

ORDINANCE NO. 27996

An ordinance providing for the abandonment and relinquishment of a wastewater easement located in City Block C/653 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Mary Ellen Ruark; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a new easement to the City of Dallas and the relocation of existing facilities; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing a future effective date for the abandonment, relinquishment and quitclaim made herein; providing for the payment of the publication fee; and providing an effective date for this ordinance.

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WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Mary Ellen Ruark, an individual, hereinafter referred to as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said wastewater easement is no longer needed for municipal use, and same should be abandoned, relinquished and quitclaimed to **GRANTEE** as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth; **Now, Therefore,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City of Dallas 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 a part hereof; subject, however, to the conditions and future effective date hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 (\$5,400.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Section 8, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title and interest in and to that certain tract or parcel of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the City Controller is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction – Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. 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 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, her heirs and assigns.

SECTION 7. That the abandonment, relinquishment and quitclaim provided for herein shall extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon, relinquish and quitclaim.

SECTION 8. That as a condition of this abandonment and as part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, her heirs and assigns, agree to indemnify, defend, release and hold the City of Dallas whole and harmless against 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 property described in Exhibit A by **GRANTEE**, her heirs 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 **GRANTEE**, her heirs 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 quitclaim by the City of Dallas of the area set out in Exhibit A. **GRANTEE**, her heirs and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas 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.

SECTION 9. That this abandonment, relinquishment and quitclaim of the City's right, title and interest in and to said wastewater easement shall not become effective until and unless: (i) the existing installations and facilities are relocated, at **GRANTEE's** expense, to the new easement to be provided by **GRANTEE** and acceptable to the Director of Sustainable Development and Construction, as is hereinafter provided; and (ii) plans for the construction and relocation of installations within the new easement are approved by the Director of Sustainable Development and Construction; and (iii) said construction and relocation of installations are completed, approved and accepted in writing by the Director of Sustainable Development and Construction. All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Sustainable Development and Construction.

SECTION 10. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Sustainable Development and Construction or designee shall deliver to **GRANTEE** a certified copy of this ordinance. The Director of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

THERESA O'DONNELL
Director of Sustainable Development
and Construction

BY Janie Woods
Assistant City Attorney

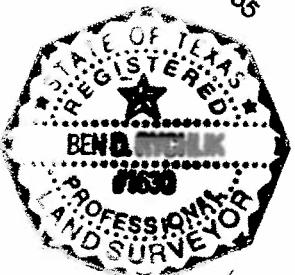
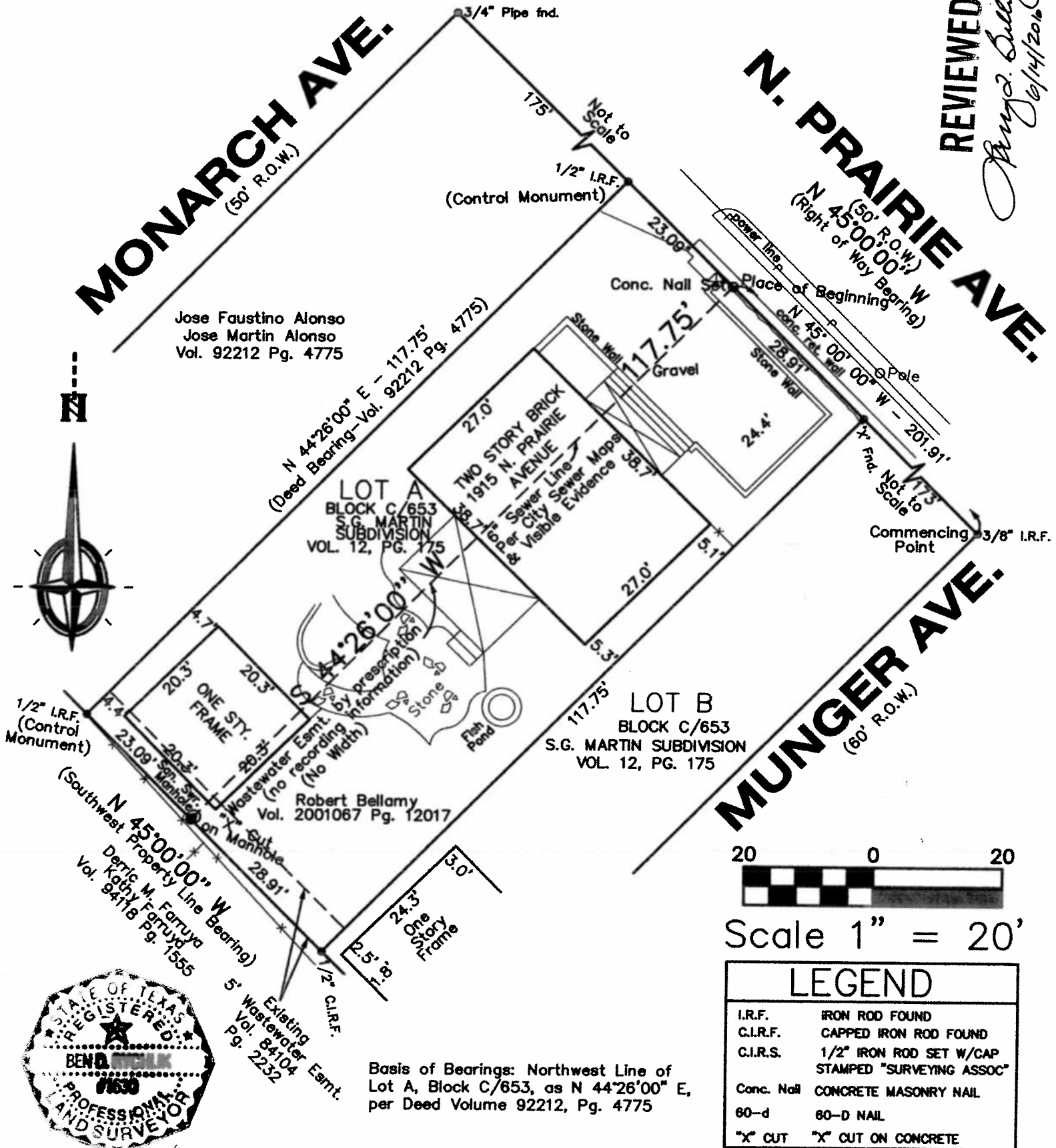
per BY Shirley Saunders
Assistant Director

