

ORDINANCE NO. 20131212-031

AN ORDINANCE VACATING AN ALLEY RIGHT-OF-WAY BETWEEN RAINEY STREET AND EAST AVENUE, AND DRISKILL STREET AND RIVER STREET, IN BLOCK 2, DRISKILL'S AND RAINEY'S SUBDIVISION OF A PART OF OUTLOTS 72 AND 73, DIVISION E, AUSTIN, TEXAS, KNOWN AS "SOUTH EAST END", A SUBDIVISION OF RECORD IN BOOK 1, PAGE 22 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS TO AUSTIN RAINEY ST. D/E/P, LLC.

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

PART 1. Council approves the vacation of approximately 6,215 square feet of alley right-of-way in the City of Austin, Travis County, Texas, being a portion of a twenty (20) foot wide alley located in Block 2, Driskill's and Rainey's Subdivision of a part of Outlots 72 and 73, Division E, Austin, Texas, known as "South East End", a Subdivision of record in Book 1, Page 22 of the Plat Records of Travis County, Texas to AUSTIN RAINEY ST. D/E/P, LLC as more particularly described in Exhibit A, attached to and incorporated as part of this ordinance.

PART 2. The area being requested for vacation will be used for an eight-story vertical mixed use development with structure parking.

PART 3. A drainage easement and a public utility easement over the vacated portion is reserved from the vacation by the City over and across the area described in Exhibit A which the owner may request a release of under Chapter 14-11, Division B, City Code, if the existing utility and drainage infrastructure are removed from the vacated portion of the alley, new easements are dedicated to the City, and replacement utility lines are installed.

PART 4. AUSTIN RAINEY ST. D/E/P, LLC has posted funds with the City in the amount of \$93,225.00, which is the appraised fair market value of the interests in the land being vacated, and these funds will be deposited after approval of this ordinance.

PART 5. Additional conditions of the vacation described in Part 1 are as identified in Exhibit B to this ordinance.

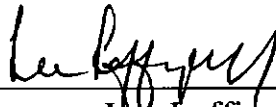
PART 6. As a condition of the vacation described in Part 1, at the closing of the vacation of the property AUSTIN RAINEY ST. D/E/P, LLC must grant to the City a Temporary Access Easement in the vacated property described in Part 1 until such time as the reserved drainage and public utility easement in Part 3 is released by the City and a release of the Temporary Access Easement is filed for record in the Official Public Records of the Texas county in which the easement tract is located.

PART 7. This ordinance takes effect on December 23, 2013.

PASSED AND APPROVED

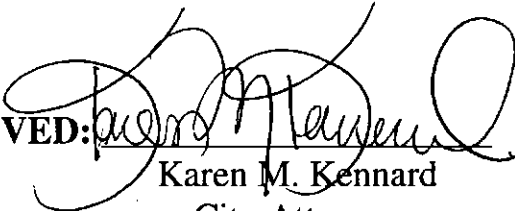
December 12, 2013

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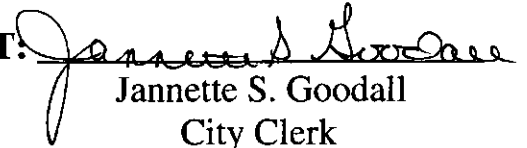
Lee Leffingwell
Mayor

APPROVED:



Karen M. Kennard
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk

FIELD NOTES

FIELD NOTE DESCRIPTION OF 6215 SQUARE FEET OF LAND IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A TWENTY (20) FOOT WIDE ALLEY LOCATED IN BLOCK 2, DRISKILL'S AND RAINEY'S SUBDIVISION OF A PART OF OUTLOTS 72 AND 73, DIVISION E, AUSTIN, TEXAS, KNOWN AS "SOUTH EAST END", A SUBDIVISION OF RECORD IN BOOK 1, PAGE 22 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS. THE SAID 6215 SQUARE FEET OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pipe found at the intersection of the south line of Driskill Street with the west line of the said 20 foot wide alley at the northeast corner of Lot 6, Block 2 of the said Driskill's and Rainey's Subdivision;

