

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON PROVIDING FOR THE ABANDONMENT, RELINQUISHMENT, AND QUITCLAIM OF A 0.784 ACRE PORTION OF AN ELECTRIC EASEMENT GRANTED TO BRAZOS RIVER TRANSMISSION ELECTRIC COOPERATIVE, INC., BY COUNTY CLERK FILE NUMBER 1949-4017, DEED RECORDS, DENTON COUNTY, TEXAS AND ASSIGNED TO THE CITY OF DENTON BY COUNTY CLERK FILE NUMBER 1990-9563, REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS; PROVIDING FOR THE QUITCLAIM THEREOF TO MAYHILL ROAD ASSOCIATES, LLC, A TEXAS LIMITED LIABILITY COMPANY; PROVIDING FOR THE TERMS AND CONDITIONS OF THE ABANDONMENT, RELINQUISHMENT AND QUITCLAIM MADE HEREIN; PROVIDING FOR THE INDEMNIFICATION OF THE CITY OF DENTON AGAINST DAMAGES ARISING OUT OF THE ABANDONMENT HEREIN; PROVIDING FOR THE 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 Electric Easement granted to Brazos River Transmission Electric Cooperative, Inc., recorded by County Clerk File number 1949-4017, Deed Records, Denton County, Texas and assigned to the City of Denton by County Clerk File Number 1990-9563, Real Property Records, Denton County, Texas (the "Subject Easement"); and

WHEREAS, Mayhill Road Associates, LLC, a Texas limited liability company, ("Owner"), is the record abutting owner of the property subject to the Subject Easement, Special Warranty Deed recorded by County Clerk File Number 2021-159238, Real Property Records, Denton County, Texas; and

WHEREAS, the Owner has requested the City to abandon, relinquish, and quitclaim the Subject Easement, as the Subject Easement encumbers a portion of the Owners property slated for a 411 unit multi-family development, known as Lot 1 and 2, Block 1, Mayhill Addition, City of Denton Final Plat Project number FP23-0031 ("Final Plat") and restricts the Lot from being developed for its planned multi-family development; and

WHEREAS, City Staff reviewed the request of the Owner and determined that the Subject Easement is no longer necessary for any current or future public electric project which will allow for the area to be developed with permitted improvements, and City Staff recommends the Subject Easement be released, abandoned, and vacated in its entirety as specified herein; and;

WHEREAS, the Owner has requested the City to abandon, relinquish and quitclaim the Subject Easement in its entirety as it is no longer necessary; and

WHEREAS, the Denton Municipal Electric Staff have confirmed that offsite electrical improvements have been constructed in such a manner that the Subject Easement is no longer necessary to address the previous public electrical improvements concerns on the property or is required for any current or future public electrical projects; 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 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 Subject Easement area was provided by the Owner and it lists the fair market value at Eighty-Six Thousand One Hundred Three and 00/100 Dollars (\$86,103.00); and

WHEREAS, staff recommends the abandonment, relinquishment and quitclaim of the Subject Easement tract to the Owner at the fair market value of at Eighty-Six Thousand One Hundred Three and 00/100 Dollars (\$86,103.00) as the City acquired the easement and other electrical improvements in 1990 from Brazos River Transmission Electric Cooperative using Electric Bond funds of the Five-Year Capital Improvement Plan, and with this consideration the Subject Easement has no public infrastructure within it, and has no identified current or future use for the Subject Easement tract; and

WHEREAS, the City Council of the City of Denton, acting pursuant to law and upon the request and petition of the Owner is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the City of Denton's right, title and interest in and to the Subject Easement area to the Owner, and is of the opinion that, subject to the terms and conditions hereinafter provided, Subject Easement area is no longer needed for municipal use, and same should be abandoned relinquished and quitclaimed to the Owner as hereinafter provided, for consideration hereinafter stated; NOW, THEREFORE,

WHEREAS, the City Council of the City of Denton is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the Subject Easement area to the Owner for the consideration and subject to the terms and conditions hereinafter more fully set forth; Now, Therefore,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations and finding set forth above are incorporated herein by reference.

SECTION 2. That the City of Denton hereby abandons and relinquishes all of its right, title and interest in and to the tract of land described in Exhibit A, attached hereto and made apart hereof; subject to the conditions hereinafter more fully set out.

SECTION 3. That for and in monetary consideration of the sum of Eighty-Six Thousand One Hundred Three and 00/100 Dollars (\$86,103.00) to be paid by the Owner and the further consideration described in Sections 4, 7 and 10, the City of Denton does by these presents release, abandon and quitclaim unto the said Owner.

SECTION 4. That the abandonment, relinquishment 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.

SECTION 5. That the terms and conditions contained in this ordinance shall be binding upon the Owner, its heirs, successors and assigns.

SECTION 6. That the abandonment, relinquishment and quitclaim provided for herein shall extend only to that interest the Governing Body of the City of Denton may legally and lawfully abandon, relinquish and quitclaim.

SECTION 7. THAT AS A CONDITION OF THIS ABANDONMENT AND AS A PART OF THE CONSIDERATION FOR THE QUITCLAIM TO THE OWNER, 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 OWNER, 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 OWNER, 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, 42U.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.

SECTION 8. The City Manager, or their designee, is authorized to execute a quitclaim deed document evidencing the abandonment of the Subject Easement, suitable for recordation in the Real Property Records of Denton County, Texas.

SECTION 9. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Denton County, Texas, which certified copy shall be delivered to the Director of Development Services, or designee.

SECTION 10. Notwithstanding anything to the contrary contained in this Ordinance, the City of Denton retains and reserves any and all easements, rights of way, and any other rights or interests, other than the Subject Easement 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 Easement may cover, encumber, include, cross, or overlap.

SECTION 11. 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.

[Signatures to appear on following page.]

The motion to approve this ordinance was made by _____ and seconded motion to approve this ordinance was made 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 _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
JESUS SALAZAR, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

EXHIBIT A
(Electrical Easement)

LOT 2, BLOCK 1
BRINKER ROAD ADD.
INST. NO. 2019-149
P.R.D.C.T.

1" ID PIPE FOUND
(CM)
S 87°38'20" W
1005.17'

POINT OF
BEGINNING

APPROXIMATE SURVEY LINE

RTS & M, LLC
INST. NO. 2013-124666
R.P.R.D.C.T.

MEP&P, RR. CO. SURVEY
ABSTRACT NUMBER 1515

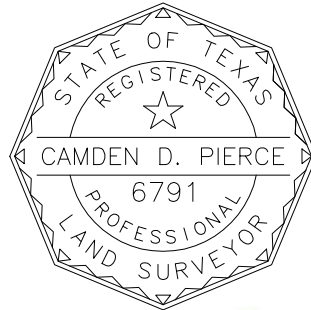
POINT OF
COMMENCING
1/2" IRON ROD WITH YELLOW
CAP STAMPED
"PIERCE-MURRAY" FOUND

60' WIDE EASEMENT
ABANDONMENT

MAYHILL ROAD ASSOCIATES, LLC
INST. NO. 2021-159238
R.P.R.D.C.T.

BRAZOS RIVER TRANSMISSION
ELECTRIC COOPERATIVE, INC.
ORIGINALLY DESCRIBED AS A
BLANKET EASEMENT
VOL. 357, PG. 54 D.R.D.C.T.
ASSIGNED TO CITY OF DENTON AS
RECORDED IN VOL. 2736, PG 825
R.P.R.D.C.T.

D. HOUGH SURVEY
ABSTRACT NUMBER 646



CLP
9-26-2023

SCALE 1"=100'

IRS = 1/2" IRON ROD WITH CAP STAMPED "PIERCE-MURRAY SET."
IRF = IRON ROD FOUND..

BASIS OF BEARINGS IS THE TEXAS STATE COORDINATE SYSTEM, NORTH
CENTRAL ZONE, NAD83 DATUM, 2011 ADJUSTMENT REALIZATION.

PIERCE-MURRAY
LAND SOLUTIONS
Engineering + Surveying

800 TALLYHO CIRCLE
TYLER, TEXAS 75703
(817) 239-5646
(903) 539-2256

TBPLS FIRM REGISTRATION NO. 10194437

S 87°38'20" W 793.54'

73.62'

S 87°38'20" W

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

0.784 ACRES

73.62'

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

OE

5/8" IRF
(CM)

S 88°55'35" W 468.68'

CITY OF DENTON
10' SLOPE EASEMENT
INST. NO. 2014-45392
R.P.R.D.C.T.

DENTON MAYHILL/ QUAIL CREEK
INVESTMENT, LLC
INST. NO. 2021-150861
R.P.R.D.C.T.

66.75'

S 01°50'05" W 330.88'

S. MAYHILL ROAD
(4-VARIABLE WIDTH ROW)

1/2" IRF

EXISTING CENTERLINE

CITY OF DENTON
CALLED 1.029 ACRES
INST. NO. 2014-45390
R.P.R.D.C.T.

CITY OF DENTON
CALLED 7.628 ACRES
INST. NO. 2014-26435
R.P.R.D.C.T.

CITY OF DENTON
CALLED 0.230 ACRES
INST. NO. 2014-45391
R.P.R.D.C.T.

CITY OF DENTON
CALLED 2.151 ACRES
INST. NO. 2014-26436
R.P.R.D.C.T.

EXHIBIT "A"
**AN EASEMENT
TO BE ABANDONED**

SITUATED IN THE DAVID HOUGH SURVEY, ABSTRACT NUMBER 646
CITY OF DENTON, DENTON COUNTY, TEXAS
MAY 2023