

ORDINANCE NO. 30552

An ordinance providing for the abandonment and relinquishment of a water easement, located in City Block 10/740 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to JBGL Chateau, 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 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 JBGL Chateau, LLC, a Texas 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 to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said water 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 Sections 8 and 9, 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 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 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 hereby authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund, 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, Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund, Fund 0625, Department BMS, Unit 8888, Revenue Code 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 areas 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 as a condition of this abandonment, relinquishment and quitclaim made herein, **GRANTEE** shall:

- a) execute and complete the terms of a Private Development Contract (P-Contract) with the City of Dallas "City". City shall retain easement until water services are abandoned;
- b) follow Dallas Water Utilities design standards for any new water services.

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 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 11. That this contract is designated as Contract No. DEV-2017-0001606.

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:
LARRY E. CASTO, City Attorney

DAVID COSSUM, Director
Department of Sustainable Development and
Construction

BY:
Assistant City Attorney

BY:
SOL Assistant Director

Passed AUG 9 2017 .

30552

171188

**WATER EASEMENT ABANDONMENT
SWISS AVENUE SURGICENTER
LOT 2, BLOCK 10/740
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

Exhibit A

BEING A 300 SQUARE FOOT (0.007 ACRES) TRACT OF LAND SITUATED IN THE JOHN GRIGSBY SURVEY, ABSTRACT NO. 495, CITY OF DALLAS, DALLAS COUNTY, TEXAS, AND BEING A PORTION OF LOT 2, BLOCK 10/740 OF SWISS AVENUE SURGICENTER, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2003064, PAGE 135, DEED RECORDS OF DALLAS COUNTY, TEXAS (D.R.D.C.T.), AND BEING A PORTION OF THAT 0.875 ACRE TRACT OF LAND DESCRIBED IN THE SPECIAL WARRANTY DEED TO JBGL CHATEAU, LLC, RECORDED IN INSTRUMENT NUMBER 201600101284, OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS (O.P.R.D.C.T), SAID 300 SQUARE FOOT TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 3/8-INCH IRON ROD FOUND FOR THE EAST CORNER OF SAID LOT 2, BLOCK 10/740 ALSO BEING THE SOUTH CORNER OF THAT CALLED 1.36 ACRE TRACT OF LAND DESCRIBED TO 4125 SWISS LLC IN THE SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN INSTRUMENT NUMBER 201500124008, SAME BEING IN THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SWISS AVENUE (80-FOOT PUBLIC RIGHT-OF-WAY) RECORDED IN VOLUME 45, PAGE 56, MAP RECORDS OF DALLAS COUNTY, TEXAS (M.R.D.C.T.);

THENCE SOUTH 44°34'58" WEST ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID SWISS AVENUE, A DISTANCE OF 114.70 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 44°34'58" WEST, CONTINUING ALONG THE NORTHWESTERLY RIGHT-OF-WAY OF SAID SWISS AVENUE, A DISTANCE OF 20.00 FEET TO A POINT FOR CORNER, FROM WHICH A 3-1/4-INCH ALUMINUM DISK STAMPED "SWISS RPLS 4838" FOUND FOR THE EAST END OF A CORNER CLIP DEDICATED TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS ACCORDING TO THE AFOREMENTIONED PLAT OF SWISS AVENUE SURGICENTER, SAME BEING THE INTERSECTION WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF HASKELL AVENUE (50 FOOT PUBLIC RIGHT-OF-WAY) (FORMERLY KNOWN AS ANN STREET) PARTIALLY RECORDED IN VOLUME 45, PAGE. 56, M.R.D.C.T BEARS SOUTH 44°34'58" WEST A DISTANCE OF 82.50 FEET;

THENCE, DEPARTING THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SWISS AVENUE, OVER AND ACROSS SAID LOT 2, BLOCK 10/740 THE FOLLOWING:

NORTH 45°25'02" WEST, A DISTANCE OF 15.00 FEET TO A POINT FOR CORNER,

NORTH 44°34'58" EAST, A DISTANCE OF 20.00 FEET TO A POINT FOR CORNER,

SOUTH 45°25'02" EAST, A DISTANCE OF 15.00 FEET TO THE **POINT OF BEGINNING** AND CONTAINING A COMPUTED AREA OF 300 SQUARE FEET OR (0.007 ACRES) OR OF LAND.

NOTES:

THE BEARINGS CALLED FOR HEREIN ARE REFERENCED TO THE STATE PLANE COORDINATE SYSTEM (TEXAS NORTH CENTRAL ZONE 4202, NAD 83) BASED ON LEICA GEOSYSTEMS NORTH TEXAS SMARTNET NETWORK,

A SKETCH WAS PREPARED ON EVEN DATE TO ACCOMPANY THIS DESCRIPTION.

