

ORDINANCE NO. 2020-06-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, CLOSING CERTAIN PORTIONS OF ELM STREET BETWEEN LINDSEY STREET AND AIRPORT DRIVE, CLOSING THAT PART OF HEALY AVENUE BETWEEN ELM STREET AND A POINT APPROXIMATELY 100 FEET NORTH OF ELM STREET, AND CLOSING AN UNNAMED ALLEY BETWEEN ELM STREET AND A POINT APPROXIMATELY 200 FEET NORTH OF ELM STREET, ALL OF WHICH RIGHTS-OF-WAY CONTAIN APPROXIMATELY 4.566 ACRES OF LAND; PROVIDING FOR THE CONVEYANCE AND SALE OF SAID CLOSED RIGHTS-OF-WAY TO ENCORE WIRE, LTD. SUBJECT TO CERTAIN RESERVATIONS OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the City of McKinney, Texas (“City”) is a home rule municipality; and

WHEREAS, a home-rule municipality has exclusive control over and under the public highways, streets and alleys of the municipality, Texas Transportation Code § 311.001; and

WHEREAS, a home-rule municipality has the authority to vacate, abandon or close a street or alley pursuant to Texas Transportation Code § 311.007; and

WHEREAS, the owners of the properties (“Petitioners”) immediately adjacent to and abutting certain portions of Elm Street between Lindsey Street and Airport Drive, Healy Avenue between Elm Street and a point approximately 100’ north of Elm Street, and an unnamed alley between Elm Street and a point approximately 200’ north of Elm Street, containing a total of approximately 4.566 acres, in the City of McKinney, Collin County, Texas, as depicted in Exhibit “A” and more particularly described in Exhibits “B-1”, “B-2”, and “B-3”, attached hereto and incorporated herein for all purposes allowed by law (“Rights-of-Way”), have petitioned the City of McKinney to vacate, abandon, and close said Rights-of-Way pursuant to Section 142-80 of the Code of Ordinances, City of McKinney, Texas (“McKinney Code”) to improve upon their operations, safety and security in, on and about the Rights-of-Way; and

WHEREAS, Encore Wire Corporation has submitted civil engineering plans to the City of McKinney, Texas (“City”) for Development Permit DEV2020-00054 “Elm Street Realignment” proposing to construct a new alignment of Elm Street between Lindsey Street and Airport Drive to replace the Rights-of-Way it has petitioned to vacate, abandon, and close; and

WHEREAS, the City Council of the City (“City Council”) finds that notice of the public hearing for consideration of this petition was provided in accordance with Section 142-80 of the McKinney Code; and

WHEREAS, after public hearing held before the City Council, the City Council has determined and finds that the Rights-of-Way are not needed for travel by the general public, and that the vacation, abandonment, and closure of the Rights-of-Way in exchange for the construction of the new Elm Street Realignment is in the best interest of the City, and that the Rights-of-Way should be vacated, abandoned, and closed.

NOW, THEREFORE BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS:

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of McKinney, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

- Section 2. The Rights-of-Way, which is depicted in Exhibit A and more fully described in Exhibits B-1, B-2, and B-3, attached hereto, is hereby closed for public travel.
- Section 3. The City hereby agrees to the conveyance and sale of the Rights-of-Way to Encore Wire, Ltd. in exchange for their construction and dedication of the new Elm Street Realignment to the City at no cost.
- Section 4. The City of McKinney reserves an exclusive variable width Access, Utility, & Drainage Easement over and within the entirety of the Rights-of-Way.
- Section 5. Said Rights-of-Way may be abandoned or vacated by a replat of the property subject to the approval of the City, which approval may be withheld until such time as the Elm Street Realignment has been completed and final accepted by the City, and filed for record with Collin County.
- Section 6. This ordinance shall become effective upon the City's Final Acceptance of the Elm Street Realignment. Should Encore Wire, Ltd. fail to obtain the City's Final Acceptance of the new Elm Street Realignment by May 31, 2022, this ordinance shall expire and all terms contained herein shall be null and void.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 2ND DAY OF JUNE, 2020.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney