

**AGENDA PLACEMENT FORM**

(Submission Deadline – Monday, 5:00 PM before Regular Court Meetings)

Date: \_\_\_\_\_

Meeting Date: 12/21/2023

Submitted By: County Judge's Office

Department: \_\_\_\_\_

Signature of Elected Official/Department Head:  
\_\_\_\_\_

<b>Court Decision:</b> <small>This section to be completed by County Judge's Office</small>
<b>COMMISSIONERS COURT</b>
<b>DEC 21 2023</b>
<b>Acknowledged</b>

**Description:**

Acknowledgement of Recorded Closing Documents for 411 Marti Dr., Cleburne, Texas 76031 Including Special Warranty Deed to Johnson County, Special Warranty Deed to City of Cleburne (for Road Portion), Agreement to Terminate Declaration of Covenants and Easements, City of Cleburne Ordinance 2023-79 Accepting Marti Dr. into City Maintenance, and Correction of Easement Agreement-County Judge's Office

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(May attach additional sheets if necessary)

**Person to Present:** \_\_\_\_\_

(Presenter must be present for the item unless the item is on the Consent Agenda)

**Supporting Documentation:** (check one)     PUBLIC     CONFIDENTIAL

(PUBLIC documentation may be made available to the public prior to the Meeting)

**Estimated Length of Presentation:** \_\_\_\_\_ minutes

**Session Requested:** (check one)

Action Item     Consent     Workshop     Executive     Other \_\_\_\_\_

**Check All Departments That Have Been Notified:**

County Attorney     IT     Purchasing     Auditor

Personnel     Public Works     Facilities Management

Other Department/Official (list) \_\_\_\_\_

**Please List All External Persons Who Need a Copy of Signed Documents  
In Your Submission Email**

Fidelity National GF# 9001222309287

**AGREEMENT TO TERMINATE DECLARATION OF COVENANTS AND  
EASEMENTS**

This Agreement to Terminate Declaration of Covenants and Easements ("*Agreement*") is between TOTALENERGIES E&P BARNETT USA, LLC, a Delaware limited liability company, f/k/a TEP BARNETT USA, LLC, f/k/a TOTAL E&P USA OPERATING, LLC ("*TotalEnergies*"), HOLT TEXAS, LTD., a Texas limited partnership ("*Holt*"), 421 BIO, LLC, a Texas limited liability company ("*421 Bio*"), CDE GLOBAL, INC., a Delaware corporation ("*CDE Global*"), and CALVIN B. FINCHER, an individual ("*Fincher*"). TotalEnergies, Holt, 421 Bio, CDE Global, and Fincher are sometimes referred to herein individually as a "*Party*" and collectively as the "*Parties*".

A. Reference is made to that certain Declaration of Covenants and Easements ("*Declaration*") dated November 6, 2013, and recorded in the real property records of Johnson County, Texas, as Document No. 201300026908.

B. Reference is made to that certain "*Shared Access Drive*" as defined and described in the Declaration. The Shared Access Drive is the same private street established by Ordinance No. OR08-2012-31 of the City of Cleburne recorded in the real property records of Johnson County, Texas, as Document No. 201200019966. The Shared Access Drive is commonly known as Marti Drive f/k/a Bentley Drive. The Shared Access Drive is more particularly described on Exhibit A attached hereto.

C. The Parties own all of parcels of real property now subject to the Declaration.

D. Subject to the terms and conditions of this Agreement, the Parties desire to terminate the Agreement in order for the Shared Access Drive to be ultimately conveyed to the City of Cleburne, Texas, as a public road.

NOW, THEREFORE, in consideration of the foregoing and the mutual benefits to each Party, the Parties agree as follows:

1. **Termination of the Declaration.** Subject to the Condition described herein below, the Parties hereby terminate the Declaration and the easements thereunder.