(For SPRG use only)

Reviewed by: A. Rodriguez

Date: 1/10/17

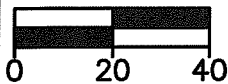
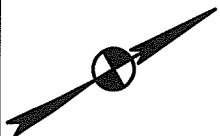
SPRG NO: 3953



30552

171188

Exhibit A



1" = 40'

HASKELL AVENUE

(F.K.A. ANN STREET)
(50' PUBLIC R.O.W.)
VOL. 45, PG. 56, M.R.D.C.T.

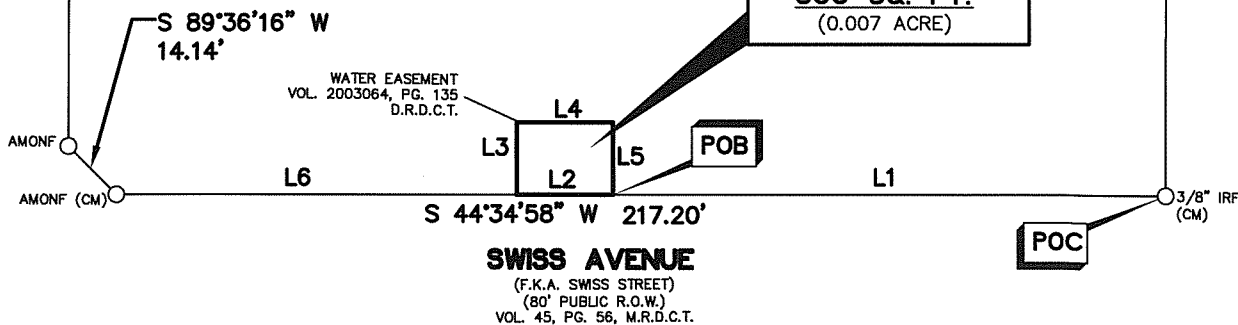
PORTION OF LOT 2, BLOCK 10/740 SWISS AVENUE SURGICENTER
VOL. 2003064, PG 135
D.R.D.C.T.

JBGL CHATEAU, LLC,
INST. NO. 201600101284
O.P.R.D.C.T.

JOHN GRIGSBY SURVEY,
ABSTRACT NO. 495

**WATER EASEMENT
ABANDONMENT
300 SQ. FT.
(0.007 ACRE)**

CALLED 1.36 ACRES 4125 SWISS, LLC.
INST. NO. 201500124008
O.P.R.D.C.T.



LEGEND

- AMONF 3 1/4-INCH ALUMINUM DISK STAMPED "SWISS RPLS 4838" FOUND
- IRF IRON ROD FOUND
- CIRF IRON ROD FOUND WITH YELLOW PLASTIC CAP STAMPED "BURY" (UNLESS OTHERWISE NOTED)
- (CM) CONTROLLING MONUMENT
- D.R.D.C.T. DEED RECORDS OF DALLAS COUNTY, TEXAS
- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS
- M.R.D.C.T. MAP RECORDS OF DALLAS COUNTY, TEXAS
- VOL./PG. VOLUME, PAGE
- INST. NO. INSTRUMENT NUMBER
- POC** POINT OF COMMENCING
- POB** POINT OF BEGINNING
- R.O.W. RIGHT-OF-WAY

LINE TABLE

LINE #	BEARING	DISTANCE
L1	S44°34'58"W	114.70'
L2	S44°34'58"W	20.00'
L3	N45°25'02"W	15.00'
L4	N44°34'58"E	20.00'
L5	S45°25'02"E	15.00'
L6	S44°34'58"W	82.50'

(FOR SPRG USE ONLY)

REVIEWED BY: A. Rodriguez

DATE: 1/10/17

SPRG NO. 3953

NOTES:

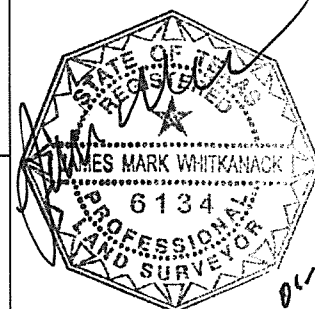
A FIELD NOTE DESCRIPTION WAS PREPARED ON EVEN DATE TO ACCOMPANY THIS SKETCH.

BEARINGS SHOWN HEREON ARE REFERENCED TO THE STATE PLANE COORDINATE SYSTEM (TEXAS NORTH CENTRAL ZONE 4202, NAD 83) BASED ON LEICA GEOSYSTEMS NORTH TEXAS SMARTNET NETWORK.



12222 Merit Drive, Suite 400
Dallas, Texas 75251
Tel. (972) 991-0011
TBPE # 6324 TBPLS # 10194229

**WATER EASEMENT ABANDONMENT
SWISS AVENUE SURGICENTER
LOT 2, BLOCK 10/740
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS**



JAMES M. WHITKANACK
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6134

DATE: 1/2/2017

SCALE: 1" = 40'

DRAWN BY: GA

PROJECT NO.: 222210366

SHEET 2 OF 2



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 AUG 9 2017

ORDINANCE NUMBER 30552

DATE PUBLISHED AUG 12 2017

ATTESTED BY: