

ORDINANCE NO. 29166

An ordinance providing for the abandonment of a portion of public right-of-way commonly known as Pavillion Street located adjacent to City Block 2/594 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Twin Lakes Plaza, L.P.; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for barricading; 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; providing for the waiver of certain provisions of the Dallas City Code; providing an effective date for this ordinance.

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WHEREAS, on June 11, 2008, the City Council of the City of Dallas, approved Ordinance No. 27211, which provided for the abandonment and quitclaim of a portion of public right-of-way known as Pavillion Street located adjacent to City Block 2/594, Dallas, Dallas County, Texas to Twin Lakes Plaza, L.P., a Texas limited partnership, subject to future conditions which included, but not limited to, the filing of a final replat showing the fee simple dedication of not less than 5,894 square feet of land, within one year of the effective date of the Ordinance, as part of the payment of the abandonment fee otherwise required by Dallas City Code; and

WHEREAS, said final replat and dedication were not completed within one year of the effective date of the ordinance rendering the ordinance now null and void and of no further effect; and

WHEREAS, the final replat and required dedication to the City, provided in Ordinance No. 27211, was completed shortly after the expiration of the specified time period; and

WHEREAS, Twin Lakes Plaza, L.P., requests the abandonment and quitclaim of the same area as described in Ordinance No. 27211 pursuant to a new abandonment ordinance, subject to the same terms and conditions as for Ordinance No. 27211, but with recognition of the completion of the final replat and dedication required as part of payment of the abandonment fee otherwise required by Dallas City Code; and

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Twin Lakes Plaza, L.P., hereinafter referred to as **GRANTEE**, still deems it advisable to abandon and quitclaim 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 right-of-way still is not needed for public use, and same should be abandoned and quitclaimed to **GRANTEE**, as hereinafter stated; and

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

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

SECTION 1. That those certain provisions of Section 2-26.2 of the Dallas City Code regarding the abandonment fee to be paid for a street abandonment, to the extent not required by state law or City Charter, are hereby waived with respect to this ordinance.

SECTION 2. That the tract of land described in Exhibit A, which is attached hereto and made a part hereof for all purposes, be and the same is abandoned, vacated and closed insofar as the right, title and interest of the public are concerned; subject, however, to the conditions hereinafter more fully set out.

SECTION 3. 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 Sections 9 and 10, 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 of its right, title and interest in and to the 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 4. That upon payment of the monetary consideration set forth in Section 3, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 5. That the City Controller is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 3 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 6. That the abandonment 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, and are further subject to the conditions contained in Exhibit B, which is attached hereto and made a part hereof for all purposes.

SECTION 7. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 8. That the abandonment and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon and vacate.

SECTION 9. 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 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 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the passage of this ordinance, close, barricade and/or place signs in the area described in Exhibit A in accordance with detailed plans approved by the Director of Department of Sustainable Development and Construction. **GRANTEE's** responsibility for keeping the area described in Exhibit A closed, barricaded and/or signs in place shall continue until the street improvements and intersection returns are removed by **GRANTEE**, its successors and assigns, to the satisfaction of the Director of Department of Sustainable Development and Construction.

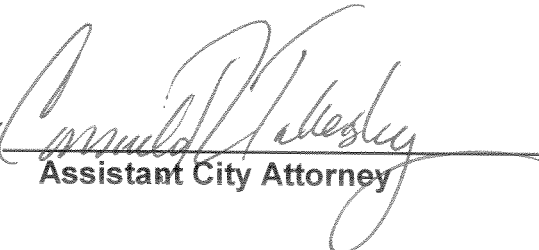
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SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the official real property records of the county in which the abandonment area is located, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 3, 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: (i) shall deliver to **GRANTEE** a certified copy of this ordinance; and (ii) is authorized to and shall prepare and deliver a **QUITCLAIM DEED** with regard to the area abandoned herein, to **GRANTEE** hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by the City Secretary and approved as to form by the City Attorney. 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 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

DAVID COSSUM
 Interim Director of Department of
 Sustainable Development and
 Construction

BY 
 Assistant City Attorney

BY 
 Assistant Director

Passed OCT - 8 2013.

