ORDINANCE NO.

AN ORDINANCE OF THE CITY OF DENTON PROVIDING FOR THE ABANDONMENT, RELEASE, AND QUITCLAIM OF 1) A PORTION OF AUDRA LANE RIGHT-OF-WAY LOCATED BETWEEN THE EAST LINE OF LOOP 288 AND THE NORTHWEST LINE OF PROMINENCE PARKWAY AND 2) AN ELECTRIC EASEMENT CONVEYED TO TEXAS POWER & LIGHT COMPANY RECORDED IN VOLUME 264 PAGE 149, DEED RECORDS, DENTON COUNTY, TEXAS AND ASSIGNED TO THE CITY OF DENTON IN VOLUME 756 PAGE 669, DEED RECORDS, DENTON COUNTY, TEXAS, ALL LOCATED IN THE W. LLOYD SURVEY, ABSTRACT NO. 774, WITHIN THE CITY AND COUNTY OF DENTON, TEXAS; PROVIDING FOR THE QUITCLAIM THEREOF TO US ALLIANCE PROMINENCE VENTURE, LLC; PROVIDING FOR THE TERMS AND CONDITIONS OF THE ABANDONMENT AND QUITCLAIM HEREIN; PROVIDING FOR THE RESERVATION AND CONVEYANCE OF A NEEDED PUBLIC UTILITY EASEMENT THEREIN TO THE CITY OF DENTON; PROVIDING FOR THE INDEMNIFICATION OF THE CITY OF DENTON AGAINST DAMAGES ARISING OUT OF THE ABANDONMENT HEREIN; PROVIDING FOR BARRICADING; PROVIDING FOR CONSIDERATION TO BE PAID TO THE CITY OF DENTON; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Denton ("City") is the holder of the right-of-way of Audra Lane assumed by the City by annexation ordinance No. 1965-43 and the Electric Easement granted by O.R. Carlton and wife Charlotte Carlton to Texas Power & Light Company, recorded in Volume 264 Page 149, Deed Records, Denton County, Texas, and assigned to City of Denton from Texas Power & Light Company, a Texas corporation, recorded in Volume 756 Page 669, Deed Records, Denton County, Texas; and

WHEREAS, JNJ Prominence Square, LP ("JNJ") acquired the parcel adjacent to Audra Lane by Special Warranty Deed filed as Document Number 2009-27978 in the Deed Records of Denton County, Texas; and

WHEREAS, JNJ, submitted an Abandonment application to abandon, release, and quitclaim a section of Audra Lane right-of-way, and an electric easement assigned to the City; and

WHEREAS, while the Abandonment application was pending, JNJ subsequently conveyed a portion of the subject property to US Alliance Prominence Venture, LLC ("Owner") County Clerk File Number 2022-29717, Real Property Records, Denton County, Texas; and

WHEREAS, US Alliance Prominence Venture, LLC, a Delaware Limited Liability Company, is now the record abutting landowner of the property north of Audra Lane and north of Prominence Parkway ("Landowner"); and

WHEREAS, the Landowner has requested the City 1) to abandon, release, and quitclaim the section of Audra Lane located between the east line of Loop 288 and the northwest line of Prominence Parkway, being more specifically depicted in Exhibit "A," attached hereto, being incorporated by reference and made a part hereof (the "Road Abandonment Tract"), and requested the City 2) to abandon, release, and quitclaim the electric easement conveyed to Texas Power & Light Company recorded in Volume 264 Page 149, Deed Records, Denton County, Texas and assigned to the City of Denton in Volume 756 Page 669, Deed Records, Denton County, Texas, (the "Electric Easement"); and

WHEREAS, Section 272.001 (b)(2) of the Texas Local Government Code provides an applicable exception to the notice and bidding requirements where land and interests to be abandoned are designated as street right-of-way or used by easement, fair market value has been determined, and the exchange transaction is with an adjacent landowner; and

WHEREAS, Section 272.001 also provides that the land and those interests may be conveyed, sold, or exchanged for less than the fair market value if exchanged with an abutting property owner who owns the underlying fee simple; and

WHEREAS, an independent appraisal of the Road Abandonment Tract and Electric Easement was provided by the Landowner listing the fair market value at Fifty-Nine Thousand Nine Hundred Eighty-Three and 00/100 Dollars (\$59,983.00); and

WHEREAS, Henry Rife, as predecessor in interest, conveyed to the City 3.794 acres of land by a Street Right-of-Way Deed for Prominence Parkway, as reflected in Document Number 2004-41072 in the Deed Records of Denton County, Texas; and

WHEREAS, Prominence Parkway is currently serving the public interest and the City has received all application fees associated with the requested abandonment, City staff recommends that Landowner be allowed to utilize and receive credit for the previous Abandonment application submitted by JNJ and for the previous dedication of Prominence Parkway by Henry Rife as consideration for this transaction; and

WHEREAS, the City Engineer, Public Works, and Denton Municipal Electric staff have confirmed that the property has been developed in such a manner that the Road Abandonment Tract and Electric Easement are no longer necessary to address previous road infrastructure and electrical improvements concerns on the property or for any current or future public road or electric project; and

WHEREAS, the City Council of the City of Denton, acting pursuant to law and upon the request and petition of US Alliance Prominence Venture, LLC, is of the opinion that the best interest and welfare of the City will be served by the abandonment, release and quitclaim of the City of Denton's right, title and interest in and to the subject Road Abandonment Tract and Electric Easement area to US Alliance Prominence Venture, LLC, and is of the opinion that, subject to the terms and conditions hereinafter provided, the Road Abandonment Tract and Electric Easement areas are no longer needed for municipal use or public access, and same should be abandoned relinquished and quitclaimed to the Owner as hereinafter provided, for consideration hereinafter stated; NOW, THEREFORE,

#### THE COUNCIL OF THE CITY OF DENTON ORDAINS:

<u>SECTION 1.</u> The recitations and finding set forth above are incorporated herein by reference.

<u>SECTION 2</u>. The following real property interests held by the City of Denton are partially abandoned, released, and quitclaimed:

- a) The section of Audra Lane right-of-way assumed by the City by annexation ordinance No. 1965-43, between the east line of Loop 288 and the northwest line of Prominence Parkway being more specifically described in Exhibit "A," attached hereto and made a part hereof; and
- b) Electric Easement granted by O.R. Carlton and wife Charlotte Carlton to Texas Power & Light Company, recorded in Volume 264 Page 149, Deed Records, Denton County, Texas, and assigned to City of Denton from Texas Power & Light Company, a Texas corporation, recorded in Volume 756 Page 669, Deed Records, Denton County, Texas,
- c) The City hereby retains a Public Utility Easement over the same Audra Lane right-of-way as depicted by Exhibit B and further described in Section 6 of this ordinance.

<u>SECTION 3.</u> That for and in monetary consideration of the sum of Six Thousand Five Hundred Seventy-Two Dollars and 00/100 Dollars (\$6,572.00) paid by US Alliance Prominence Venture, LLC, and

the further consideration described in Sections 6, 7, 8, 9 and 10, the City of Denton does by these presents release, abandon and quitclaim unto the said GRANTEE.

<u>SECTION 4</u>. That the abandonment, release and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground, or otherwise.

<u>SECTION 5</u>. That the terms and conditions contained in this ordinance shall be binding upon the Landowner, its heirs, successors and assigns.

<u>SECTION 6</u>. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, US Alliance Venture, LLC shall convey a Public Utility Easement to the City of Denton, within 30 days of the effective date of this ordinance for the area over Audra Lane right-of-way provided in the form instrument more particularly described in Exhibit "C" attached hereto and made a part hereof for all purposes.

