

ORDINANCE NO. 27554

An ordinance providing for the abandonment and relinquishment of portions of a sanitary sewer easement, located in City Block A/2396 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Townhaven Companies, LLC, The Housing Authority of the City of Dallas, Dallas Neighborhood Alliance for Habitat and Dallas Area Habitat for Humanity, Inc.; 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 Townhaven Companies, LLC, a Texas limited liability company, The Housing Authority of the City of Dallas, a Texas public housing authority, Dallas Neighborhood Alliance for Habitat, a Texas non-profit corporation and Dallas Area Habitat for Humanity, Inc., a Texas non-profit corporation; hereinafter referred to collectively as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portions of a sanitary sewer easement are 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 tracts 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 Section 8, 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 those certain tracts or parcels of land hereinabove described in Exhibit A as follows: unto Townhaven Companies, LLC all of its right, title and interest in Tract 1 of Exhibit A; unto The Housing Authority of the City of Dallas all of its right, title and interest in Tract 2 of Exhibit A; and unto Dallas Neighborhood Alliance for Habitat and Dallas Area Habitat for Humanity, Inc. collectively all of its right, title and interest in Tract 3 of 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 City Controller is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Development Services - 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 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 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**, their 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**, their successors and assigns, agree to indemnify, defend, release and hold the City of Dallas whole and harmless against 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 property described in Exhibit A by **GRANTEE**, their 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**, their 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 areas set out in Exhibit A. **GRANTEE**, their 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 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 Development Services, 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 Development Services, or designee shall deliver to **GRANTEE** a certified copy of this ordinance. The Director of Development Services, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 10. 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:
THOMAS P. PERKINS, JR.
City Attorney

THERESA O'DONNELL
Director of Development Services

BY James K. Jones
Assistant City Attorney

BY Theresa O'Donnell
Assistant Director

Passed JUN 10 2009.

27554

091442

**ABANDONMENT OF A PORTION OF
A SANITARY SEWER EASEMENT
LOT 5, BLOCK A/2396
CITY OF DALLAS, DALLAS COUNTY, TEXAS
SHEET 1 OF 2**

EXHIBIT A-TRACT 1

BEING a 413 square foot tract of land situated in the Thomas Lagow Survey, Abstract No. 759, Dallas County, Texas, and being part of that certain 5 foot wide sanitary sewer easement recorded in Volume 2013, Page 271, Deed Records, Dallas County, Texas, and being part of Lot 5, Block A/2396 of Frazier Fellowship West Addition, Phase 2, an Addition to the City of Dallas, Texas, according to the Map thereof recorded in Instrument No. 20080336686, Deed Records, Dallas County, Texas, and being part of that certain tract of land conveyed to Townhaven Companies LLC by Special Warranty Deed recorded in Instrument No. 20070144415, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod with yellow plastic cap marked "SHIELDS & LEE" found at the south corner of said Lot 5 and the east corner of Lot 4 of said Addition, same being in the northwesterly line of a 15 foot wide alley;

THENCE North 48 degrees 17 minutes 38 seconds West along the common line of said Lots 4 and 5, a distance of 13.38 feet for corner;

THENCE North 45 degrees 17 minutes 59 seconds West along the southwest line of said sanitary sewer easement, a distance of 70.02 feet to the west corner of said easement;

THENCE North 41 degrees 43 minutes 17 seconds East along the northwest line of said sanitary sewer easement, a distance of 5.01 feet to the north corner of said easement;

THENCE South 45 degrees 17 minutes 59 seconds East along the northeast line of said sanitary sewer easement, a distance of 83.42 feet for corner in the northwesterly line of said alley;

THENCE South 41 degrees 42 minutes 22 seconds West along the northwesterly line of said alley, a distance of 4.31 feet to the **PLACE OF BEGINNING** and containing 413 square feet of land, more or less.

BASIS OF BEARINGS: Plat of Frazier Fellowship West Addition, Phase 2 recorded in Inst. No. 20080336686, DR/DCT.

REFERENCE BEARING USED: S 41°42'22" W along southeast line of Lot 5, Block A/2396.