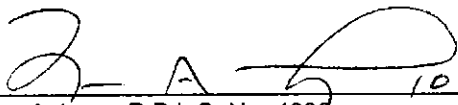
THENCE, S 71°37'10" E, a distance of 20.03 feet to a ½ inch diameter steel pin found at the intersection of the south line of Driskill Street with the east line of the said 20 foot wide alley at the northwest corner of Lot 5, Block 2 of the said Driskill's and Rainey's Subdivision;

THENCE, S 16°13'52" W, a distance of 311.03 feet along the east line of the said 20 foot wide alley, the same being the west line of Lots 1 through 5, Block 2 of the said Driskill's and Rainey's Subdivision, to an iron pipe found at the southwest corner of the said Lot 1, the same being the northwest corner of Lot A, McFarland Addition, a subdivision of record in Book 75, Page 17 of the Plat Records of Travis County, Texas;

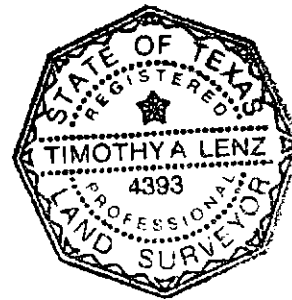
THENCE, N 70°44'56" W, a distance of 20.00 feet, crossing the said 20 foot wide alley, to a ½ inch diameter steel pin found at the southeast corner of Lot 10, Block 2, the same being the northeast corner of Lot 11, Block 2 of the said Driskill's and Rainey's Subdivision;

6215 Square Feet
Alley Vacation
Page 2 of 2

THENCE, N 16°13'26" E, a distance of 310.73 feet along the west line of the said 20 foot wide alley, the same being the east line of Lots 6 through 10, Block 2 of the said Driskill's and Rainey's Subdivision to the **PLACE OF BEGINNING**, containing 6215 square feet of land, more or less.

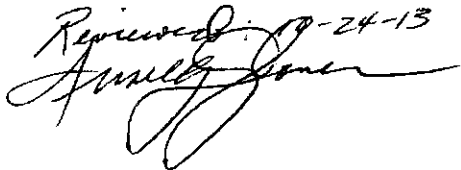

Timothy A. Lenz, R.P.L.S. No. 4393 10-22-2013

Lenz & Associates, Inc.,
Firm #100290-00
4303 Russell Drive
Austin, Texas 78704
(512) 443-1174



BEARING BASIS
Texas State Plane Coordinate System
NAD83 Central Zone
TCAD MAP 02-0303
Austin Grid J-21