SECTION 7. That as a condition of this abandonment and as a part of the consideration for the release made herein, US Alliance Venture, LLC shall, immediately following the effectiveness of this ordinance, close, barricade and/or place signs in the area described in Exhibit A in accordance with detailed plans approved by the Director of Department of Development Services US Alliance Venture, LLC responsibility for keeping the area described in Exhibit A closed, barricaded and/or the signs in place shall continue until the street improvements and intersection returns are removed by US Alliance Venture, LLC, its heirs, successors and assigns, to the satisfaction of the Director of Department of Development Services.

SECTION 8. THAT AS A CONDITION OF THIS ABANDONMENT AND AS A PART OF THE CONSIDERATION FOR THE QUITCLAIM TO THE US ALLIANCE VENTURE, LLC, ITS HEIRS, SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS THE CITY OF DENTON TO ANY AND ALL CLAIMS FOR DAMAGES, FINES, PENALTIES, COSTS OR EXPENSES TO PERSONS OR PROPERTY THAT MAY ARISE OUT OF, OR BE OCCASIONED BY OR FROM: (I) THE USE AND OCCUPANCY OF THE AREA DESCRIBED IN EXHIBIT A BY THE US ALLIANCE VENTURE, LLC, ITS HEIRS, SUCCESSORS AND ASSIGNS; (II) THE PRESENCE, GENERATION, SPILLAGE, DISCHARGE, RELEASE, TREATMENT OR DISPOSITION OF ANY HAZARDOUS SUBSTANCE ON OR AFFECTING THE AREA SET OUT IN EXHIBIT A; (III) ALL CORRECTIVE ACTIONS CONCERNING ANY DISCOVERED HAZARDOUS SUBSTANCES ON OR AFFECTING THE AREA DESCRIBED IN EXHIBIT A, WHICH THE OWNER, ITS HEIRS, SUCCESSORS AND ASSIGNS, AGREE TO UNDERTAKE AND COMPLETE IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS; AND (IV) THE ABANDONMENT, CLOSING, VACATION AND RELEASE BY THE CITY OF DENTON OF THE AREA SET OUT IN EXHIBIT A. THE US ALLIANCE VENTURE, LLC, ITS HEIRS, SUCCESSORS AND ASSIGNS, HEREBY AGREE TO DEFEND ANY AND ALL SUITS, CLAIMS, OR CAUSES OF ACTION BROUGHT AGAINST THE CITY OF DENTON ON ACCOUNT OF SAME, AND DISCHARGE ANY JUDGMENT OR JUDGMENTS THAT MAY BE RENDERED AGAINST THE CITY OF DENTON IN CONNECTION THEREWITH. FOR PURPOSES HEREOF, "HAZARDOUS SUBSTANCE" MEANS THE FOLLOWING: (A) ANY "HAZARDOUS SUBSTANCES" UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, 42 U.S.C. SECTION 9601 ET SEQ., AS AMENDED; (B) ANY "HAZARDOUS SUBSTANCE" UNDER THE TEXAS HAZARDOUS SUBSTANCES SPILL PREVENTION AND

CONTROL ACT, TEX. WATER CODE, SECTION 26.261 ET SEQ., AS AMENDED; (C) PETROLEUM OR PETROLEUM-BASED PRODUCTS (OR ANY DERIVATIVE OR HAZARDOUS CONSTITUENTS THEREOF OR ADDITIVES THERETO), INCLUDING WITHOUT LIMITATION, FUEL AND LUBRICATING OILS; (D) ANY "HAZARDOUS CHEMICALS" OR "TOXIC CHEMICALS" UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT, 29 U.S.C. SECTION 651 ET SEQ., AS AMENDED; (E) ANY "HAZARDOUS WASTE" UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT, 42 U.S.C. SECTION 6901 ET SEQ., AS AMENDED; AND (F) ANY "CHEMICAL SUBSTANCE" UNDER THE TOXIC SUBSTANCE CONTROL ACT, 15 U.S.C. SECTION 2601 ET SEQ., AS AMENDED. REFERENCES TO PARTICULAR ACTS OR CODIFICATIONS IN THIS DEFINITION INCLUDE ALL PAST AND FUTURE AMENDMENTS THERETO, AS WELL AS APPLICABLE RULES AND REGULATIONS AS NOW OR HEREAFTER PROMULGATED THEREUNDER.