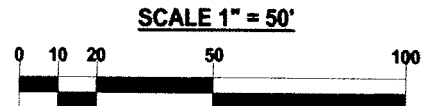
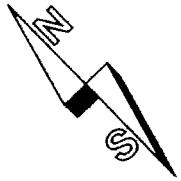
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Reviewed By:	<u>D. J. [Signature]</u>
Date:	<u>1-26-2009</u>
SPRG NO.:	<u>1619</u>



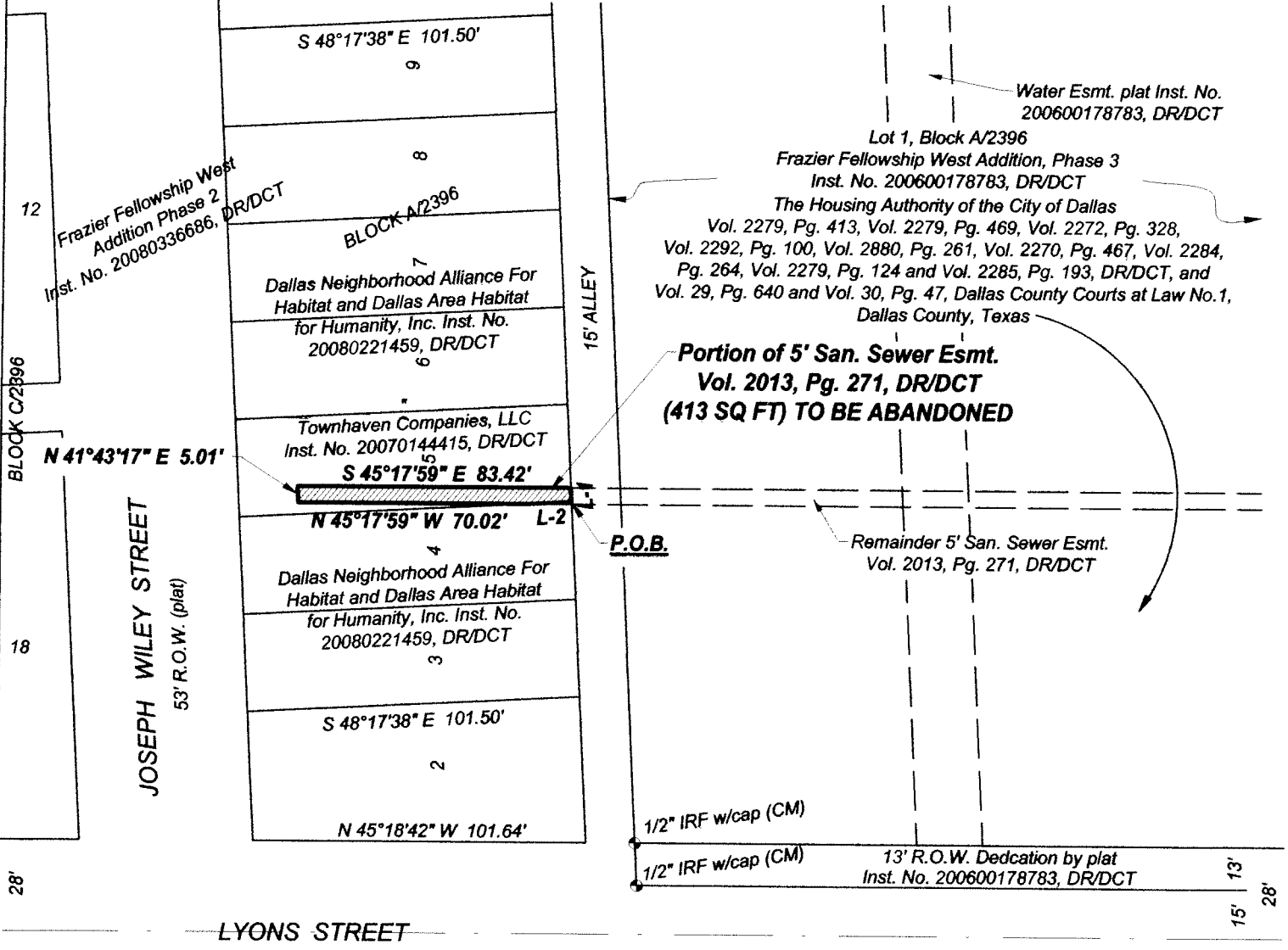
W. H. Lee 1-13-09

21554
**ABANDONMENT OF A PORTION OF
 A SANITARY SEWER EASEMENT
 LOT 5, BLOCK A/2396
 CITY OF DALLAS, DALLAS COUNTY, TEXAS
 SHEET 2 OF 2**

091442
EXHIBIT A-TRACT 1



SCALE 1" = 50'
 GRAPHIC SCALE (IN FEET)



LINE CHART:
 L-1 S 41°42'22" W 4.31'
 L-2 N 48°17'38" W 13.38'

(For SPRG use only)
 Reviewed By: [Signature]
 Date: 1-26-2009
 SPRG NO.: 1610

BASIS OF BEARINGS: Plat of Frazier Fellowship West Addition, Phase 2 recorded in Inst. No. 20080336686, DR/DCT.
REFERENCE BEARING USED: S 41°42'22" W along southeast line of Lot 5, Block A/2396.
MONUMENTS:
 Monuments shown with cap hereon are with yellow plastic cap marked "SHIELDS & LEE".
 Monuments shown (CM) hereon were used as controlling monuments for purposes of this survey.