2. **Shared Access Drive.** The portion of the Shared Access Drive abutting, adjoining, or adjacent to each Party's respective property is herein referred to as each Party's "*Adjoining Portion*".

a. **Holt's Adjoining Portion.** Subject to the Condition described herein below, Holt hereby grants, sells, and conveys to TotalEnergies all of Holt's right, title, and interest in and to Holt's Adjoining Portion, to have and to hold it to TotalEnergies and TotalEnergies successors and assigns forever.

b. **421 Bio's Adjoining Portion.** Subject to the Condition described herein below, 421 Bio hereby grants, sells, and conveys to TotalEnergies all of 421 Bio's right, title, and interest in and to 421 Bio's Adjoining Portion, to have and to hold it to TotalEnergies and TotalEnergies successors and assigns forever.

c. *CDE Global's Adjoining Portion*. Subject to the Condition described herein below, CDE Global hereby grants, sells, and conveys to TotalEnergies all of CDE Global's right, title, and interest in and to CDE Global's Adjoining Portion, to have and to hold it to TotalEnergies and TotalEnergies successors and assigns forever.

d. *Fincher's Adjoining Portion*. Subject to the Condition described herein below, Fincher hereby grants, sells, and conveys to TotalEnergies all of Fincher's right, title, and interest in and to Fincher's Adjoining Portion, to have and to hold it to TotalEnergies and TotalEnergies successors and assigns forever.

3. **Condition; Conveyance to City of Cleburne**. The termination of the Declaration and the conveyances hereunder are conditioned upon the subsequent conveyance of the Shared Access Drive by TotalEnergies to City of Cleburne, Texas, a Texas home-rule municipality (the "**Condition**"), at which time the termination of the Declaration and the conveyances hereunder will become absolute. If the Condition is not satisfied on or prior to February 1, 2024, then (a) this Agreement shall be of no force or effect and (b) the Declaration shall continue in full force and effect.

[END OF PAGE – CONTINUED ON NEXT PAGE]













Exhibit A

CONTINUED ON NEXT PAGE

**LEGAL DESCRIPTION**

**BEING** a 1.3952 acre (60,774 square foot) tract of land situated in the A. McAnier Survey, Abstract No. 537, City of Cleburne, Johnson County, Texas, and being all of Marti Drive (Bentley Drive), a previously dedicated right-of-way as shown on the plat of The Marti-Bentley Subdivision, an addition to the City of Cleburne according to the plat recorded in Volume 8, Page 209, Plat Records, Johnson County, Texas, and being more particularly described as follows:

**BEGINNING** at a 1/2-inch iron rod found for the northeast corner of Lot 1R2, Block 2, Marti-Bentley Subdivision, an addition to the City of Cleburne according to the plat recorded in Volume 10, Page 102, said Plat Records, and being at the intersection of the south line of said Marti Drive, and the west right-of-way line of Pipeline Road, a 60-foot right-of-way, from which a 1/2-inch iron rod with cap stamped "SPRY RPLS 5647" found for the southeast corner of said Lot 1R2 bears South 0°02'08" East, a distance of 239.53 feet;


**THENCE** South 89°39'36" West, along the north line of said Lot 1R2, Block 2, at a distance of 153.31 feet passing a 1/2-inch iron rod with cap stamped "SPRY RPLS 5647" found for the northwest corner of said Lot 1R2, and continuing along the north line of said Block 2, at a distance of 969.90 feet passing an "+" cut found for the northeast corner of Lot 3, Block 1, Marti-Bentley Addition, an addition to the City of Cleburne according to the plat recorded in Volume 10, Page 768, said Plat Records, and continuing in all a total distance of 979.58 feet to a point for corner, being at the beginning of a non-tangent curve to the right with a radius of 60.00 feet, a central angle of 310°24'10", and a chord bearing and distance of North 00°20'49" West, 50.33 feet, from which a 5/8-inch iron rod with cap stamped "RPLS 4838" found bears South 41°34'26" East, a distance of 0.28 feet;

**THENCE** along the north line of said Lot 3, with said non-tangent curve to the right, at an arc distance of 162.59 feet passing an "+" cut found for the southeast corner of Lot 2, Block 1, Marti-Bentley Addition, an addition to the City of Cleburne according to the plat recorded in Volume 10, Page 768, said Plat Records, and at an arc distance of 187.97 feet passing an "+" cut found for the easternmost corner of said Lot 2, and being on the south line of Lot 1, Block 1, Holt Cat Addition, an addition to the City of Cleburne according to the plat recorded in Volume 10, Page 620, said Plat Records, and continuing along the south line of said Lot 1, a total arc distance of 325.05 feet to a point for corner, from which a 5/8-inch iron rod found bears North 2°33'50" East, a distance of 0.24 feet;

