

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 3/14/2013

Action Requested By:
Legal

Agenda Item Type
Ordinance

Subject Matter:

Granting of a Temporary Construction Easement.

Exact Wording for the Agenda:

Ordinance authorizing the Mayor to execute a Grant of Temporary Construction Easement for property located at 200 West Court Square.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

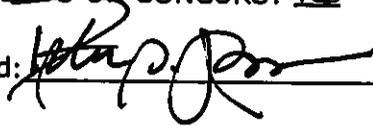
Unanimous Consent Required: Yes

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 3-11-13

ORDINANCE NO. 13-_____

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama, as follows:

WHEREAS, the City of Huntsville Alabama is the owner of land along 200 West Court Square where improvements are being constructed; and

WHEREAS, San Francisco Residence Club, Inc., a California corporation, Kate Donahue, Thomas O'Shea and Anne Donahue O'Shea as Trustees of The Trust of Thomas and Anne Donahue O'Shea, are in need of temporary construction easement from the City of Huntsville for the 200 West Court Square project; and

WHEREAS, the easement will expire on March 14, 2014, or upon completion of the project, whichever is sooner; and

WHEREAS, it is in the best interest of the City to grant such a Temporary Construction Easement to San Francisco Residence Club, Inc., a California corporation, Kate Donahue, Thomas O'Shea and Anne Donahue O'Shea as Trustees of The Trust of Thomas and Anne Donahue O'Shea.

NOW, THEREFORE BE IT ORDAINED the Mayor of the City of Huntsville, Alabama, is hereby authorized, requested and directed to execute a Temporary Construction Easement hereinafter described, said Temporary Construction Easement being substantially in words and figures as follows, to-wit:

STATE OF ALABAMA

COUNTY OF MADISON

GRANT OF TEMPORARY CONSTRUCTION EASEMENT

THIS INDENTURE made and entered into by and between CITY OF HUNTSVILLE, a municipal corporation in the State of Alabama (the "Grantor"), and San Francisco Residence Club, Inc., a California corporation, Kate Donahue, a single person, and Thomas O'Shea and Anne Donahue O'Shea as Trustees of The Trust of Thomas and Anne Donahue O'Shea (collectively the as "Grantees").

WITNESSETH: That the said Grantor, for and in consideration of the sum of ONE AND NO/100 (\$1.00) DOLLAR, to them cash in hand paid this day by the Grantees, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has this day given, granted, bargained, sold, conveyed and confirmed, and by these presents does hereby give, grant, bargain, sell, convey and confirm unto the said Grantees, a temporary construction easement over, upon and along the following described tract or parcel of land in the City of Huntsville, County of Madison, State of Alabama, in order to enable Grantees to work on their below described property, the temporary construction easement so granted being described as follows, to-wit:

A 320' by 12' area, being 3840 square feet +/- located on the south side of Grantees' property located at 200 West Court Square, Huntsville, Alabama 35801

THE ABOVE DESCRIBED TEMPORARY CONSTRUCTION EASEMENT SHALL AUTOMATICALLY TERMINATE AND ALL RIGHTS SHALL REVERT TO GRANTOR UPON THE EXPIRATION OF TWELVE MONTHS FROM THE DATE HEREOF WITHOUT FURTHER ACTION BY EITHER PARTY.

By their acceptance of delivery of this instrument the Grantees covenant and bind themselves and their respective heirs, successors and assigns to repair and restore all landscaping that may be required to be cut or to be temporarily removed, and to clean up and remove all surplus dirt, rock and other debris, caused by or resulting from the work necessitating the acquisition of this easement and to restore the surface of the land where any such work or activity is done or carried on its former condition or better.

TO HAVE AND TO HOLD, the easement above described together with all and singular the rights, privileges, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, unto the said Grantee and unto Grantee's successors or assigns, forever.

IN WITNESS WHEREOF, Grantor has caused this Deed to be signed in its behalf by its Mayor and attested by its Clerk-Treasurer, this ____ day of _____, 2013.

**CITY OF HUNTSVILLE, ALABAMA,
an Alabama municipal corporation**

By: _____
Tommy Battle, Mayor

ATTEST:

By: _____
Charles E. Hagood
Clerk-Treasurer

STATE OF ALABAMA

COUNTY OF MADISON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Tommy Battle and Charles E. Hagood, whose names as Mayor and City Clerk-Treasurer, respectively, of the CITY OF HUNTSVILLE, an Alabama municipal corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of this instrument, they, as such officers and with full authority, executed the same for and as the act of said City of Huntsville, an Alabama municipal corporation, as of the day the same bears date.

Given under my hand and official seal this the ____ day of _____, 2013.

NOTARY PUBLIC

My commissioner expires: _____

This Instrument Prepared By:
Samuel H. Givhan
Attorney for Grantor
Wilmer & Lee, P.A.
100 Washington Street
Huntsville, Alabama 35801
Telephone: 256-533-0202

THE PREPARER OF THIS DOCUMENT HAS NOT BEEN REQUESTED TO RENDER AN OPINION, AND NO OPINION IS HEREBY RENDERED, WITH RESPECT TO THE STATE OF TITLE TO THE FOREGOING REAL PROPERTY OR THE ACCURACY OF THE LEGAL DESCRIPTION THEREOF.

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Ordinance No. 13-_____ (Cont.)
San Francisco Residence Club, Inc.

ADOPTED this the 14th day of March, 2013.

President of the City Council
of the City of Huntsville, Alabama

APPROVED this the 14th day of March, 2013.

Mayor of the City of
Huntsville, Alabama