Passed SEP 22 2010.

27996 EXHIBIT A 102400 WASTEWATER ABANDONMENT

Wastewater Easement with no Width by Prescription

REVIEWED BY
Angie D. Dillingham
6/14/2010



Ben D. Rychnik 6-7-10
Ben D. Rychnik, R.P.L.S. No. 1630

SURVEYING ASSOCIATES
1018 S. BECKLEY AVE.
DALLAS, TEXAS 75203

PHONE: (214) 948-3324 FAX: (214) 946-7540

102400

EXHIBIT A
27996
WASTEWATER ABANDONMENT
PART OF LOT A, BLOCK C/653
S.G. MARTIN SUBDIVISION
CITY OF DALLAS, DALLAS COUNTY, TEXAS

6/14/2010
REVIEWED BY *Shirley D. Bellamy*

BEING a center line description of an existing Wastewater Easement (no width of easement determined) for a 6" Wastewater line in place, conveyed to the City of Dallas by prescription (no recording information), situated in the J. Grigsby Survey, Abstract No. 495, Dallas County, Texas, being part of Lot A, Block C/653 of the S.G. Martin Subdivision, an addition to the City of Dallas, Texas, according to the plat thereof recorded in Volume 12, Page 175, Map Records Dallas County, Texas, being part of a tract of land conveyed to Robert Bellamy, by deed recorded in Volume 2001067 Page 12017, Deed Records Dallas County, Texas, and being more particularly described as follows;

Commencing at the intersection of the Southwest line of N. Prairie Avenue, (a 50' R.O.W.), with the Northwest line of Munger Avenue, (a 60' R.O.W.), said point being the most Easterly corner of Lot B, Block C/653 of said S.G. Martin Subdivision, a 3/8" iron rod found for corner;

thence: North 45 deg. 00 min. 00 sec. West, with the said Southwest line of N. Prairie Avenue, passing an "x" found at the common Northerly corner of Lots A and B at a distance of 173.0 feet and continuing a total distance of 201.91 feet to a concrete nail set at the intersection of the said Southwest line of N. Prairie Avenue, with the center line of said 6" wastewater line, said point being the *Place of Beginning*;

THENCE: from the *Place of Beginning*, South 44 deg. 26 min. 00 sec. West, with the center of said 6" wastewater line, same being on a line 28.91 feet Northwest of and parallel to the common line of Lots A and B, a distance of 117.75 to a point in the Southwest line of said Lot A at the end of said wastewater easement by prescription, an "x" cut on a manhole for corner;

Ben D. Rychlik 6-1-10
Ben D. Rychlik / R.P.L.S. No. 1630

Basis of Bearings: Northwest Line of
Lot A, Block C/653, as N 44°26'00" E,
per Deed Volume 92212, Pg. 4775

