

ORDINANCE NO. 31710

An ordinance providing for the abandonment and relinquishment of a portion of a utility easement, located in City Block Q/8710 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Arcadia Land Partners 20, 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 Arcadia Land Partners 20, 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 Sections 8 and 9, 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, 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 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 as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall ensure that design standards and sidewalks be maintained similar to the neighboring lots.

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 ordinance is also designated for City purposes as Contract No. DEV-2020-00012031.

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:
CHRISTOPHER J. CASO,
City Attorney

KRIS SWECKARD, Director
Department of Sustainable
Development and Construction

BY


Assistant City Attorney

BY


Assistant Director

DEC 09 2020

Passed _____

31710

Exhibit A

201888

UTILITY EASEMENT ABANDONMENT
CAPELLA PARK PHASE 1 REVISED
LOT 7A & 7B, BLOCK Q/8710
WILLIAM O'GWINN SURVEY, ABSTRACT NO. 1104
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 1,100 square feet, 0.025 acre parcel of land located in the City of Dallas, Dallas County, Texas, a part of the William O'Gwinn Survey, Abstract No. 1104, and being part of Lot 7A and 7B, Block Q/8710, Capella Park Phase 1 Revised, an addition to the City of Dallas, as recorded in Instrument Number 20080042331, Official Public Records of Dallas County, Texas, and being all of a 10' Utility Easement recorded in Instrument Number 20080042331, Official Public Records of Dallas County, Texas, and also being a part of that tract of land described in Special Warranty Deed to Arcadia Land Partners 20, Ltd. As recorded in Volume 2005140, Page 4802, Official Public Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a one-half inch iron rod found in the southwest line of said Lot 7A, said point being in the northeast right-of-way line of Sistine Mews, a 20 foot right-of-way as recorded in Instrument Number 20070022123, Official Public Records of Dallas County, Texas;

THENCE North 25 degrees 25 minutes 11 seconds West, 3.48 feet along the southwest line of said Lot 7A, Block Q/8710 and along the northeast right-of-way line of Sistine Mews to a point for corner;

THENCE North 64 degrees 34 minutes 49 seconds East, 110.00 feet to a point for corner in the northeast line of said Lot 7A, Block Q/8710, said point also being in the southwest right-of-way line of Patience Boulevard, a 36 foot right-of-way as recorded in Instrument Number 20070022123, Official Public Records of Dallas County, Texas;

THENCE South 25 degrees 25 minutes 11 seconds East, 10.00 feet to a point for corner in the northeast line of said Lot 7B, said point also being in the southwest right-of-way line of Patience Boulevard, from which a one-half inch iron rod found for corner bears South 25 degrees 25 minutes 11 seconds East, 1.62 feet along the northeast line of said Lot 7B and along the southwest right-of-way line of Patience Boulevard;

THENCE South 64 degrees 34 minutes 49 seconds West, 110.03 feet to a point for corner in the southwest line of said Lot 7B, said point being in the northeast right-of-way line of Sistine Mews;

THENCE Northwesterly, 6.52 feet along the northeast right-of-way line of Sistine Mews following a non-tangent curve to the left having a central angle of 00 degrees 36 minutes 10 seconds, a radius of 620.00 feet, a tangent of 3.26 feet, and whose chord bears North 25 degrees 07 minutes 06 seconds West, 6.52 feet to the POINT OF BEGINNING and containing 1,100 square feet or 0.025 acres of land.

BASIS OF BEARING IS THE SOUTHWEST LINE OF PATIENCE BOULEVARD (BEING SOUTH 25 DEGREES 25 MINUTES 11 SECONDS EAST) AS RECORDED IN INSTRUMENT NUMBER 20070022123, OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS.