**THENCE** North 89°36'47" East, continuing along the said south line, at a distance of 369.05 feet passing a 5/8-inch iron rod found for the southwest corner of Lot 1R, Block 1, said Marti-Bentley Addition (Volume 10, Page 768), and continuing along the south line of said Lot 1R, at a distance of 952.74 feet passing a 5/8-inch iron rod with cap stamped "RPLS 4838" found for the southernmost southeast corner of said Lot 1R, and continuing in all a total distance of 977.73 feet to a 1/2-inch iron rod found for corner at the intersection of the aforementioned north line of Marti Drive, and the aforementioned west right-of-way line of Pipeline Road, from which a 5/8-inch iron rod with cap stamped "RPLS 4838" found bears North 0°36'37" West, a distance of 24.99 feet;

(CONTINUED ON SHEET 2)

MARTI DRIVE EXHIBIT  
 A. MCANIER SURVEY  
 ABSTRACT NO. 537  
 CITY OF CLEBURNE  
 JOHNSON COUNTY, TEXAS

		801 Cherry Street, Unit 11, # 1300 Fort Worth, Texas 76102		FIRM # 10194040		Tel. No. (817) 335-6311 www.kimley-horn.com	
		Scale N/A	Drawn by DMD	Checked by JDW	Date 6/9/2023	Project No. 084536303	Sheet No. 1 OF 4

THENCE South 00°36'37" East, along the said west right-of-way line, a distance of 25.79 feet to a point for corner, being in the approximate centerline of said Marti Drive;

THENCE North 89°38'16" East, along the said approximate centerline, a distance of 1.87 feet to a point for corner;

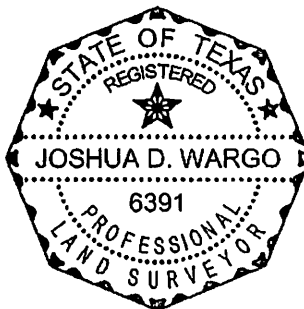
THENCE South 00°02'08" East, along the said west right-of-way line, a distance of 25.34 feet to the **POINT OF BEGINNING** and containing 60,774 square feet or 1.3952 acres of land, more or less.

NOTES:

Bearing system based on the Texas Coordinate System of 1983 (2011 adjustment), North Central Zone (4202). A survey plat of even survey date herewith accompanies this metes and bounds description.

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the surveyed tract.

*Joshua D. Wargo*  
 JOSHUA D. WARGO  
 REGISTERED PROFESSIONAL  
 LAND SURVEYOR NO. 6391  
 801 CHERRY STREET,  
 UNIT 11 SUITE 1300  
 FORT WORTH, TEXAS 76102  
 PH. 817-335-6511  
 josh.wargo@kimley-horn.com



MARTI DRIVE EXHIBIT  
 A. MCANIER SURVEY  
 ABSTRACT NO. 537  
 CITY OF CLEBURNE  
 JOHNSON COUNTY, TEXAS

**Kimley»Horn**

801 Cherry Street, Unit 11, # 1300  
 Fort Worth, Texas 76102 FIRM # 10194040

Tel. No. (817) 335-6511  
 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	DMD	JDW	6/9/2023	064536303	2 OF 4

JOSHUA D. WARGO  
 REGISTERED PROFESSIONAL  
 LAND SURVEYOR NO. 6391  
 801 CHERRY STREET,  
 UNIT 11 SUITE 1300  
 FORT WORTH, TEXAS 76102  
 PH. 817-335-6511  
 josh.wargo@kimley-horn.com



Scale	1" = 100'
Drawn by	DMD
Checked by	JDW
Date	6/9/2023
Project No.	064536303
Sheet No.	3 OF 4

801 Cherry Street, Unit 11, # 1300  
 Fort Worth, Texas 76102  
 FRM # 10194040  
 www.kimley-horn.com  
 Tel. No. (817) 335-6511