<u>SECTION 9</u>. The City Manager, or designee, is authorized to execute a quitclaim deed document evidencing the abandonment of the Road Abandonment Tract and Electric Easement, suitable for recordation in the Real Property Records of Denton County, Texas.

SECTION 10. Notwithstanding anything to the contrary contained in this ordinance, the City of Denton retains and reserves a Public Utility Easement, any and all easements, rights of way, and any other rights or interests, other than the areas being abandoned, released and vacated in Section 2 above, whether acquired, obtained, owned, or claimed by the City of Denton or public, by, through, or under conveyance, dedication by plat, or other express dedication, implied dedication, prescription, or by any other manner or means, in or to lands in which the subject right-of-way or easement may cover, encumber, include, cross, or overlap.

<u>SECTION 11</u>. The provisions of this ordinance are severable, and the invalidity of any phrase, clause, or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 12. This ordinance shall become effective immediately upon its passage and approval.

[Rest of page intentionally left blank. Signatures to appear on the following page]

The motion to approve this ordinance was made by \_\_\_\_\_\_ and seconded by \_\_\_\_\_\_, the ordinance was passed and approved by the following vote [\_\_\_\_\_\_\_]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:				
Vicki Byrd, District 1:				
Brian Beck, District 2:				
Paul Meltzer, District 3:				
Joe Holland, District 4:				
Brandon Chase McGee, At Large Place 5:				
Chris Watts, At Large Place 6:				

## PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

#### GERARD HUDSPETH, MAYOR

\_\_\_\_

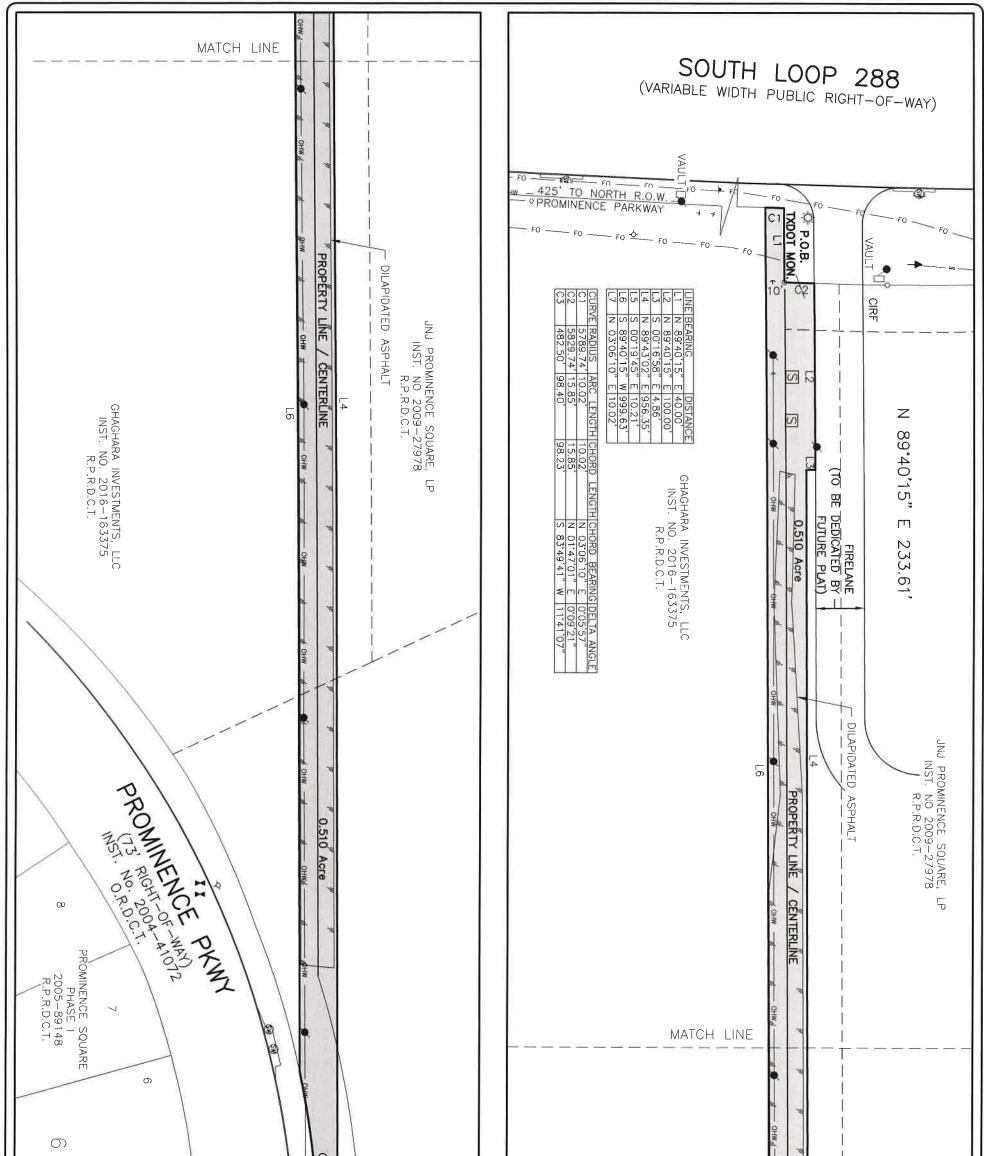
#### ATTEST: JESUS SALAZAR, INTERIM CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM: MACK REINWAND, CITY ATTORNEY

