

ORDINANCE NO. 28846

An ordinance providing for the abandonment and relinquishment of a retaining wall easement located in City Block C/927 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Alamo-VP Apartments, LLC; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; 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 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 Alamo-VP Apartments, LLC, a Delaware limited liability company, 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 **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said retaining wall 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 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, 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 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**, its successors 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**, its successors 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**, its 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 **GRANTEE**, its 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 quitclaim by the City of Dallas of the area set out in Exhibit A. **GRANTEE**, its successors 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.

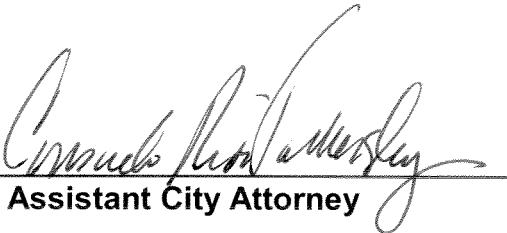
SECTION 9. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt 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 Department of Sustainable Development and Construction or designee shall deliver to **GRANTEE** a certified copy of this ordinance. The Director of Department 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 10. 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.

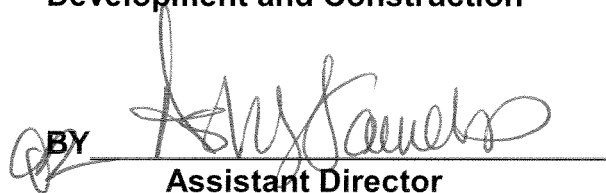
APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

THERESA O'DONNELL
Director of Department of Sustainable
Development and Construction

BY


Assistant City Attorney

BY


Assistant Director

Passed DEC 12 2012.

28846

122999

EXHIBIT A**RETAINING WALL EASEMENT ABANDONMENT**

Part of Lot 1, Block C/927

Parking Lot P

City of Dallas, Dallas County, Texas

BEING a 105 square foot tract of land situated in the J. Grigsby League Survey, Abstract No. 495, City of Dallas, Dallas County, Texas, the subject tract being a part of Lot 1, Block C/927 of PARKING LOT P, an Addition to the City of Dallas according to the plat thereof recorded in Document Number 20070069327, Official Public Records, Dallas County, Texas (OPRDCT), as conveyed to Alamo-VP Apartments, LLC, recorded in Document Number 201200180322 OPRDCT, and being all of a retaining wall easement for the City of Dallas, created in Volume 2258, Page 255 of the Deed Records, Dallas County, Texas (DRDCT), the subject tract being more particularly described as follows;

BEGINNING at an "X" found in concrete on the southwest line of Harry Hines Boulevard (an 80 foot public right-of-way) for the north corner of Parking Lot P, and being the east corner of that certain tract described in deed to the City of Dallas, recorded in Volume 89138, Page 3789 DRDCT, and the north corner of said easement;

THENCE S 44°29'47" E, 50.01 feet along the common line between Harry Hines Boulevard and said Parking Lot P, to a crow's foot found for the common corner between Parking Lot P and that certain tract described in deed to Alamo-VP Apartments, LLC, recorded in Document Number 201200180323 OPRDCT, from which a 1/2" iron rod with a yellow cap stamped "SPIARSENG" found bears S 44°29'47" E, 340.27 feet;

THENCE S 43°54'20" W, 2.10 feet along said common line thereof;

THENCE N 44°29'47" W, 50.01 feet departing said line, to the common line between said Parking Lot P and said City of Dallas tract;

THENCE N 43°54'20" E, 2.10 feet along said common line thereof to the PLACE OF BEGINNING with the subject tract containing 105 square feet or 0.002 acres of land.

NOTES:

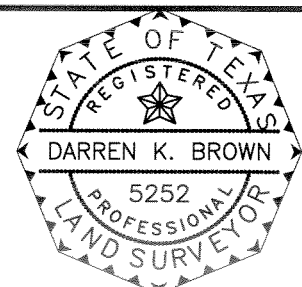
1. Basis of bearing, horizontal and vertical position derived from the Texas WDS RTK Network-Texas State Plane Coordinate System, NAD83, North Central Zone (4202).
2. A legal description of even date hereby accompanies this plat.

