013, the public hearing was held at Dallas City Council meeting. The City Council then passed a resolution authorizing the public mass transit easement.



# ATTACHMENT 1

## South Oak Cliff Corridor (SOC-3) Blue Line Extension

### Chapter 26 Documentation

Figure 1 – Proposed Project Alignment

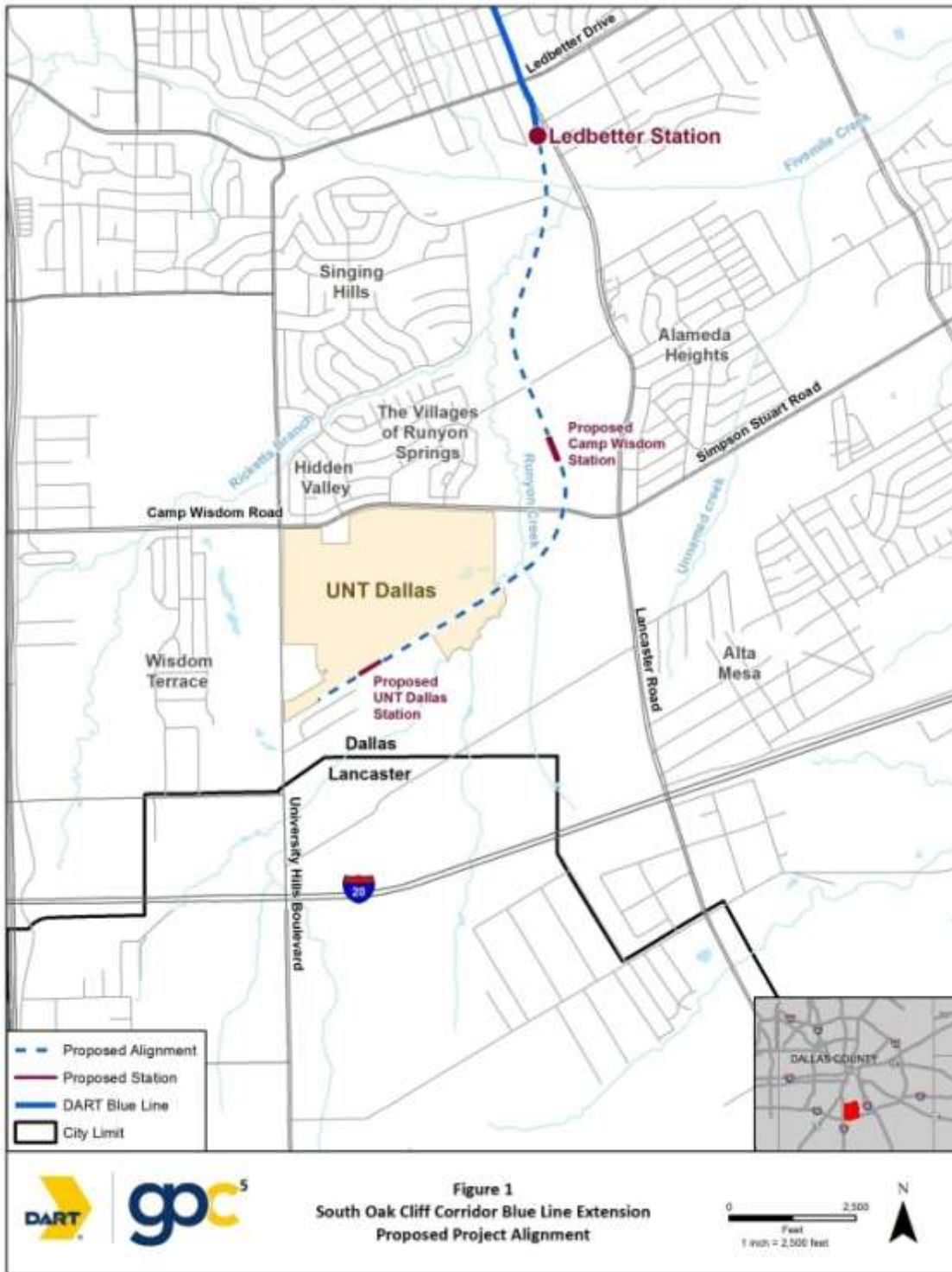
Figure 2 – Existing Land Use

Figure 3 – Existing Conditions/Proposed LRT Alignment

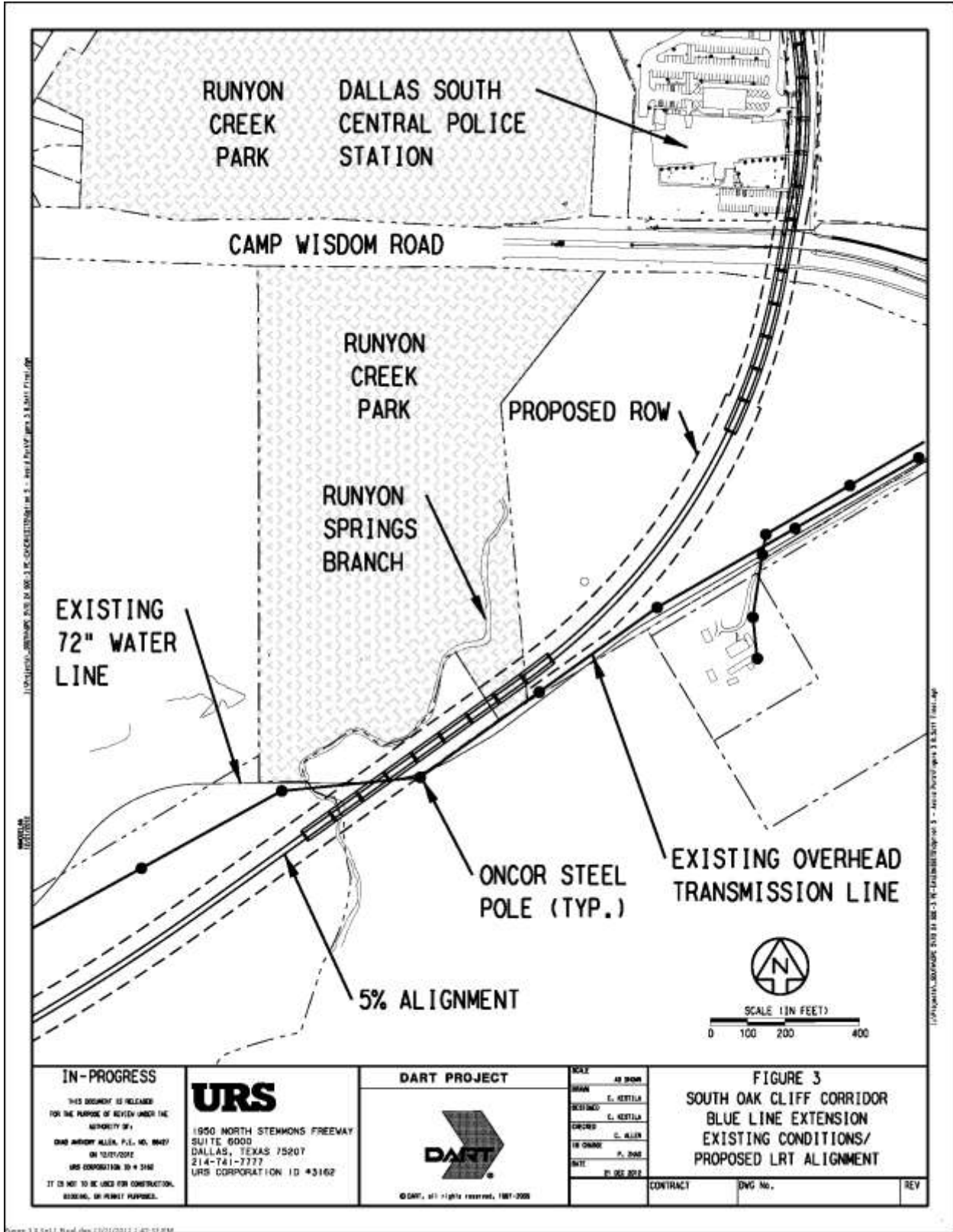
Figure 4 – Proposed Park Easement Location















March 27, 2013

**WHEREAS**, on February 28, 1990, the Dallas City Council adopted Resolution No. 90-0810, approving the Master Interlocal Agreement between the City and Dallas Area Rapid Transit (DART); and

**WHEREAS**, on July 25, 1990, Supplemental Agreement No. 1 to the Master Interlocal Agreement was adopted by the Dallas City Council to address planning and development issues related to implementation of DART's transportation system; and

**WHEREAS**, on August 28, 1991, Supplemental Agreement No. 2 to the Master Interlocal Agreement was adopted by the Dallas City Council to address design and construction issues related to implementation of DART's transportation system; and

**WHEREAS**, the Master Interlocal Agreement, Supplemental Agreement No. 1, Supplemental Agreement No. 2, and any amendments thereto are hereinafter collectively referred to as the "Agreement"; and

**WHEREAS**, the City of Dallas owns land known as Runyon Creek Greenbelt and DART has determined that a public mass transit easement is needed, in the public interest and is necessary for the proper construction or development of DART's South Oak Cliff Corridor Blue Line Extension (SOC-3); and

**WHEREAS**, said improvements require the conveyance of a permanent mass transit easement of approximately 12,184 square feet of land from the Runyon Creek Greenbelt, set forth in one Tract described in Exhibit A, attached hereto and made a part hereof, because the use of this park land is necessary to accomplish the purpose, and the Park and Recreation Board of the City of Dallas is agreeable to providing the property