BY:\_\_\_\_\_

EXHIBIT A



" = 50' POLE VALVE HOLE POLE R POLE WITH MANHOLE MARKER MARKER MARKER Prominence Parkey/Plat
Adams Pol Bas 33358 Prichardson, TX 75585 Price Bas 33359 Price Bas 3359 Price Bas 3459 Price Bas 3459

## EXHIBIT B

BEING a 0.510 acre tract of land located in the William Lloyd Survey, Abstract No. 74, City of Denton, Denton County, Texas, being part of a called 59.352 acre tract described in Special Warranty Deed with Vender's Lien to JNJ Prominence Square, LP as recorded in Instrument No. 2009-27978, Official Records Denton County Texas (ORDCT) and part of that called 13.812 acre tract described in Special Warranty Deed with Vender's Lien to Ghaghara Investments, LLC. as recorded in Document No. 2016-163375, ORDCT, said 0.510 acre parcel being more particularly described as follows:

BEGINNING at a found Texas Department of Transportation Monument on the east right of way line for State Highway Loop 288 (variable width right of way) for the southwesterly corner of said JNJ Prominence Square tract and on the northerly line of said 13.812 acres, being the beginning of a curve to the left;

THENCE northerly with said right of way line and along the arc of said curve to the left, having a central angle of 00°09'21", a radius of 5829.74 feet, an arc length of 15.85 feet, and a chord of North 01°47'01" East, 15.85 feet, to a POINT FOR CORNER;

THENCE North 89°40'15" East leaving said right of way line, a distance of 100.00 feet, to a POINT FOR CORNER;

THENCE South 00°16'58" East, a distance of 4.86 feet, to a POINT FOR CORNER;

THENCE North 89°43'02" East leaving said right of way line, a distance of 956.35 feet, to a POINT FOR CORNER;

THENCE South 00°19'45" East, a distance of 10.21 feet to a found 5/8-inch iron rod with cap marked "ADAMS SURVEYING COMPANY LLC on the northerly right of way line for Prominence Parkway (73-foot right of way), and being on the arc of a curve;

THENCE with a non-tangent curve to the left, having a central angle of 11°41'07", a radius of 482.50 feet, an arc length of 98.40 feet, and a chord of South 83°49'41" West, 98.23 feet to a POINT FOR CORNER;

