ORDINANCE NO. _____

An ordinance providing for the abandonment of a portion of Alma Street located adjacent to City Blocks H/888 and 1111 in the City of Dallas and County of Dallas, Texas; subject to a reverter; providing for the quitclaim thereof to Cedars Corinth Owner LLC; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for barricading; providing for the conveyance of needed land to the City of Dallas; 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 a future effective date for this abandonment and providing an effective date for this ordinance.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Cedars Corinth Owner LLC, a Delaware limited liability company, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim, subject to a reverter, the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions and reverter herein provided, said portion of Alma Street 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 will be served by abandoning and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms, conditions and reverter hereinafter more fully set forth;

Now, Therefore,

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

SECTION 1. That the tracts 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 reverter and the conditions and future effective date hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **ONE HUNDRED FIFTY-SEVEN THOUSAND NINE HUNDRED NINETY-ONE AND 00/100 DOLLARS ($157,991.00)** paid by **GRANTEE**, and the further consideration described in Sections 8, 9, 10, 11, 12, 15, and 16 the City of Dallas does by these presents **QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date the reverter, 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 tracts of land hereinabove described in Exhibit A . Provided however, that if **GRANTEE,** its successors and assigns, fails to file a final replat of the adjoining properties as required in Section 10 of this ordinance, but no later than the earlier of (i) the date applicable pursuant to the requirements of the Dallas Development Code Chapter 51A-8.403(a)(4)(D) which provides in pertinent part, as may be amended:

> "(D) Except as provided in this subparagraph, a preliminary plat approved by the commission expires five years after the commission action date approving the plat if no progress has been made toward completion of the project in accordance with Texas Local Government Code Section 245.005. An approved minor plat, amending plat (minor), or an administrative plat expires two years after the commission action date approving the plat or within two years after the date of the subdivision administrator's action letter approving the administrative plat if no progress has been made toward completion of the project in accordance with Texas Local Government Code Section 245.005";

or (ii) the date that is the sixth anniversary of the passage of this ordinance; THEN this ordinance and quitclaim shall be rendered null and void and the right, title and easement of the public shall absolutely revert without any necessity for suit or re-entry by the City; and no act or omission on the part of the City, its successors and assigns, shall be a waiver of the operation or enforcement of this ordinance. **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**.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, future effective date 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 FRM, Balance Sheet Account 0519 and Department of Facilities and Real Estate Management 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 FRM, Unit 1181, 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 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 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. 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 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 areas set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas 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

SECTION 8. (continued)

and quitclaim by the City of Dallas of the areas 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 part of the consideration for the quitclaim made herein, **GRANTEE** shall:

a) ensure existing 6-inch wastewater main is cut and plugged per engineering plans WW23-167 and by Private Development Contract;

b) complete the right of way dedications required by Sections 11 and 12 of this ordinance; and

c) dedicate a 25-foot water easement for proposed 16-inch water main per engineering plans WW23-167 and Private Development Contract as further described in Section 10 of this ordinance and ensure and cause relocation of said 16-inch water main into the newly dedicated water easement area;

d) ensure Dallas Area Rapid Transit ("DART") personnel and emergency response personnel have uninterrupted access to **GRANTEE'S** property entrance gate off Botham Jean Boulevard ("the Botham Jean Gate") via electronic access code at all

times. **GRANTEE** shall also ensure DART's unrestricted access through the installed eight (8)-foot-wide gate that provides access to the DART Light Rail Right-of-Way adjacent to the eastern boundary of **GRANTEE'S** property ("the DART ROW Gate") and shall provide DART with the current access code for the DART ROW Gate at all times. **GRANTEE** shall provide and maintain a designated parking space for DART and emergency response personnel. **GRANTEE** shall ensure that both gates, the access route from the Botham Jean Gate through **GRANTEE'S** property to the DART ROW Gate, and the designated parking space remain unobstructed at all times to facilitate emergency response activities and to permit DART personnel to inspect, maintain, and repair DART's Light Rail Transit infrastructure and facilities.