**Kimley»Horn**

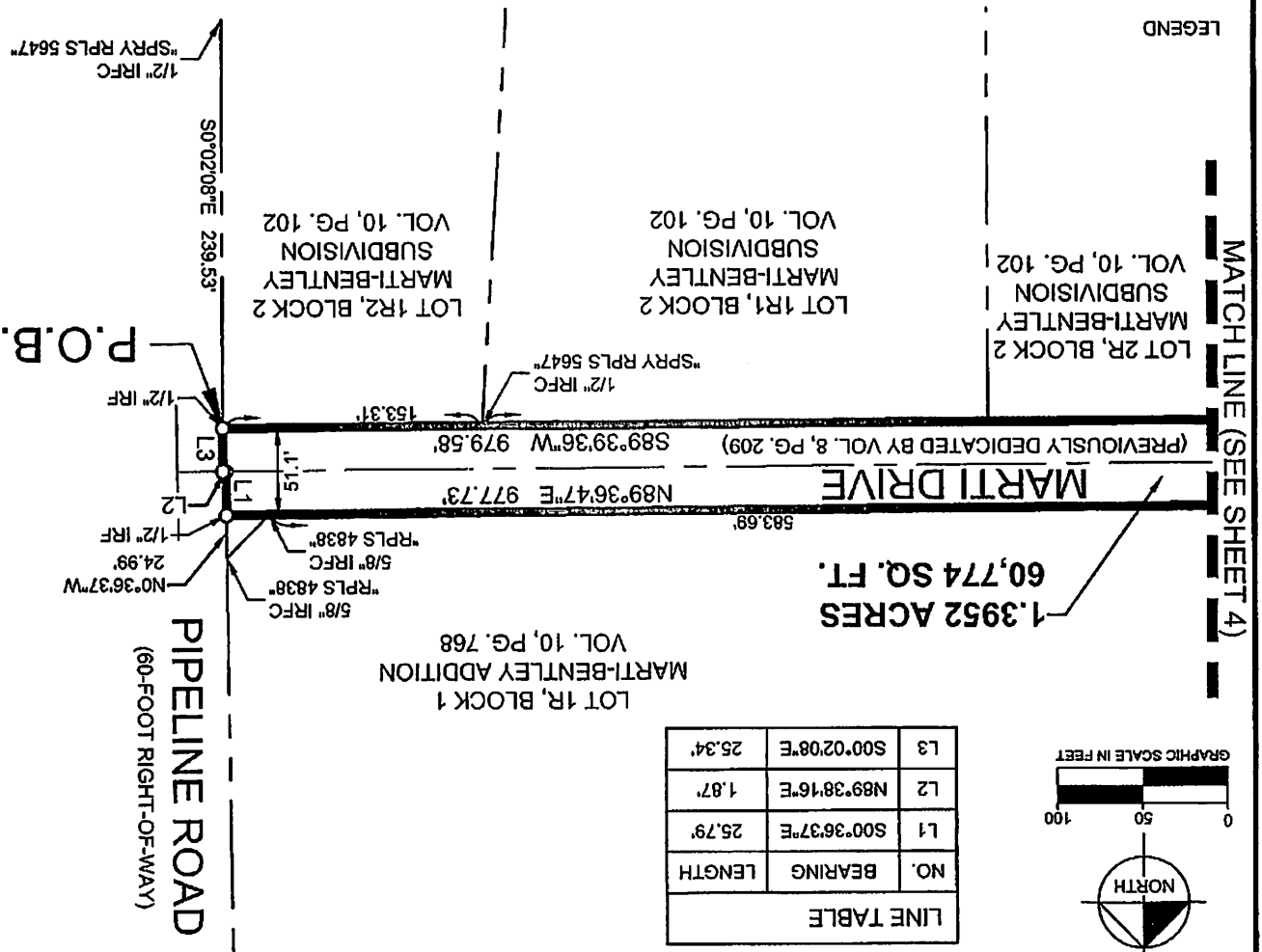
MARTI DRIVE EXHIBIT  
 A. MCANIER SURVEY  
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 CITY OF CLEBURNE  
 JOHNSON COUNTY, TEXAS

