

ORDINANCE NO. 29774

An ordinance providing for the abandonment and relinquishment of a portion of a utility easement, located in City Block E/927 ½ in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to LCS Land Partners II, Ltd.; 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 LCS Land Partners II, Ltd., 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 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 the 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 Chief Financial Officer 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 harmless the City of Dallas as to 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 area 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.

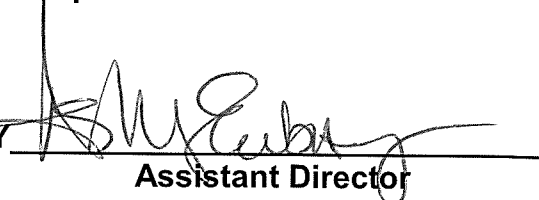
SECTION 9. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt 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:
WARREN M. S. ERNST
 City Attorney

DAVID COSSUM
 Director of Department of Sustainable
 Development and Construction

BY 
 Assistant City Attorney

BY 
 Assistant Director

Passed JUN 17 2015 .

UTILITY EASEMENT ABANDONMENT
ERVINS ADDITION
BLOCK NUMBER E/927-1/2
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 2,930 square foot (0.0673 acre) tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, Official City of Dallas Block Number E/927-1/2, and being a part of Lots 7, 8, 9, Block E/927-1/2 of ERVINS ADDITION, an addition to the City of Dallas, Dallas County, Texas, as recorded in Volume 64, Page 403 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), being a part of a called 2,548 square foot tract of land described as Part of Alamo Street, as dedicated by plat of said ERVINS ADDITION and abandoned by City Ordinance Number 2730, being a part of a called 2.471 acre tract of land described in Agreed Judgement to the City of Dallas, as recorded in Volume 99157, Page 2252, D.R.D.C.T., being a part of a Utility Easement to the City of Dallas, as recorded in Volume 5243, Page 474, D.R.D.C.T., and being more particularly described as follows:

COMMENCING at a PK nail found with washer stamped "HALFF" for the east end of a corner clip on the northwest right-of-way line of Payne Street (a 64-foot wide right-of-way) and the northeast right-of-way line of North Houston Street (a 67-foot wide right-of-way);

THENCE North 53 degrees 45 minutes 09 seconds East, with the northwest right-of-way line of said Payne Street, passing the south corner of a called 0.1843 acre tract of land described as Part of Alamo Street Closed and Vacated in City Ordinance Number 24273, as recorded in Volume 2000111, Page 2097, D.R.D.C.T., and City Ordinance Number 8230, as recorded in Volume 98049, Page 1438, D.R.D.C.T., at a distance of 36.83 feet, and continuing with the northwest right-of-way line of said Payne Street and with the southeast line of said 0.1843 acre tract, in all, a total distance of 73.62 feet to the POINT OF BEGINNING, said point being on the southwest line of said Utility Easement to the City of Dallas, the southwest line of said 2.471 acre tract, and the southwest line of said Block E/927-1/2 for the east corner of said 0.1843 acre tract;

THENCE North 43 degrees 02 minutes 23 seconds West, departing the northwest right-of-way line of said Payne Street, with the northeast line of said 0.1843 acre tract, with the southwest line of said 2.471 acre tract, with the southwest line of said Utility Easement to the City of Dallas, and with the southwest line of said Block E/927-1/2, a distance of 47.72 feet to the south corner of said 2,548 square foot tract;

THENCE North 59 degrees 46 minutes 20 seconds West, departing the southwest line of said Block E/927-1/2, and continuing with the northeast line of said 0.1843 acre tract, the southwest line of said 2.471 acre tract, and the southwest line of said Utility Easement to the City of Dallas, with the southwest line of said 2,548 square foot tract, a distance of 91.79 feet to the southeast line of Lot 1, Block B/927 of AMERICAN AIRLINES CENTER GARAGE AT VICTORY, an addition to the City of Dallas, Dallas County, Texas, as recorded in Volume 2001138, Page 30, D.R.D.C.T. for corner;