(For SPRG use only)

Reviewed By: DBFDate: 09-18-2012SPRG No: 2433

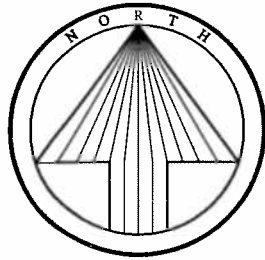
P i a r s
ENGINEERING

765 Custer Road, Suite 100 Plano, TX 75075
(972) 422-0077 Fax (972) 422-0075 TBEF No. F-2121

EASEMENT ABANDONMENT**J. GRIGSBY LEAGUE SURVEY, A-495****CITY OF DALLAS****DALLAS COUNTY, TEXAS****PAGE 1 OF 2**

D.K.B.
DARREN K. BROWN, R.P.L.S. 5252

Drawn By:	Checked By:	Scale	Date	Job No.
ED	DKB		5/23/12	11-146



RETAINING WALL EASEMENT ABANDONMENT
Part of Lot 1, Block C/927
Parking Lot P
City of Dallas, Dallas County, Texas

NOTES:

1. Basis of bearing, horizontal and vertical position derived from the Texas WDS RTK Network—Texas State Plane Coordinate System, NAD83, North Central Zone (4202).
2. A legal description of even date hereby accompanies this plat.

0 10 20
1 inch = 20 ft.

City of Dallas
Vol. 89138, Pg. 3789 DRDCT
Remainder of Lot 2, Block 927
Walker's Subdivision
Vol. Y, Pg. 177 DRDCT

Alamo-VP Apartments, LLC
Inst. No. 201200180322 OPRDCT
(Lot 1, Block C/927
PARKING LOT P
Inst. No. 20070069327 OPRDCT)

J. GRIGSBY
LEAGUE SUR.
ABSTRACT NO. 495

City of Dallas
Vol. 2258, Pg. 255
DRDCT

HARRY HINES BOULEVARD
(Formerly Turley Avenue)
(a called 80' R.O.W.)

Retaining Wall Easement
City of Dallas
Vol. 2258, Pg. 255
0.002 Ac.
(105 Sq. Ft.)

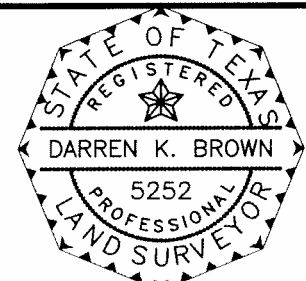
City of Dallas
Vol. 2258, Pg. 254
DRDCT

Alamo-VP Apartments, LLC
Inst. No. 201200180323 OPRDCT
Remainder of Lot 2, Block 927
Walker's Subdivision
Vol. Y, Pg. 177 DRDCT

PAGE 2 OF 2

LEGEND	
DRDCT	Deed Records, Dallas County, Texas
OPRDCT	Official Public Records, Dallas County, Texas
Doc. No.	Document Number
1/2" CIRF	1/2 inch iron rod with cap
Alum.	Aluminum
Vol.	Volume
Pg.	Page
CM	Controlling Monument
Ac.	Acres
R.O.W.	Right of way

(For SPRG use only)
Reviewed By: DBF
Date: 09-16-2012
SPRG No: 2433



DARREN K. BROWN, R.P.L.S. 5252

p i a r s
ENGINEERING
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(972) 422-0077 Fax (972) 422-0075 TSB# No. P-2121

EASEMENT ABANDONMENT
J. GRIGSBY LEAGUE SURVEY, A-495
CITY OF DALLAS
DALLAS COUNTY, TEXAS

Drawn By:	Checked By:	Scale	Date	Job No.
ED	DKB	1" = 20'	5/23/12	11-146