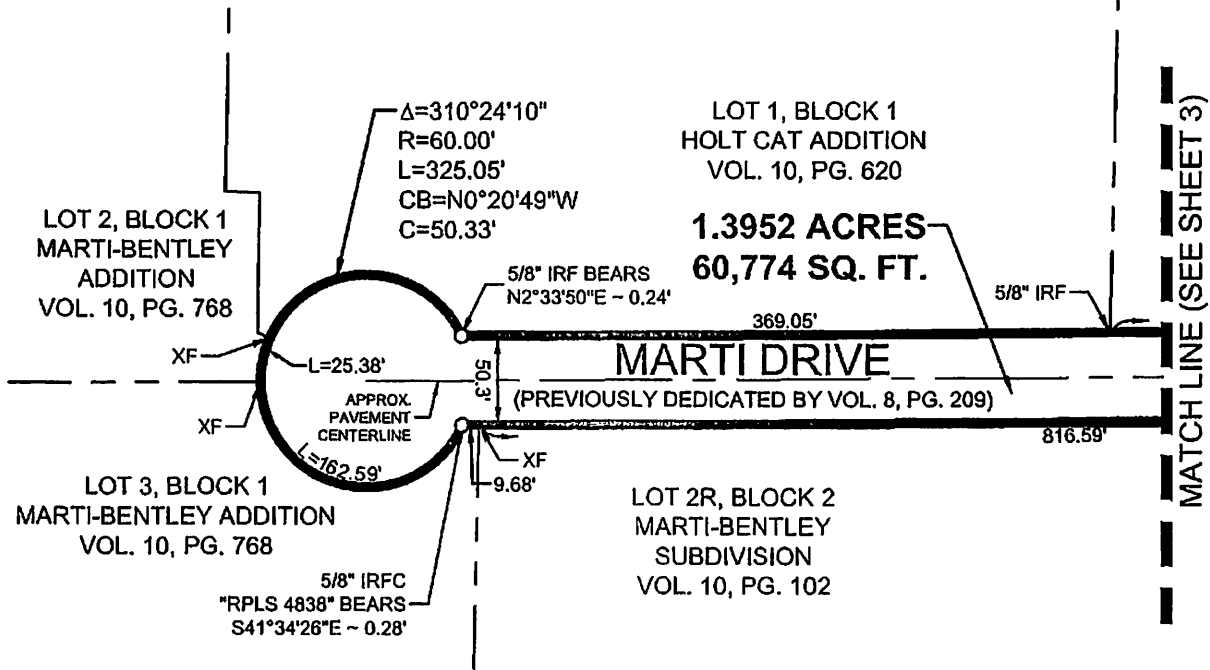
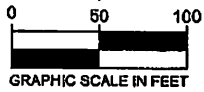
The undersigned, Registered Professional Land Surveyor, hereby certifies that this survey plat accurately sets out the metes and bounds of the surveyed tract.  
 Bearing system based on the Texas Coordinate System of 1983 (2011 adjustment), North Central Zone (4202). A metes and bounds description of even survey date herewith accompanies this survey plat.

NOTES:

- ∆ = CENTRAL ANGLE
- P.O.B. = POINT OF BEGINNING
- IRFC = IRON ROD W/CAP FOUND
- IRF = IRON ROD FOUND
- XF = "++" CUT FOUND

LEGEND





**LEGEND**

- $\Delta$  = CENTRAL ANGLE
- P.O.B. = POINT OF BEGINNING
- IRFC = IRON ROD W/CAP FOUND
- IRF = IRON ROD FOUND
- XF = "+" CUT FOUND

MARTI DRIVE EXHIBIT  
 A. MCANIER SURVEY  
 ABSTRACT NO. 537  
 CITY OF CLEBURNE  
 JOHNSON COUNTY, TEXAS

**Kimley»Horn**

801 Cherry Street, Unit 11, # 1300  
 Fort Worth, Texas 76102 FIRM # 10194040 Tel. No. (817) 395-6511  
 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 100'	DMD	JDW	6/9/2023	064536303	4 OF 4

**Johnson County**  
**April Long**  
**Johnson County**  
**Clerk**

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**Instrument Number:** 2023 - 33602

eRecording - Real Property  
Agreement

Recorded On: December 05, 2023 01:29 PM

Number of Pages: 13

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**" Examined and Charged as Follows: "**

Total Recording: \$70.00

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**\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\***

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 2023 - 33602  
Receipt Number: 20231205000096  
Recorded Date/Time: December 05, 2023 01:29 PM  
User: Leslie S  
Station: ccl83

**Record and Return To:**

Corporation Service Company



**STATE OF TEXAS**  
**COUNTY OF JOHNSON**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Johnson County, Texas.

April Long  
Johnson County Clerk  
Johnson County, TX

*April Long*