(For SPRG use only)	
Reviewed By:	<u> JL </u>
Date:	<u> 5-26-15 </u>
SPRG NO.:	<u> 3314 </u>

UTILITY EASEMENT ABANDONMENT
ERVINS ADDITION
BLOCK NUMBER E/927-1/2
CITY OF DALLAS, DALLAS COUNTY, TEXAS

THENCE North 50 degrees 34 minutes 02 seconds East, departing the northeast line of said 0.1843 acre tract, the southwest line of said 2.471 acre tract, the southwest line of said Utility Easement to the City of Dallas, and the southwest line of said 2,548 square foot tract, with the southeast line of said Lot 1, Block B/927, a distance of 19.03 feet to the northeast line of said Utility Easement to the City of Dallas for the beginning of a non-tangent circular curve to the left having a radius of 707.34 feet, whose chord bears South 65 degrees 00 minutes 06 seconds East, a distance of 13.48 feet;

THENCE Southeasterly, departing the southeast line of said Lot 1, Block B/927, with the northeast line of said Utility Easement to the City of Dallas and with said curve, through a central angle of 01 degree 05 minutes 32 seconds, an arc distance of 13.48 feet to the end of said curve;

THENCE North 26 degrees 22 minutes 40 seconds East, continuing with the northeast line of said Utility Easement to the City of Dallas, a distance of 1.50 feet to a point for corner;

THENCE South 63 degrees 37 minutes 20 seconds East, continuing with the northeast line of said Utility Easement to the City of Dallas, a distance of 11.61 to the point of tangency of a tangent circular curve to the right having a radius of 297.00 feet, whose chord bears South 52 degrees 23 minutes 18 seconds East, a distance of 115.72 feet;

THENCE Southeasterly, continuing with the northeast line of said Utility Easement to the City of Dallas and with said curve, through a central angle of 22 degrees 28 minutes 05 seconds, an arc length of 116.47 feet to the northwest right-of-way line of said Payne Street for the end of said curve;

THENCE South 53 degrees 45 minutes 09 seconds West, departing the northeast line of said Utility Easement to the City of Dallas, with the northwest right-of-way line of said Payne Street, a distance of 22.05 feet to the POINT OF BEGINNING AND CONTAINING 0.0673 of an acre or 2,930 square feet of land, more or less.

(For SPRG use only)	
Reviewed By:	<u>JL</u>
Date:	<u>5-26-15</u>
SPRG NO.:	<u>3314</u>

UTILITY EASEMENT ABANDONMENT
ERVINS ADDITION
BLOCK NUMBER E/927-1/2
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Notes:

The Basis of Bearings being the southeast line (South 50 degrees 34 minutes 02 seconds West) of Lot 1, Block B/927 of AMERICAN AIRLINES CENTER GARAGE AT VICTORY, an addition to the City of Dallas, Dallas County, Texas, as recorded in Volume 2001138, Page 30, D.R.D.C.T.

Heath W. B. 5-5-2015

Heath W. Brown
Registered Professional Land Surveyor
Texas No. 6189
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
214-346-6326
TBPLS Firm No. 10029600



(For SPRG use only)
Reviewed By: JL
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EXHIBIT A

0 20 40 60 80

SCALE: 1"=40'



(A)

PART OF ALAMO STREET
VOL. 64, PG. 403
D.R.D.C.T.
ABANDONED BY
CITY ORDINANCE NO. 2730

1/2" FIR
W/ CAP
(C.M.)

5' DRAINAGE
EASEMENT RESERVED
IN REVERSION NOTICE
VOL. 2001195, PG. 166
D.R.D.C.T.

LOT 1, BLOCK B/927 OF
AMERICAN AIRLINES CENTER
GARAGE AT VICTORY
VOL. 2001138, PG. 30
D.R.D.C.T.

JOHN GRIGSBY SURVEY,
ABSTRACT NUMBER 495

$\Delta=01^{\circ}05'32''$ (LT)
R=707.34'
L=13.48'
CL=13.48'
CB= $S65^{\circ}00'06''E$

$N26^{\circ}22'40''E$
1.50'

BLOCK E/927-1/2
ERVINS ADDITION
VOL. 64, PG. 403
D.R.D.C.T.