2012-0060(alley).doc


Reviewed: 10-24-13


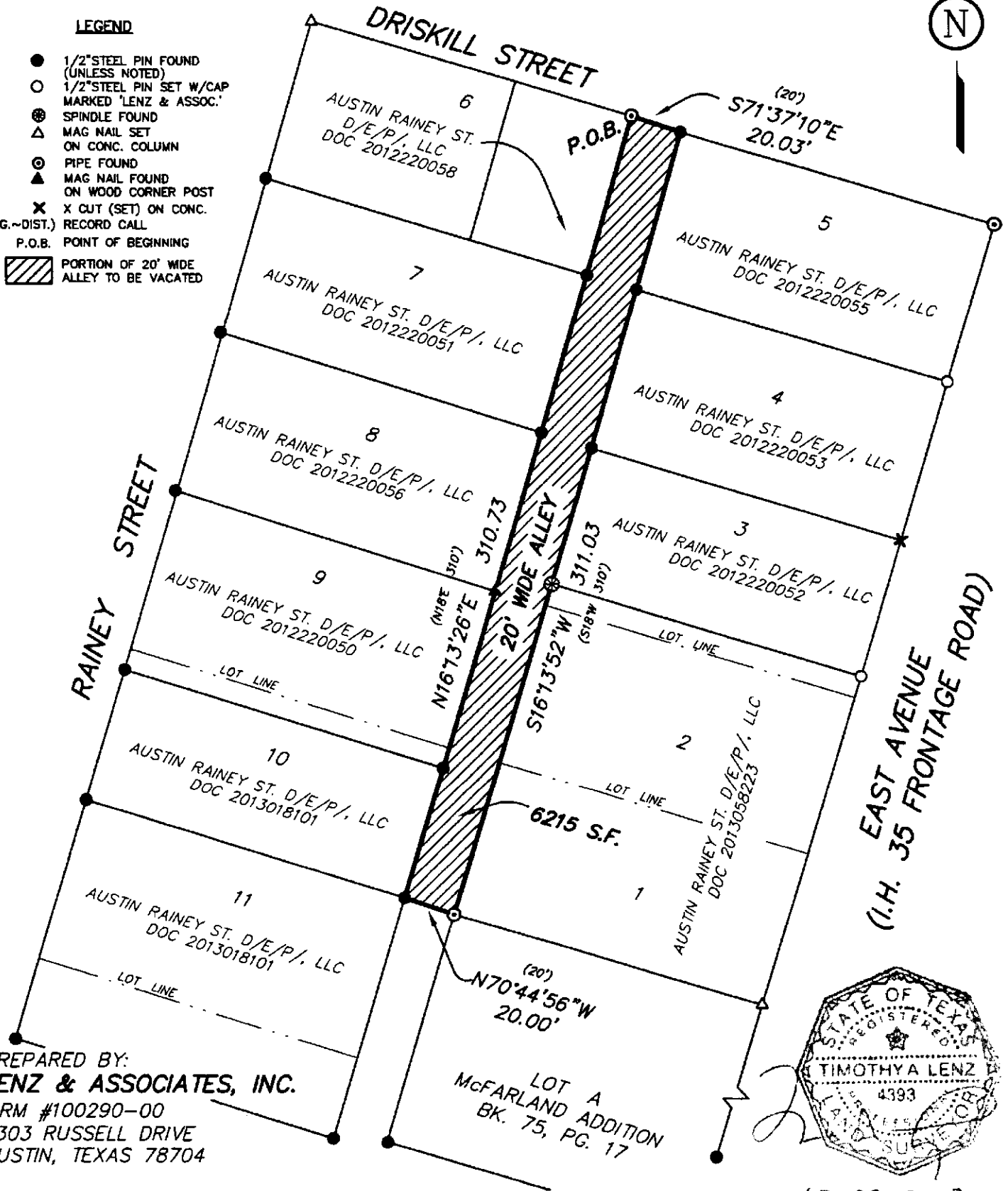
MAP TO ACCOMPANY FIELD NOTES

PORTION OF A 20 FOOT WIDE ALLEY
 BLOCK 2, DRISKILL'S AND RAINEY'S SUBDIVISION OF PART OF OUTLOTS 72 AND 73,
 DIVISION E, AUSTIN, TEXAS, KNOWN AS "SOUTH EAST END", BOOK 1, PAGE 22,
 PLAT RECORDS OF TRAVIS COUNTY, TEXAS

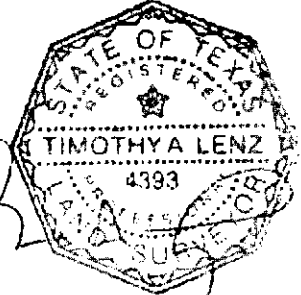


LEGEND

- 1/2" STEEL PIN FOUND (UNLESS NOTED)
- 1/2" STEEL PIN SET W/CAP MARKED 'LENZ & ASSOC.'
- ⊗ SPINDLE FOUND
- △ MAG NAIL SET ON CONC. COLUMN
- ⊙ PIPE FOUND
- ▲ MAG NAIL FOUND ON WOOD CORNER POST
- ✕ X CUT (SET) ON CONC. (BRG.-DIST.) RECORD CALL
- P.O.B. POINT OF BEGINNING
-  PORTION OF 20' WIDE ALLEY TO BE VACATED



PREPARED BY:
LENZ & ASSOCIATES, INC.
 FIRM #100290-00
 4303 RUSSELL DRIVE
 AUSTIN, TEXAS 78704



10-22-2013

EXHIBIT B

- (A) At the closing of the vacation of the property, AUSTIN RAINEY ST. D/E/P, LLC (the "Owner") shall dedicate to the City an Access Easement Tract that is at least 20 feet wide and 20 feet tall and that connects Rainey Street to the portion of the alley way not vacated allowing public pedestrian and vehicle use as well as a public utility easement through the access easement tract.