for this use; and

**WHEREAS**, in consideration for this conveyance by easement, DART will pay the fair market value of this easement, or equivalent in-kind value, as determined by an independent appraisal, which may include the use of the park land and other DART property within and adjacent to the easement for hike and bike trail purposes; and

**WHEREAS**, the Texas Parks and Wildlife Code, Chapter 26 (Section 26.001 through 26.004), requires that before a municipality may approve any program or project that requires the use or taking of any public land designated and used as park land, the governing body of such public municipality must determine that there is no feasible and prudent alternative to the use or taking of such land, and that the program or project includes all reasonable planning to minimize harm to the remainder of the park; and

**WHEREAS**, prior to making this determination, notice must be given and a public hearing be held relative to the proposed change of park use; and

**WHEREAS**, the City Council desires to give notice and hold such hearing in accordance with the law with respect to the utilization of the Runyon Creek Greenbelt.

**Now, Therefore,**

**BE IT RESOLVED BY THE PARK AND RECREATION BOARD AND THE CITY COUNCIL OF THE CITY OF DALLAS:**

**SECTION 1.** That the Park and Recreation Department is hereby authorized and directed to advise, in writing of such proposed use of the park property by delivering a notice for publishing to the official newspaper to be advertised once each week for three consecutive weeks, the last publication to be not less than one week, no more than two weeks before the date of the hearing, which shall be held in the City Council Chambers on April 24, 2013.

**SECTION 2.** That the approval of the aforementioned project by the City Council, at the close of the public hearing, shall be construed as making the proper findings as to the use, taking and conveyance of park land, consistent with the Texas Parks and Wildlife Code and the Texas Local Government Code.

**SECTION 3.** That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