(For SPRG use only)
Reviewed by: G.S.
Date: 12-16-19
SPRG No. 5127

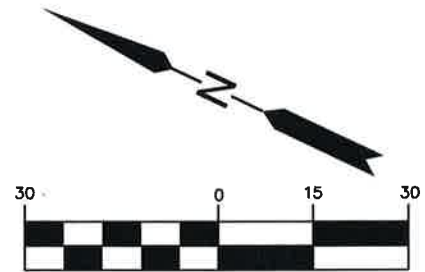
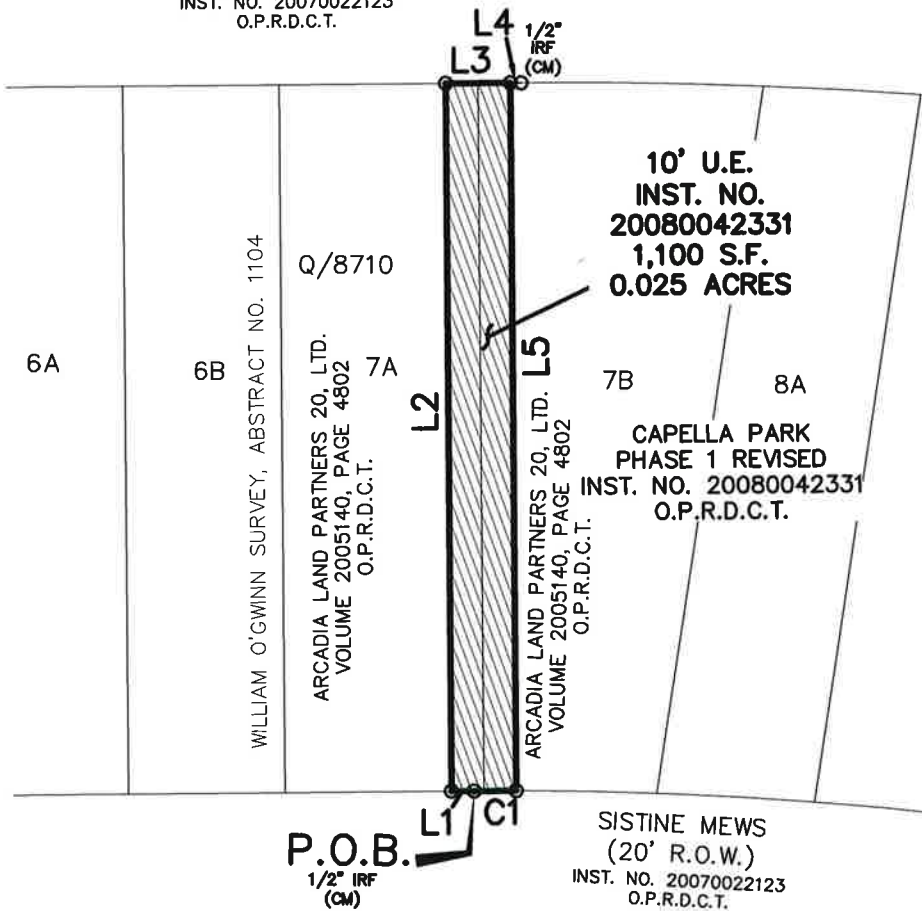
Mark W. Harp
MARK W. HARP, R.P.L.S. NO. 6425
DECEMBER 3, 2019

31710

**UTILITY EASEMENT ABANDONMENT
 CAPELLA PARK PHASE 1 REVISED
 LOT 7A & 7B, BLOCK Q/8710
 WILLIAM O'GWINN SURVEY, ABSTRACT NO. 1104
 CITY OF DALLAS, DALLAS COUNTY, TEXAS**

**Exhibit A
 201888**

PATIENCE BLVD
 (36' R.O.W.)
 INST. NO. 20070022123
 O.P.R.D.C.T.



(IN FEET)
 1 inch = 30 ft.

| LINE TABLE | | |
|------------|-------------|---------|
| NO. | BEARING | LENGTH |
| L1 | N25°25'11"W | 3.48' |
| L2 | N64°34'49"E | 110.00' |
| L3 | S25°25'11"E | 10.00' |
| L4 | S25°25'11"E | 1.62' |
| L5 | S64°34'49"W | 110.03' |

LEGEND

- POB POINT OF BEGINNING
- IRF IRON ROD FOUND
- CM CONTROL MONUMENT
- S.F. SQUARE FEET
- U.E. UTILITY EASEMENT
- INST. NO. INSTRUMENT NUMBER
- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS
- R.O.W. RIGHT-OF-WAY

| CURVE TABLE | | | | | | |
|-------------|--------|-----------|---------|---------|---------------|-------|
| NO. | LENGTH | DELTA | RADIUS | TANGENT | CHORD BEARING | CHORD |
| C1 | 6.52' | 00°36'10" | 620.00' | 3.26' | N25°07'06"W | 6.52' |

BASIS OF BEARING IS THE SOUTHWEST LINE OF PATIENCE BOULEVARD (BEING SOUTH 25 DEGREES 25 MINUTES 11 SECONDS EAST) AS RECORDED IN INSTRUMENT NUMBER 20070022123, OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS.

(For SPRG use only)

Reviewed by: G.S.

Date: 12-16-19

SPRG No. 5127



Mark W. Harp
 MARK W. HARP, R.P.L.S. NO. 6425
 DECEMBER 3, 2019

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|--------------------------------------|---------------------------------------|-------------|----------|
| JBI PARTNERS | UTILITY EASEMENT ABANDONMENT | | |
| | WM. O'GWINN SURVEY, ABSTRACT NO. 1104 | | |
| CITY OF DALLAS, DALLAS COUNTY, TEXAS | | | |
| OPER. NAME | FILE NAME | SCALE | DATE |
| MWH | ESMT-UE ABNDT-2 | 1"=30' | 12/03/19 |
| SURV. TECH | FOLDER | FILE NUMBER | |
| WBD | PAGE 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 DEC 09 2020

ORDINANCE NUMBER 31710

DATE PUBLISHED DEC 12 2020

ATTESTED BY: