

ORDINANCE NO. 28954

An ordinance providing for the abandonment and relinquishment of a portion of a water easement, located in City Block K/7554 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to SLF IV-Wheatland, L.P.; 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 SLF IV-Wheatland, L.P., a Texas limited partnership; 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 portion of 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 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**, 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 a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold whole and harmless the City of Dallas of, from and 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

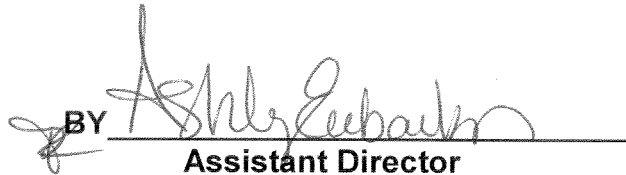
THERESA O'DONNELL
Director of Department of Sustainable
Development and Construction

BY



Assistant City Attorney

BY



Assistant Director

Passed

APR 10 2013

EXHIBIT A

WATER EASEMENT ABANDONMENT
LOT 1A, BLOCK K/7554
WHEATLAND TOWNE CROSSING NO. 4 ADDITION
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING A 10,260 SQUARE FEET (0.236 ACRES) PARCEL OF LAND SITUATED IN THE J. R. BELL SURVEY, ABSTRACT NO. 123, PART OF LOT 1A, BLOCK K/7554, WHEATLAND TOWNE CROSSING NO. 4 ADDITION, AN ADDITION TO THE CITY OF DALLAS, TEXAS, ACCORDING TO THE PLAT THEREOF AS RECORDED UNDER INSTRUMENT NUMBER 201200044503, OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS, BEING A PORTION OF THE LAND CONVEYED TO SLF IV-WHEATLAND, L.P., BY SPECIAL WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 201100110595, OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS, ALSO BEING A PORTION OF A 20' WATER EASEMENT CREATED BY PLAT OF WHEATLAND TOWNE CROSSING NO. 2 ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED UNDER INSTRUMENT NUMBER 20070443314, OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 5/8" IRON ROD WITH ALUMINUM MONUMENT STAMPED "WTC NO. 4 CATES-CLARK NO. 3717" FOUND FOR THE MOST EASTERLY CORNER A CORNER CLIP AND THE MOST NORTHERLY NORTHEAST CORNER OF LOT 1A, BLOCK K/7554, OF SAID WHEATLAND TOWNE CROSSING NO. 4 ADDITION, SAME BEING THE INTERSECTION OF THE SOUTHWESTERLY LINE OF CLIFF CREEK CROSSING DRIVE (64' RIGHT-OF-WAY) WITH THE SOUTHEASTERLY LINE OF BAINBRIDGE DRIVE (64' RIGHT-OF-WAY);

THENCE SOUTH 71° 22' 03" WEST ALONG SAID CORNER CLIP FOR A DISTANCE OF 14.02 FEET TO A 5/8" IRON ROD WITH ALUMINUM MONUMENT STAMPED "WTC NO. 4 CATES-CLARK NO. 3717" FOUND FOR CORNER;

THENCE SOUTH 25° 52' 54" WEST (BASIS OF BEARING) ALONG THE SOUTHEASTERLY LINE OF SAID BAINBRIDGE DRIVE FOR A DISTANCE OF 161.21 FEET TO THE POINT OF BEGINNING AT THE MOST NORTHERLY CORNER OF SAID 20' WATER EASEMENT;

THENCE SOUTH 63° 08' 48" EAST DEPARTING THE SOUTHEASTERLY LINE OF SAID BAINBRIDGE DRIVE ALONG THE NORTHEASTERLY LINE OF SAID 20' WATER EASEMENT FOR A DISTANCE OF 78.37 FEET TO A POINT FOR CORNER;

THENCE SOUTH 37° 03' 32" EAST ALONG THE EASTERLY LINE OF SAID 20' WATER EASEMENT FOR A DISTANCE OF 449.88 FEET TO A POINT FOR CORNER;

THENCE NORTH 63° 08' 48" WEST DEPARTING THE EASTERLY LINE OF SAID 20' WATER EASEMENT FOR A DISTANCE OF 45.48 FEET TO A POINT FOR CORNER IN THE WESTERLY LINE OF SAID 20' WATER EASEMENT;

THENCE ALONG THE WESTERLY LINE OF SAID 20' WATER EASEMENT, THE FOLLOWING COURSES AND DISTANCES;

- (1) NORTH 37° 03' 32" WEST FOR A DISTANCE OF 316.07 FEET TO A POINT FOR CORNER;
- (2) SOUTH 52° 56' 28" WEST FOR A DISTANCE OF 10.00 FEET TO A POINT FOR CORNER;
- (3) NORTH 37° 03' 32" WEST FOR A DISTANCE OF 20.00 FEET TO A POINT FOR CORNER;
- (4) NORTH 52° 56' 28" EAST FOR A DISTANCE OF 10.00 FEET TO A POINT FOR CORNER;
- (5) NORTH 37° 03' 32" WEST FOR A DISTANCE OF 68.33 FEET TO A POINT FOR CORNER;

REVIEWED BY

JR 10.04.2012
SPRG 2477

EXHIBIT A

28954

(CONTINUED)
 WATER EASEMENT ABANDONMENT
 LOT 1A, BLOCK K/7554
 WHEATLAND TOWNE CROSSING NO. 4 ADDITION
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

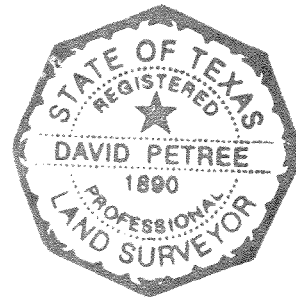
THENCE NORTH 63° 08' 48" WEST ALONG THE SOUTHWESTERLY LINE OF SAID 20' WATER EASEMENT FOR A DISTANCE OF 73.40 FEET TO A POINT FOR CORNER IN THE SOUTHEASTERLY LINE OF SAID BAINBRIDGE;

THENCE NORTH 25° 52' 54" EAST ALONG THE SOUTHEASTERLY LINE OF SAID BAINBRIDGE DRIVE FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 10,260 SQUARE FEET (0.236 ACRES) OF LAND, MORE OR LESS.

David Petree

DATE *9-26-2012*

DAVID PETREE
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 1890



REVIEWED BY

JS 10.04.2012
 SPRG 2477

BASIS OF BEARING: THE SOUTHEAST LINE OF BAINBRIDGE DRIVE (NORTH 25° 52' 54" EAST) PER PLAT OF WHEATLAND TOWNE CROSSING NO. 4 ADDITION AS RECORDED UNDER INSTRUMENT NUMBER 201200044503, OF THE OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS.