THENCE South 89°40'15" West, a distance of 999.63 feet to a POINT FOR CORNER on the curving easterly right of way for Loop 288;

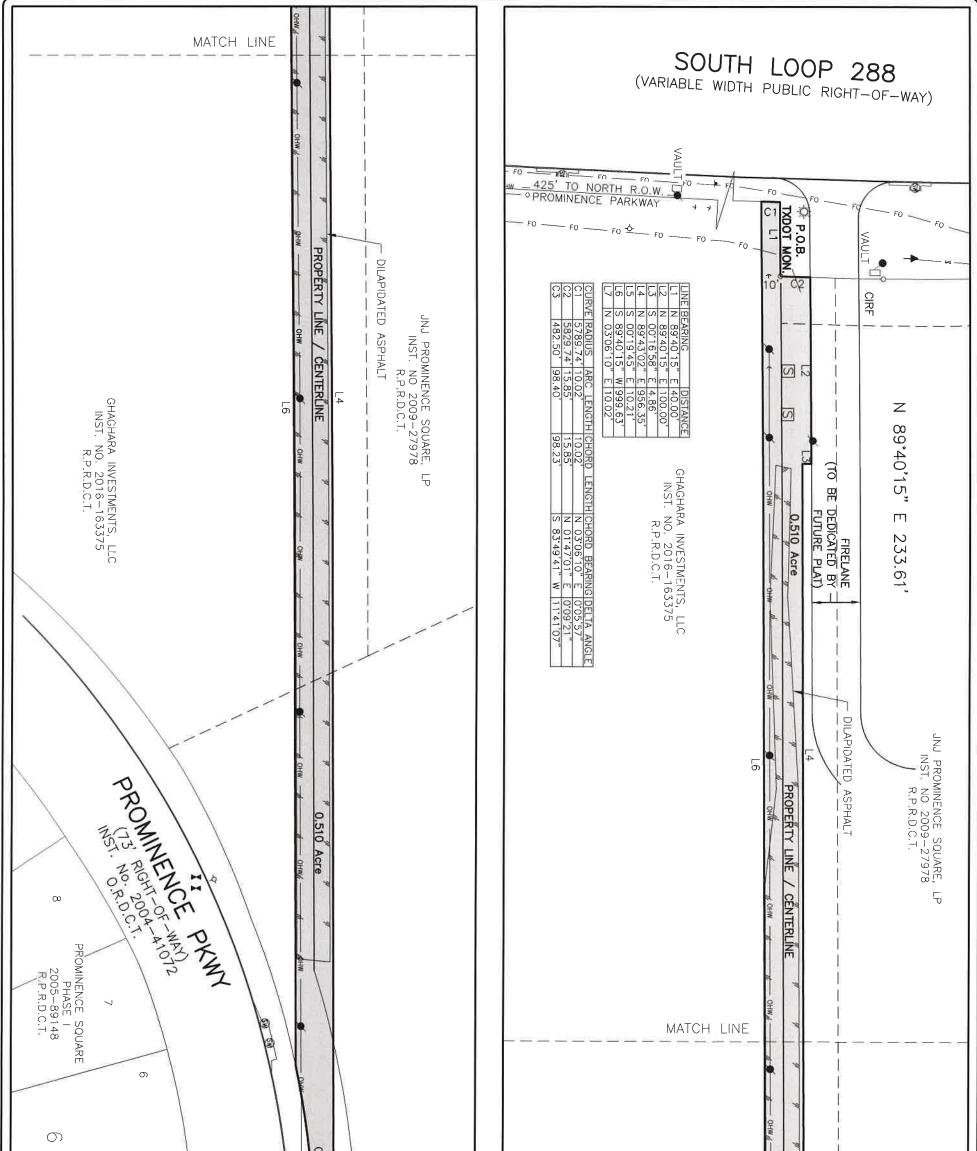
THENCE with said right of way line and a curve to the left, having a central angle of 00°05'57", a radius of 5,789.74 feet, an arc length of 10.02 feet, and a chord of North 03°06'10" East, 10.02 feet, to a POINT FOR CORNER;

THENCE North 89°40'15" East optimized of 1000 feet POINT OF BEGINNING containing 0.510 acre of land, more or less.

Paul Hubert

RPLS No. 1942 Adams Surveying Company, LLC ASC No. 21024

# EXHIBIT B



Z:\ASC_Jobs\Jobs_2021\21024_1400_Prominence_Parkway\Plat	at the	RIGHT-OF-WAY DEDICATION (PROPOSED) L5 537.64	<ul> <li>FIRE HYDRANT</li> <li>INLET WITH MANHOLE</li> <li>GUY</li> <li>POWER POLE</li> <li>SIGN</li> <li>GAS MARKER</li> <li>FIBER MARKER</li> </ul>	$\frac{\text{LEGEND}}{\text{R}} = \text{LIGHT POLE}$ $\mathbf{R} = \text{WATER VALVE}$	0' 50' 100' GRAPHIC SCALE: 1" = 50'
	3	EX	HIBIT B	P.O. Box 833059 Richardson, TX 75083 Ph: (469) 317-0250 Fax: (214) 295-9844 TBPELS No. 10177500	Adams Surveying Company, LLC

### EXHIBIT C

#### 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 OR YOUR DRIVER'S LICENSE NUMBER.]

#### PUBLIC UTILITY EASEMENT

# THE STATE OF TEXAS§§§KNOW ALL MEN BY THESE PRESENTS:§COUNTY OF DENTON§

THAT US Alliance Prominence Venture, LLC, a Delaware Limited Liability Company (Grantor) in consideration of the sum of ONE DOLLAR and NO CENTS (\$1.00) and other good and valuable consideration in hand paid by the City of Denton, Texas, (Grantee), receipt of which is hereby acknowledged, does by these presents grant, give and convey unto the City of Denton, Texas, the free and uninterrupted use, liberty and privilege of the passage in, along, upon and across the following described property, owned by Grantor and situated in Denton County, Texas, in the W. Lloyd Survey, Abstract No. 74.

## PROPERTY AREA DESCRIBED IN EXHIBITS "A" AND ILLUSTRATED IN EXHIBITS "B" ALL ATTACHED HERETO AND MADE A PART HEREOF

And it is further agreed that the City of Denton, Texas in consideration of the benefits above set out, will remove from the property above described, such fences, buildings and other obstructions as may now be found upon said property.

For the purpose of constructing, reconstructing, installing, repairing, and perpetually maintaining public utilities in, along, upon and across said premises, with the right and privilege at all times of the Grantee herein, his or its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises for the purpose of making additions to, improvements on and repairs to the said public facilities or any part thereof.

TO HAVE AND TO HOLD unto the said City of Denton, Texas as aforesaid for the purposes aforesaid the premises above described.

Witness its hand, this	day of		, 20
US Alliance Prominence Ventu	ıre, LLC, a Delaw	vare Limited Lial	bility Company
By:			
Print Name:			
Title:			
	ACKNOWLE	DGMENT	
THE STATE OF TEXAS COUNTY OF	\$ §		
Before me, the undersigned author		personally appear	red
whose name is subscribed to the for the same for the purposes and con act and deed of said US Alliance P Given under my hand and seal of	sideration therein rominence Ventur	expressed, in the re, LLC, a Delaw	capacity therein state and as the vare Limited Liability Company.
	Not	ary Public in and	l for County, Texas
Accepted this day of (Resolution No. 91-073).		, 20	for the City of Denton, Texas
BY:			

AFTER RECORDING RETURN TO: Development Services – Real Estate Division 401 N. Elm Street Denton, Texas 76201 Attention: Mark Laird

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BEGINNING at a found Texas Department of Transportation Monument on the east right of way line for State Highway Loop 288 (variable width right of way) for the southwesterly corner of said JNJ Prominence Square tract and on the northerly line of said 13.812 acres, being the beginning of a curve to the left;