- (B) At the closing of the vacation of the property, Owner shall deposit an amount equal to \$283,915.00 with the City to pave the remaining portion of the alley not vacated between Rainey Street and East Avenue and Driskill Street and River Street and with the remainder of funds to be directed toward funding a Downtown Alley Master Plan.

- (C) At the closing of the vacation of the property, Owner shall place a restrictive covenant on the property with the following additional terms and conditions, that shall run with the land:

- (1) **AFFORDABLE HOUSING**

At least five (5) percent of the dwelling units on the Property must be reserved as affordable for persons whose household income is equal to or less than eighty (80) percent of the median family income in the Austin statistical metropolitan area, as determined by the director of the Neighborhood Housing and Community Development Office.

The affordable units will be reserved for a period of:

- (i) 40 years from the date a certificate of occupancy is issued for rental units; and

- (ii) 99 years from the date of certificate of occupancy is issued for ownership units.

Ownership units must be transferred to the owner subject to a resale restricted shared equity agreement approved by the director of Neighborhood Housing and Community Office.

For purposes hereof, a unit is affordable for purchase if the household is required to spend no more than 30 percent of its gross monthly income on utilities and mortgage payments for the unit as determined by the City's Neighborhood Housing and Community Development Office, based on the current Annual Median Family Income for the Austin Metropolitan Statistical Area.

The base rent charged by the owner of the Project for the affordable rental units shall be equal to the rent limit for 80% AMFI households as established by HUD and published by the City or AHFC from time to time under the Texas Department of Housing and Community Affairs (TDHCA) rent limits (Austin) by unit size.

The City shall develop procedures to monitor and enforce this requirement.

(2) DESIGN OF ALLEY/ACCESS AREA

- (a) Owner will design and finish out the entrance to the access easement from Rainey Street acceptable in writing to the City to make the area more attractive to pedestrians and communicate the entrance and space as public space and access to the remaining Rainey Street alley way.
- (b) Owner will provide a commercial space that faces Rainey Street and the alley way, in the southern portion of the building next to the alley cut through. This could include a storefront glass from 10 to 15 foot of width, with access from the internal back wall (via separate door), substantially in the location and configuration as illustrated in **Attachment 1 to Exhibit B**. Owner will finish out with drywall, paint and LED lighting.
- (c) Utilitarian elements (e.g. transformers, trash receptacles, etc.) in the alley and access easement are designed in a manner acceptable in writing to the City that enhances the pedestrian environment and are not simply screened from view.