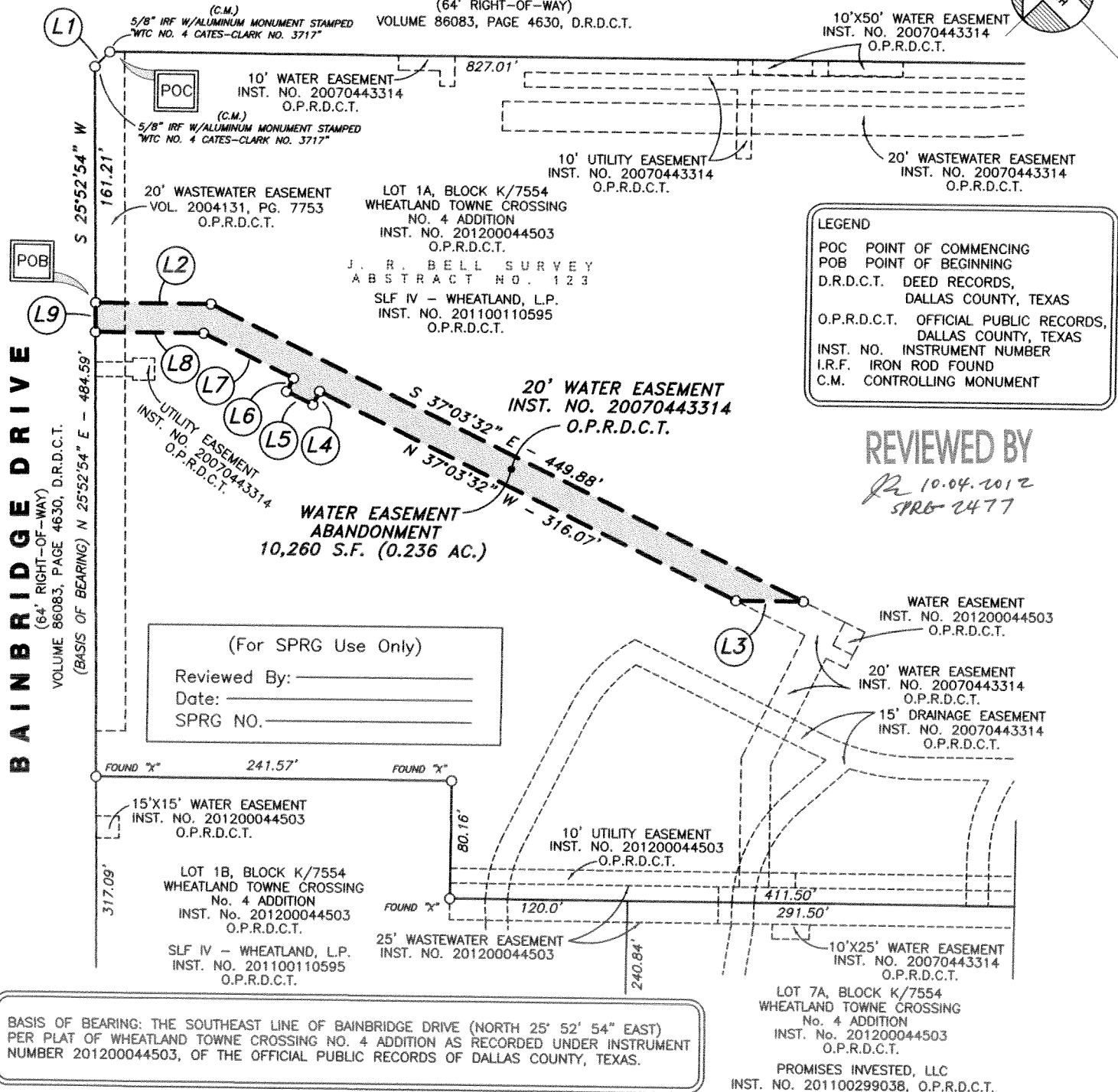
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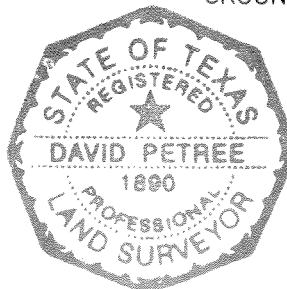
DAVID PETREE
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 1890
 11015 MIDWAY ROAD
 DALLAS, TEXAS 75229
 PH (214)-358-4500
 FAX (214)-358-4600

SEPTEMBER 26, 2012

SHEET 2 OF 4



PREPARED FROM SURVEYS MADE ON THE
GROUND THIS 22TH DAY OF AUGUST, 2012.



David Reese

DAVID PETREE
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 1890
11015 MIDWAY ROAD
DALLAS, TEXAS 75229
PHONE: 214-358-4500
FAX: 214-358-4600

SEPTEMBER 26, 2012

SHEET 3 OF 4

WATER EASEMENT ABANDONMENT
LOT 1A, BLOCK K/7554
WHEATLAND TOWNE CROSSING NO. 4 ADDITION
CITY OF DALLAS, DALLAS COUNTY, TEXAS

EXHIBIT A

~ LINE TABLE ~

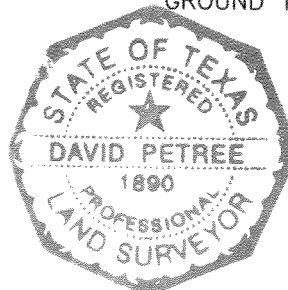
NO.	BEARING	DISTANCE
L1	S 71°22'03" W	14.02'
L2	S 63°08'48" E	78.37'
L3	N 63°08'48" W	45.48'
L4	S 52°56'28" W	10.00'
L5	N 37°03'32" W	20.00'
L6	N 52°56'28" E	10.00'
L7	N 37°03'32" W	68.33'
L8	N 63°08'48" W	73.40'
L9	N 25°52'54" E	20.00'

REVIEWED BY

Re 10-04-2012
 SPRG 2477

(For SPRG Use Only)

 Reviewed By: _____
 Date: _____
 SPRG NO. 2477

 PREPARED FROM SURVEYS MADE ON THE
 GROUND THIS 22TH DAY OF AUGUST, 2012.

David Petree
 DAVID PETREE
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 LAND SURVEYOR NO. 1890
 11015 MIDWAY ROAD
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 WATER EASEMENT ABANDONMENT
 LOT 1A, BLOCK K/7554
 WHEATLAND TOWNE CROSSING NO. 4 ADDITION
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

SEPTEMBER 26, 2012