1-13-09
 W.R. Lee
 Registered Professional Land Surveyor No. 2038

Shields and Lee Surveyors
 1421 Ferndale Avenue
 Dallas, Texas 75224
 Phone (214) 942-8496



Job No. X22778-C
 Dec. 11, 2008.
 REV 01-13-2009
Sheet 2 of 2

27554

091442

ABANDONMENT OF A PORTION OF
A SANITARY SEWER EASEMENT
LOT 1, BLOCK A/2396
CITY OF DALLAS, DALLAS COUNTY, TEXAS
SHEET 1 OF 2

EXHIBIT A-TRACT 2

BEING a 1,509 square foot tract of land situated in the Thomas Lagow Survey, Abstract No. 759, Dallas County, Texas, and being part of that certain 5 foot wide sanitary sewer easement recorded in Volume 2013, Page 271, Deed Records, Dallas County, Texas, and being part of Lot 1, Block A/2396 of Frazier Fellowship West Addition, Phase 3, an Addition to the City of Dallas, Texas, according to the Map thereof recorded in Instrument No. 200600178783, Deed Records, Dallas County, Texas, as conveyed to The Housing Authority of the City of Dallas by Warranty Deeds recorded in Volume 2279, Page 413, Volume 2279, Page 469, Volume 2272, Page 328, Volume 2292, Page 100, Volume 2880, Page 261, Volume 2270, Page 467, Volume 2284, Page 264, Volume 2279, Page 124 and Volume 2285, Page 193, Deed Records, Dallas County, Texas, and Volume 29, Page 640 and Volume 30, Page 47, Dallas County Courts at Law No.1, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod with yellow plastic cap marked "SHIELDS & LEE" set in the northeast line of Lyons Street (30 foot R.O.W.), same being the southwest corner of said Frazier Fellowship West Addition, Phase 3, same being located North 45 degrees 18 minutes 42 seconds West, 631.42 feet from a 5/8 inch iron rod with cap marked "MCSURVEYING" found (controlling monument) at the west end of a right-of-way corner clip at the intersection of said northeast line with the west line of Hatcher Street (variable width R.O.W.), and being located South 45 degrees 18 minutes 42 seconds East along said northeast line, a distance of 522.09 feet from a 1/2 inch iron rod with cap found (controlling monument) at the intersection of said northeast line with the southeast line of Spring Avenue (variable width R.O.W.), thence North 41 degrees 42 minutes 22 seconds East along the northwest line of said Frazier Fellowship West Addition, Phase 3, a distance of 117.19 feet for the **PLACE OF BEGINNING**, same being in the southwest line of said sanitary sewer easement and being in the southeast line of a 15 foot wide alley dedicated by plat of Frazier Fellowship West Addition, Phase 2, an Addition to the City of Dallas, Texas, according to the Map thereof recorded in Instrument No. 20080336686, Deed Records, Dallas County, Texas;

THENCE North 41 degrees 42 minutes 22 seconds East along the northwest line of said Lot 1, Block A/2396 and the southeast line of said alley, passing through said sanitary sewer easement, a distance of 5.01 feet for corner;

THENCE South 45 degrees 17 minutes 59 seconds East passing through said Lot 1, Block A/2396, and being along the northeast line of said sanitary sewer easement, a distance of 301.82 feet to the east corner of said sanitary sewer easement for corner;

THENCE South 44 degrees 42 minutes 01 seconds West, continuing through said Lot 1, Block A/2396, a distance of 5.00 feet to the south corner of said sanitary sewer easement for corner;

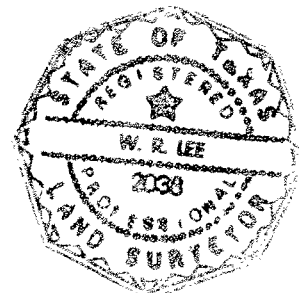
THENCE North 45 degrees 17 minutes 59 seconds West, continuing through said Lot 1, Block A/2396, and along the southwest line of said sanitary sewer easement, a distance of 301.56 feet to the **PLACE OF BEGINNING** and containing 1,509 square feet of land, more or less.

BASIS OF BEARINGS: Plat of Frazier Fellowship West Addition, Phase 3 recorded in Inst. No. 200600178783, DR/DCT.

REFERENCE BEARING USED: S 41°42'22" W along the southerly northwest line of said Frazier Fellowship West Addition, Phase 3.