29166

EXHIBIT A

PAVILION STREET
15' RIGHT-OF-WAY ABANDONMENT
CITY OF DALLAS BLOCK 2/594
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

131770

BEING a 3,974 square foot tract of land located in the JOHN GRIGSBY SURVEY, ABSTRACT NO. 495, City of Dallas, Dallas County, Texas and being part of Block Number 2/594, Official Numbers of the City of Dallas, Texas, said tract also being a part of Pavilion Street, a 15 foot right-of-way, and being more particularly described as follows;

BEGINNING at the intersection of the Northwest right-of-way line of Flora Street, a variable width right-of-way, with the Southwest right-of-way line of said Pavilion Street, said point being North 44 degrees 09 minutes 22 seconds East, a distance of 136.92 feet from a 3/4 inch iron pipe found in said Northwest right-of-way line, said point also being the East corner of a tract of land described in Deed to Twin Lakes Plaza, L.P., recorded in Document Number 20070230875, Deed Records, Dallas County, Texas;

THENCE North 45 degrees 23 minutes 48 seconds West, along said Southwest right-of-way line, a distance of 265.00 feet to a point for corner at the intersection of said Southwest right-of-way line with the East right-of-way line of North Central Expressway (US Highway No. 75), a variable width right-of-way, said point being at the North corner of said Twin Lakes Plaza, L.P. tract recorded in Document Number 20070230875;

THENCE North 44 degrees 36 minutes 12 seconds East, leaving said Southwest right-of-way line, a distance of 15.00 feet to a point for corner in the Northeast right-of-way line of said Pavilion Street;

THENCE South 45 degrees 23 minutes 48 seconds East, along said Northeast right-of-way line, passing at a distance of 34.75 feet a 1/2 inch iron rod found at the South corner of a tract of land described in Deed to Twin Lakes Plaza, L.P., recorded in Document Number 20070230868, Deed Records, Dallas County, Texas, passing at a distance of 136.68 feet a 1/2 inch iron rod found, and continuing for a total distance of 264.88 feet to a point for corner at the intersection of said Northwest right-of-way line of Flora Street with said Northeast right-of-way line, said point being the South corner of a tract of land described in Deed to Twin Lakes Plaza, L.P., recorded in Document No. 20070148738, Deed Records, Dallas County, Texas;

THENCE South 44 degrees 09 minutes 59 seconds West, leaving said Northeast right-of-way line, a distance of 15.00 feet to the **POINT OF BEGINNING** and containing 3,974 square feet or 0.091 acres of land, more or less.

REVIEWED BY

Jr 05.07.2008
SPR 1096

29166

131770
EXHIBIT A

PAVILION STREET
15' RIGHT-OF-WAY ABANDONMENT
CITY OF DALLAS BLOCK 2/594
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Basis of bearings derived from the Texas State Plane Coordinate System, NAD83,
North Central Zone.

(A plat of even survey date herewith accompanies this description)

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

(For SPEG use only)
REVIEWED By: _____
Date: _____
SPRG NO: _____

V. L. Matocha

V.L. Matocha

April 7, 2008

Texas Registration No. 1816



REVIEWED BY

JR 05.07.2008
SPRG 1096

29166

131770

PAVILION STREET 15' RIGHT-OF-WAY ABANDONMENT

EXHIBIT A

CITY OF DALLAS BLOCK 2/594
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS



N44°36'12"E
15.00'

NORTH CENTRAL EXPRESSWAY
(US HIGHWAY NO. 75)
(VARIABLE WIDTH RIGHT-OF-WAY)

TWIN LAKES PLAZA, L.P.
DOC. NO. 20070230888
D.R.D.C.T.

ESTHER GRIFIN
VOLUME 91219, PAGE 1442
VOLUME 91219, PAGE 1485
D.R.D.C.T.

BLOCK 2/594

TWIN LAKES PLAZA, L.P.
DOC. NO. 20070148738
D.R.D.C.T.

3,974 SQUARE FEET, 0.091 ACRES

N45°23'48"W 285.00'
TWIN LAKES PLAZA, L.P.
DOC. NO. 20070230075
D.R.D.C.T.

S44°09'59"W
15.00'

FLORA STREET
(VARIABLE WIDTH RIGHT-OF-WAY)

TWIN LAKES PLAZA, L.P.
DOC. NO. 20070138443
D.R.D.C.T.

BLOCK 595

JACK R. SWAIN, JR.
VOL. 92252, PG. 8579
D.R.D.C.T.

STUART CROW
DOCUMENT NO. 200800247127
D.R.D.C.T.

LEGEND

- D.R.D.C.T. = DEED RECORDS, DALLAS COUNTY, TEXAS
DOC. NO. = DOCUMENT NUMBER
● = POINT FOR CORNER
⊙ = 1/2 INCH IRON ROD FOUND
(UNLESS OTHERWISE NOTED)
IPF = IRON PIPE FOUND
<CM> = CONTROL MONUMENT



**DOWDEY, ANDERSON
& ASSOCIATES, INC.**

5225 Village Creek Drive, Suite 200 Plano, Texas 75093
Phone 972-931-0694 Fax 972-931-9538

(For SPRG use only)

REVIEWED By: _____
Date: _____
SPRG NO: _____

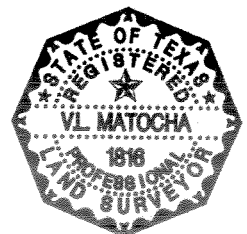
REVIEWED BY

JH 05.07.2008
SPRG-1096

NOTE: BASIS OF BEARINGS ARE DERIVED
FROM THE TEXAS STATE PLANE COORDINATE
SYSTEM, NAD83, NORTH CENTRAL ZONE.

V.L. Matocha

V.L. Matocha
Registered Professional Land Surveyor
No. 1816



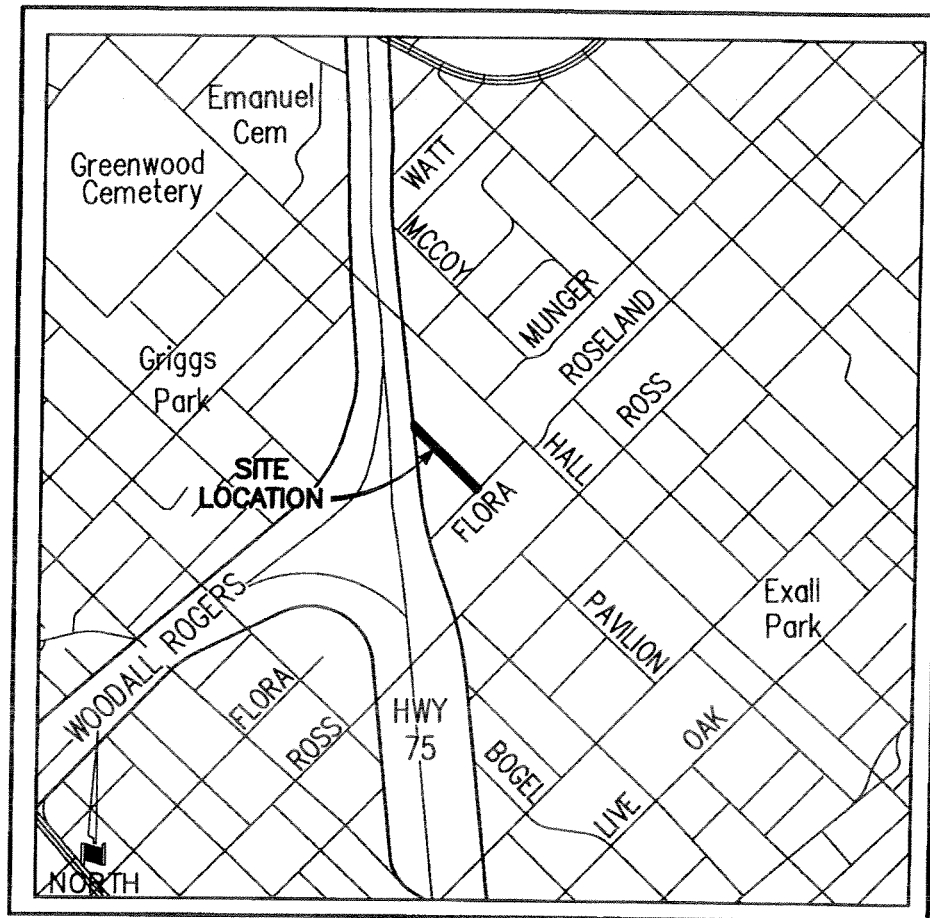
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PAVILION STREET
15' RIGHT-OF-WAY ABANDONMENT