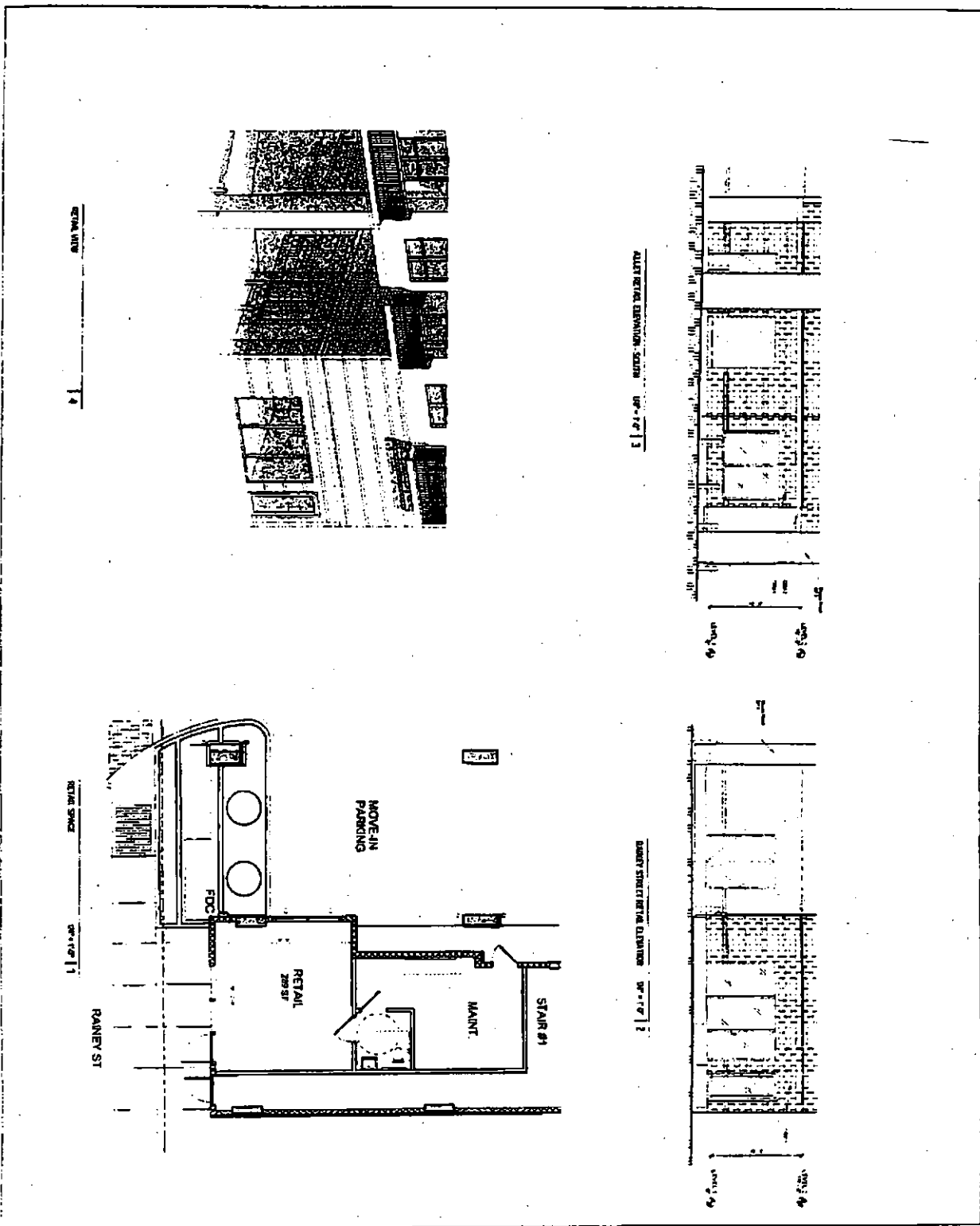
- (d) Owner will reach out to Agora property owner in coordination with the City about allowing a mural or similar artwork to be located on the wall of the Agora building on the east side of the alley.
- (e) Owner will provide pedestrian-friendly lighting in the access easement/alley space acceptable in writing to the City.

(3) ALLEY ACTIVATION

In the interest of activating Austin's downtown alleys as public spaces:

- (a) Owner will allow events in the Access Easement Tract once every month for a period of 24 months after the building has initially achieved ninety percent occupancy.
- (b) Owner and the City will collaborate to coordinate with other property owners adjacent to the alley to get their cooperation for alley events.
- (c) At the closing of the vacation of the property, Owner shall deposit an amount equal to \$9,600 with the City to produce quarterly events in the Rainey Street alley and Access Easement Tract.

ATTACHMENT 1 TO EXHIBIT B



2013 DEC 05
 MILLENNIUM
 RAINEY STREET
 APARTMENTS

RETAIL AT
 MOVE-IN

AS5.2
 2013.11.11