UTILITY EASEMENT TO
THE CITY OF DALLAS
VOL. 5243, PG. 474
D.R.D.C.T.

$N50^{\circ}34'02''E$
19.03'

$S63^{\circ}37'20''E$
11.61'

(CALLED 2.471 ACRE TRACT)
CITY OF DALLAS
VOL. 99157, PG. 2252
D.R.D.C.T.

10.32'x5' WATER EASEMENT
VOL. 2001138, PG. 30
D.R.D.C.T.

$S50^{\circ}34'02''W$
43.53'

UTILITY EASEMENT TO
THE CITY OF DALLAS
VOL. 5243, PG. 474
D.R.D.C.T.

$\Delta=22^{\circ}28'05''$ (RT)
R=297.00'
L=116.47'
CL=115.72'
CB= $S52^{\circ}23'18''E$

1/2" FIR
W/ CAP
(C.M.)

$\Delta=01^{\circ}44'29''$ (LT)
R=3,751.34'
L=114.02'
CL=114.02'
CB= $N37^{\circ}49'48''W$

BLOCK
D/395

ALAMO STREET CLOSED AND VACATED
BY CITY ORDINANCE NO. 24273
(CALLED 0.1843 ACRE TRACT)
VOL. 2000111, PG. 2097
CITY ORDINANCE NO. 8230
VOL. 98049, PG. 1438
D.R.D.C.T.

$N43^{\circ}02'23''W$
41.72'

UTILITY EASEMENT
ABANDONMENT
2,930 SQ. FT.
OR
0.0673 ACRES

NORTH STREET
VOL. 67 WIDE R.O.W.
VOL. 99126, PG. 5769
D.R.D.C.T.

(CALLED 2.418
ACRE TRACT)
CITY OF DALLAS, TEXAS
VOL. 99126, PG. 05769
D.R.D.C.T.

POINT OF BEGINNING

1/2" FIR
W/ CAP

POINT OF COMMENCING

5' KIOSK
EASEMENT AGREEMENT
INSTR. NO. 201400269661
O.P.R.D.C.T.

PAYNE STREET
(64' WIDE R.O.W.)
VOL. 64, PG. 403
VOL. 99157, PG. 2252
D.R.D.C.T.

LOT 1B, BLOCK C/369
HANOVER VICTORY
LOTS 1A & 1B, BLOCK C/369
INST. NO. 200503614100
O.P.R.D.C.T.

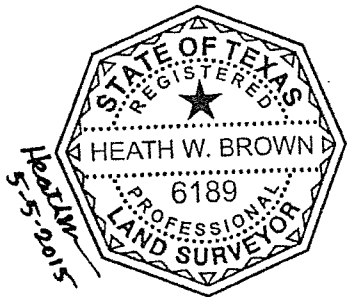
Notes:

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LEGEND

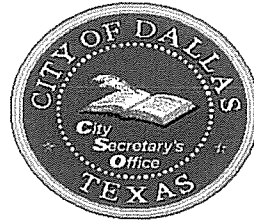
- (C.M.) CONTROLLING MONUMENT
- R.O.W. RIGHT-OF-WAY
- D.R.D.C.T. DEED RECORDS OF DALLAS COUNTY, TEXAS
- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS
- 1/2" FIR W/ CAP 1/2-INCH FOUND IRON ROD WITH YELLOW PLASTIC CAP
- INST. NO. STAMPED 'HALFF'
- VOL. INSTRUMENT NUMBER
- PG. VOLUME PAGE



UTILITY EASEMENT ABANDONMENT
ERVINS ADDITION
BLOCK NUMBER E/927-1/2
CITY OF DALLAS, DALLAS COUNTY, TEXAS



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PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JUN 17 2015

ORDINANCE NUMBER 29774

DATE PUBLISHED JUN 20 2015

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose G. Sims".