

ORDINANCE 2010-01

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS PARTIALLY ABANDONING ROAD EASEMENT POST-RELOCATION OF THE ROAD KNOWN AS RATTLESNAKE ROAD AND APPROVING PARTIAL RELEASE AND ABANDONMENT AGREEMENT

RECITALS

WHEREAS, the City is the current holder of a prescriptive easement for a roadway commonly known as "Rattlesnake Road" through certain property in McLennan County, Texas (collectively, the "Road Easement");

WHEREAS, a small portion of the Road Easement encumbers an approximately 0.074 acre tract of land described and shown as Tract 4 on Exhibit A attached hereto, incorporated herein and made a part hereof by this reference (the "Property");

WHEREAS, the City has relocated a portion of the Road Easement and, due to such relocation, the Road Easement no longer crossed the Property and, accordingly, the City has no further need to encumber the Property;

WHEREAS, Sandy Creek Energy Associates, L.P., Brazos Sandy Creek Electric Cooperative, Inc., and the Lower Colorado River Authority (hereinafter collectively "Owner") have a railroad spur that goes through the Property;

WHEREAS, to the best of its knowledge and based on the real estate records of McLennan County, Owner owns the fee estate in and to the Property (subject to any applicable documents of record);

WHEREAS, Owner also owns certain land in proximity to the Property, as more particularly described on Exhibit B attached hereto, incorporated herein and made a part hereof by this reference (the "Adjacent Property");

WHEREAS, Owner has granted unto the City the land necessary for the relocation of the Road Easement, which relocation renders the Property of no use to the City;

WHEREAS, Owner has petitioned the City in accordance with Section 311.008 of the Transportation Code to abandon the Property,

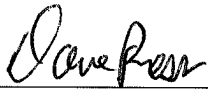
WHEREAS, the City now desires to abandon, release and relinquish unto the Owner, its successors and assigns, the Road Easement but only with respect to that portion of the Road Easement which is located upon the Property, and

WHEREAS, this instrument has been approved by an Ordinance of the City Council of the City which ordains the abandonment of the City's prescriptive easement on the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS THAT:


1. the City hereby **WAIVES, RELEASES, RELINQUISHES** and **ABANDONS** unto the Owner, its successors and assigns, the Road Easement and all rights of the City under the Road Easement, but only with respect to the portion of the Road Easement which is located upon the Property (and without waiving, releasing, relinquishing or abandoning the Road Easement with respect to the portions of the Road Easement located upon any other property);
2. The Partial Release and Abandonment of Easement instrument is hereby approved and directed to be executed by the Mayor.

PASSED this 12th Day of JANUARY, 2010.



Dave Ross, Mayor

Attest:



Beth Nolan, City Secretary

EXHIBIT A
THE PROPERTY

TRACT 4
METES AND BOUNDS DESCRIPTION
0.074 ACRE OUT OF THE
JOSE DAVID SANCHEZ SURVEY, A-36
McLENNAN COUNTY, TEXAS

A tract or parcel of land containing 0.074 acre (3,232 square feet) out of the Jose David Sanchez Survey, Abstract No. 36, McLennan County, Texas, being a portion of a 697.842 acre tract conveyed to Sandy Creek Energy Associates, L.P., as recorded in Clerk's File No. 2007031852 of the Official Public Records of Real Property of McLennan County (O.P.R.R.P.M.C.), being 25% interest of 697.842 acre tract conveyed to Brazos Sandy Creek Electric Cooperative, Inc., as recorded in Clerk's File No. 200703864 of the O.P.R.R.P.M.C., and 11.14% interest of 697.842 acre tract conveyed to Lower Colorado River Authority, as recorded in Clerk's File No. 2008021847 of the O.P.R.R.P.M.C., and a portion of Rattlesnake Road (width varies), a possible prescriptive right-of-way, no record found, said 0.074 acre being more particularly described by metes and bounds as follows: (The basis of bearing for this description is the Texas State Plane Coordinate System, Central Zone (NAD 83) as established by on the ground observations of Sandy Creek Energy Station project control provided by Pacheco Kock Control Survey dated 10-03-07)

COMMENCING at a railroad tie post found at the intersection of the south right-of-way line of Sanders Lane (width varies) and the east right-of-way line of Rattlesnake Road (width varies), being the northwest corner of the 24.638 acre tract conveyed to Helen Jean Neumann Ridings, as recorded in Volume 1826, Page 571 of the McLennan County Deed Records (M.C.D.R.);

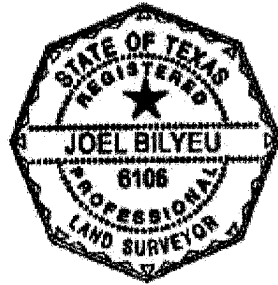
THENCE SOUTH 31 degrees 27 minutes 21 seconds EAST, 1,138.88 feet along said easterly right-of-way line of said Rattlesnake Road and the westerly lines of said 24.638 acre tract and a 21.025 acre tract conveyed to Alvin Elton Neumann, Jr., as recorded in Volume 1826, Page 567 of the M.C.D.R., to a 5/8-inch iron rod set with cap at the northeast corner and POINT OF BEGINNING of the herein described tract;