SECTION 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall record a final replat of the adjoining properties within one year of the effective date of this ordinance showing the dedication of a water easement of not less than 7,738 square feet of needed land in City Blocks H/888 and 1111. This final replat shall be recorded by **GRANTEE** in the official real property records of the county in which the abandoned areas and the dedicated property are located, after its approval by the City Plan Commission of the City of Dallas. This abandonment shall not be effective unless and until this dedication is completed and failure to record a final replat in accordance with the term of this section shall render this ordinance null and void and of no further effect. Further, the final replat shall be recorded in the official real property records of the county in which the abandoned area is located before a certified copy of this ordinance shall be delivered to **GRANTEE**.

SECTION 11. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall convey by General Warranty Deed to the City of Dallas, within 90 days of the effective date of this ordinance, good, indefeasible and marketable fee simple title, subject to only those title exceptions approved by the City Attorney, and insured by an owner's policy of title insurance approved as to form by the City Attorney, to certain properties located in City Blocks H/888 and 1111, containing a total of approximately 6,852 square feet of land, descriptions of which are attached hereto and made a part hereof as Exhibit C, Tracts 2 and 3. This abandonment shall not be effective unless and until this dedication is completed as herein provided and failure to convey the

above-described property as set forth shall render this ordinance null and void and of no further effect.

SECTION 12. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall convey by Street Easement to the City of Dallas, within 90 days of the effective date of this ordinance an easement interest subject to only those title exceptions approved by the City Attorney, to certain properties located in City Block H/888, containing approximately 280 square feet of land , a description of which is attached hereto and made a part hereof as Exhibit C, Tract 1. This abandonment shall not be effective unless and until this dedication is completed as herein provided and failure to convey the above described property as set forth shall render this ordinance null and void and of no further effect.

SECTION 13. That at such time as the instruments described in Sections 11 and 12 above are executed and delivered to the City of Dallas and have been approved as to form by the City Attorney it be accepted, and thereafter, the Director of Department of Facilities and Real Estate Management is authorized and directed to record said instruments in the official real property records of the county in which the subject properties are located.

SECTION 14. That this ordinance and properly executed General Warranty Deed(s) and Street Easement, approved as to form by the City Attorney, be forwarded to a title insurance company for closing. Subsequent to closing, all instruments conveying real estate interests to the City of Dallas shall be recorded in the official real property records of the county in which the subject property is located and thereafter returned to the City Secretary for permanent record.

SECTION 15. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall pay all closing costs and title expenses associated with the acquisition of the property described in Sections 11 and 12 above.

SECTION 16. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the effectiveness of this abandonment, close, barricade and/or place signs in the areas described in Exhibit A in accordance with detailed plans approved by the Director of Department of Facilities and Real Estate Management. **GRANTEE's** responsibility for keeping the areas described in Exhibit A closed, barricaded and/or the 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 Facilities and Real Estate Management.

SECTION 17. 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 areas are located, which certified copy shall be delivered to the Director of Department of Facilities and Real Estate Management, or designee. Upon receipt of the monetary consideration set forth in Sections 2 and 15, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, and the filing of the final replat set forth in Section 10 and completion of the dedications set for in Sections 10, 11, and 12, the Director of Department of Facilities and Real Estate Management, 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, subject to a reverter interest, 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 Facilities and Real Estate Management, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 18. That this ordinance is also designated for City purposes as Contract No. FRM- 2023-00021585.

[Remainder of this page left blank, intentionally. Signatures appear on the following page.]

SECTION 19. 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:
BERTRAM A. VANDENBERG,
Interim City Attorney

BY _____
Assistant City Attorney

JOHN JOHNSON, Chief of Real Estate
Department of Facilities and Real Estate
Management

BY _____
FOR Assistant Director

Passed _____.