THENCE northerly with said right of way line and along the arc of said curve to the left, having a central angle of 00°09'21", a radius of 5829.74 feet, an arc length of 15.85 feet, and a chord of North 01°47'01" East, 15.85 feet, to a POINT FOR CORNER;

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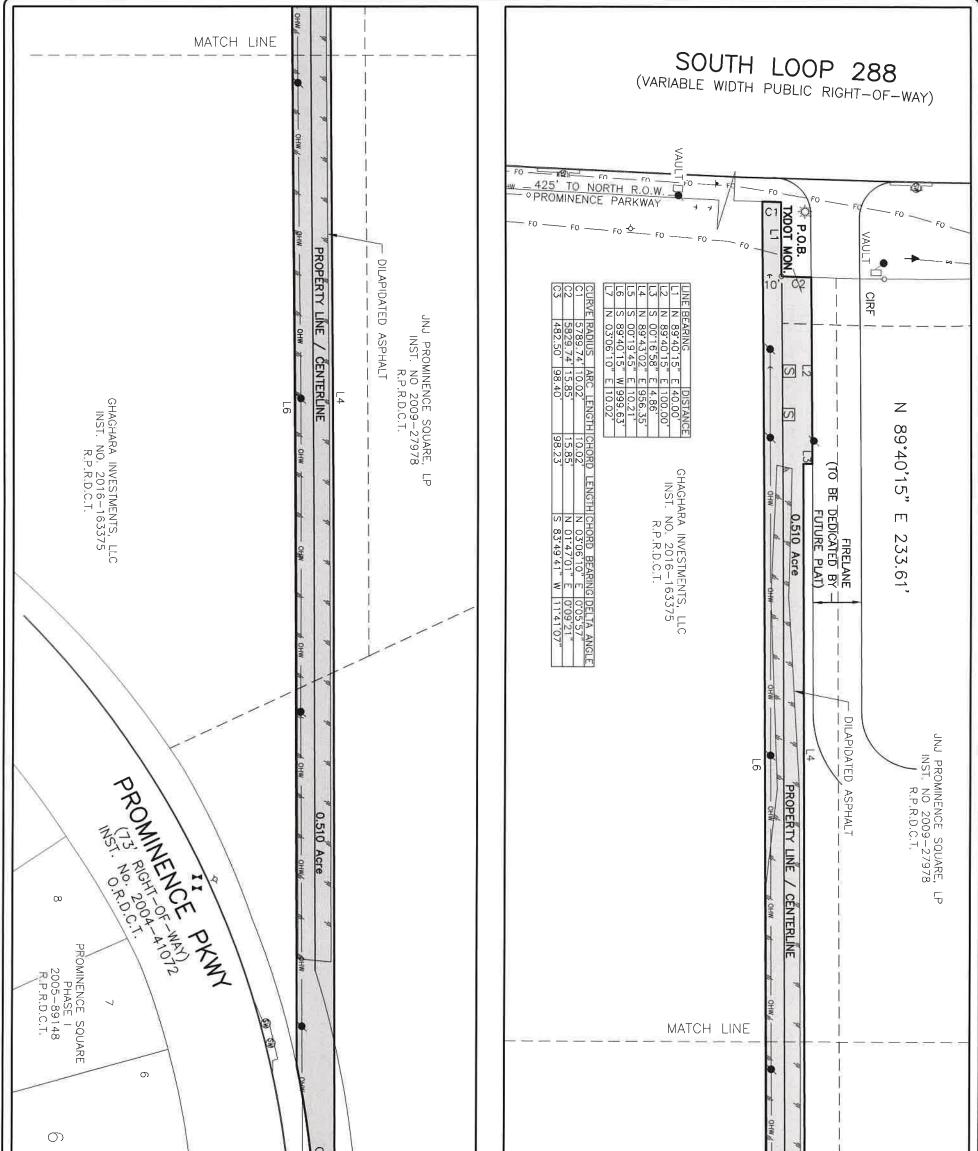
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