THENCE SOUTH 31 degrees 27 minutes 21 seconds EAST, 68.66 feet along the said easterly right-of-way of Rattlesnake Road and the said westerly line of the 21.025 acre tract to a 5/8-inch iron rod set with cap at the southeast corner of the herein described tract;

THENCE SOUTH 58 degrees 25 minutes 59 seconds WEST, 47.33 feet to a 5/8-inch iron rod set with cap at the southwest corner of the herein described tract;

THENCE NORTH 31 degrees 01 minutes 36 seconds WEST, 68.67 feet along the westerly right-of-way of Rattlesnake Road to a 5/8-inch iron rod set with cap at the northwest corner of the herein described tract;

THENCE NORTH 58 degrees 25 minutes 59 seconds EAST, 46.81 feet to the POINT OF BEGINNING of the herein described tract, containing 0.074 acre (3,232 square feet) of land. Drawing No. A-310 was prepared to accompany this description, and is on file in the office of S&V Surveying, Inc.



S & V SURVEYING, INC.

BY: Joel Bilyeu 07/17/09

July 16, 2009
Job No. 89001-000-0-DEV
Drawing No. A-310

SANDERS LANE
(WORTH VARRIES)

POINT OF COMMENCEMENT
FND. RAILROAD THE POST

24.638 ACRES
HELEN JEAN NEUMANN RIDINGS
VOL. 1826, PG. 571
M.C.D.R.

JOSE DAVID SANCHEZ SURVEY, A-36
MCLENNAN COUNTY, TEXAS

RATTLESNAKE ROAD
(WORTH VARRIES)

21.025 ACRES
ALVIN ELTON NEUMANN, JR.
VOL. 1826, PG. 567
M.C.D.R.

697.842 ACRES
SANDY CREEK ENERGY ASSOCIATES, L.P.
C.C.F. No. 2007031852
O.P.R.R.P.M.C.

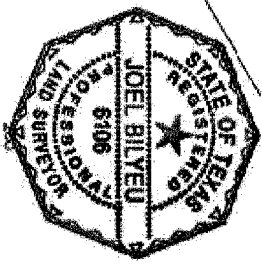
25% INTEREST 697.842 ACRES
BRAZOS SANDY CREEK ELECTRIC COOPERATIVE, INC.
C.C.F. No. 2007031864
O.P.R.R.P.M.C.

11.14% INTEREST 697.842 ACRES
LOWER COLORADO RIVER AUTHORITY
C.C.F. No. 2008021847
O.P.R.R.P.M.C.

0.074 ACRES
(3,232 SQ. FT.)

JOSE DAVID SANCHEZ SURVEY, A-36
MCLENNAN COUNTY, TEXAS

NUMBER	BEARING	DISTANCE
L1	S31°27'21"E	68.86'
L2	S58°25'59"W	47.33'
L3	N31°01'36"W	68.67'
L4	N58°25'59"E	46.81'



Joel Bilyeu



SCALE 1"=200'

S & V SURVEYING, INC.
PROFESSIONAL LAND SURVEYORS
20111 KEAMAN SPRING, TEXAS 77888
OFFICE: (281) 359-2870 FAX: (281) 359-2407
E-MAIL: csdd@svsurveying.com

TRACT 4
EXHIBIT DRAWING
0.074 ACRES OUT OF THE
JOSE DAVID SANCHEZ SURVEY, A-36
MCLENNAN COUNTY, TEXAS

Date:	07/15/2009	Scale:	1"=200'
Drawn By:	RF	Checked By:	JTB
Job No.:	89001-000-D-DEV	Drawing No.:	A-310

EXHIBIT B
THE ADJACENT PROPERTY

That certain 697.842 acre tract conveyed to Sandy Creek Energy Associates, L.P., as recorded in Clerk's File No. 2007031852 of the Official Public Records of Real Property of McLennan County (O.P.R.R.P.M.C.), (25% interest of said 697.842 acre tract being conveyed to Brazos Sandy Creek Electric Cooperative, Inc., as recorded in Clerk's File No. 200703864 of the O.P.R.R.P.M.C., and 11.14% interest of said 697.842 acre tract being conveyed to Lower Colorado River Authority, as recorded in Clerk's File No. 2008021847 of the O.P.R.R.P.M.C.); SAVE and EXCEPT a certain 1.378 acre tract of land and a certain 3.824 acre tract of land conveyed by Warranty Deed with Limited Liability Special Warranty dated on or about the date hereof from the Owner to the City, subject to the provisions of such deed).