EXHIBIT A

CITY OF DALLAS BLOCK 2/594
 JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

29166



LOCATION MAP
 NOT TO SCALE
 DALLAS MAPSCO 45-G

REVIEWED BY

05-07-2008
SPRG-1096



**DOWDEY, ANDERSON
 & ASSOCIATES, INC.**

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 Phone 972-931-0694 Fax 972-931-9538

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REVIEWED By: _____
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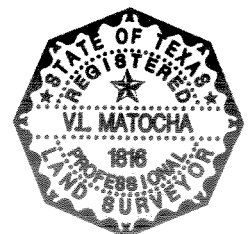


EXHIBIT B

ADDITIONAL ABANDONMENT PROVISIONS

That as a condition hereof, this abandonment is subject to any utilities or communication facilities, including without limitation water and wastewater lines, gas lines, and storm sewers, ("Facilities") presently located within the abandoned area described in Exhibit "A", owned and/or operated by the City of Dallas or any utility or communications company, public or private, ("Utility") and to the rights of any Utility for the use of the abandoned area for its Facilities. It is the intent of the foregoing to confirm and maintain and there is hereby reserved and excepted unto the City of Dallas, and not abandoned or conveyed hereunder, an easement (to which this abandonment is made expressly subject) over, upon, under, through, in, and across the abandoned area for each Utility for its respective Facilities located therein at the time of this abandonment, together with the right to make any subsequent alterations, additions, expansions, upgrades or modifications to such Facilities as may, from time to time be deemed necessary or convenient by the Utility owning and/or operating same. No buildings, structures (above or below ground) or trees shall be constructed or placed within the abandoned area without written consent of each affected Utility. Each Utility shall have the full right to remove and keep removed all or part of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective Facilities lying within the abandoned area and shall at all times have the full right of ingress and egress to or from and upon the abandoned area for the purposes of reconstructing, removing, relocating, inspecting, patrolling, maintaining, expanding, upgrading, and/or adding to all or part of its Facilities without the necessity at any time of procuring the permission of anyone. The easement reserved hereunder and the conditions and restrictions to which this abandonment is subject shall remain for the benefit of the applicable Utility and/or operators of the Facilities until said Facilities are removed and relocated from the abandoned area. The relocation, removal or adjustment of any or all such Facilities, if made necessary by GRANTEE'S (whether one or more natural persons or legal entities) use of the abandonment area, shall be at the expense of GRANTEE herein, or GRANTEE'S successors and assigns. Should GRANTEE'S relocation or removal of the Facilities require the obtaining of new easements, the acquisition of same shall be at the expense of GRANTEE, GRANTEE'S successors and assigns. If any of the Facilities (or relocations thereof) are allowed to remain on any part of the abandoned area, the easements and buildings restrictions provided herein shall remain thereon. Upon removal or relocation of all of the Facilities, any easements reserved or created herein relating to such removed or relocated Facilities shall terminate, and any building restrictions herein created shall cease.