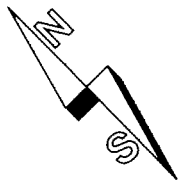
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Reviewed By:	<u>D. J. [Signature]</u>
Date:	<u>4.02.2009</u>
SPRG NO.:	<u>1608</u>

[Handwritten Signature]
A-1-09



20554
**ABANDONMENT OF A PORTION OF
 A SANITARY SEWER EASEMENT
 LOT 1, BLOCK A/2396
 CITY OF DALLAS, DALLAS COUNTY, TEXAS
 SHEET 2 OF 2**

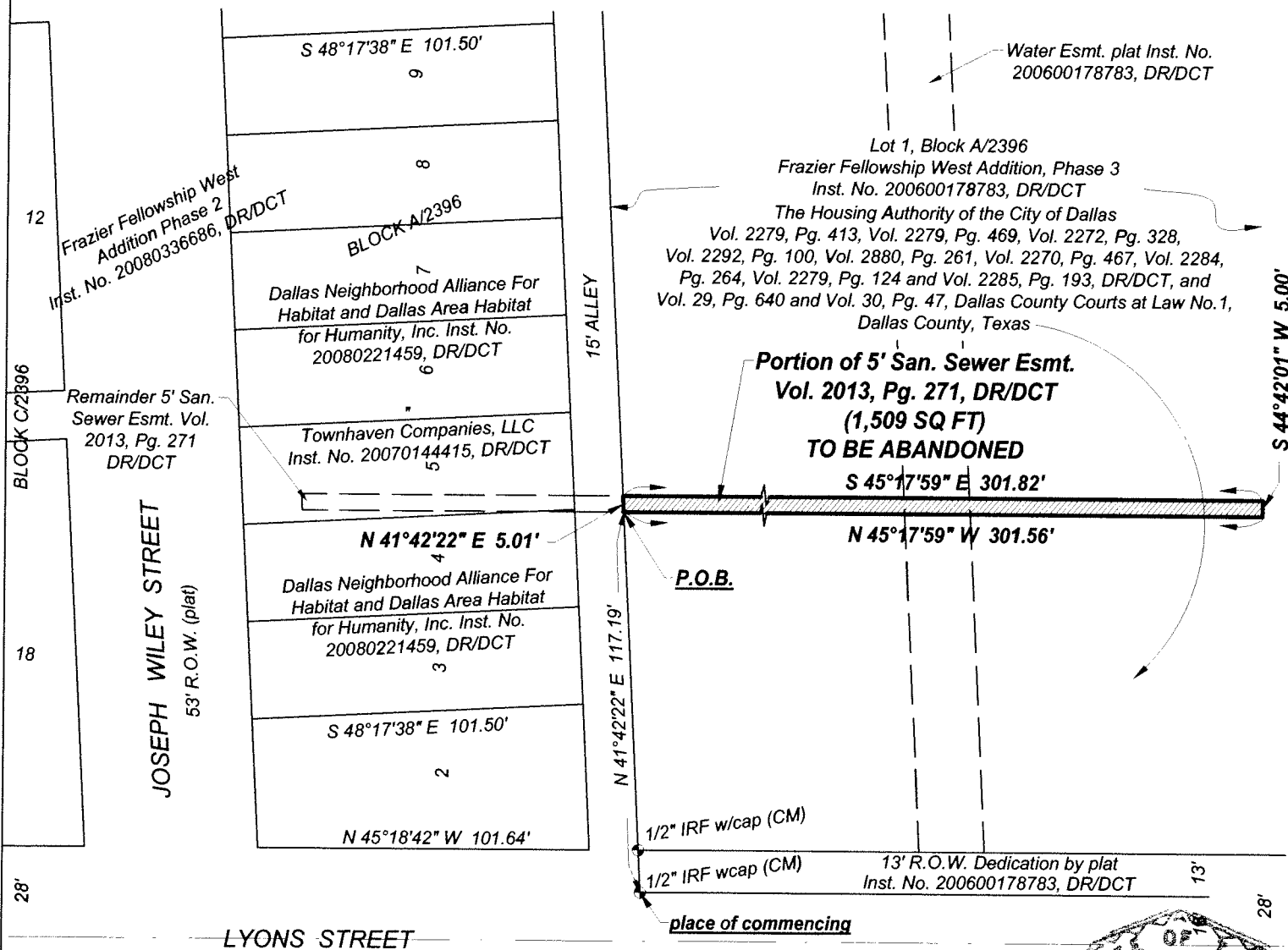
091442
 EXHIBIT A-TRACT 2



SCALE 1" = 50'



GRAPHIC SCALE (IN FEET)



(For SPRG use only)
 Reviewed By: W.R. Lee
 Date: 4-02-2009
 SPRG NO.: 1608

BASIS OF BEARINGS: Plat of Frazier Fellowship West Addition, Phase 3 recorded in Inst. No. 200600178783, DR/DCT.

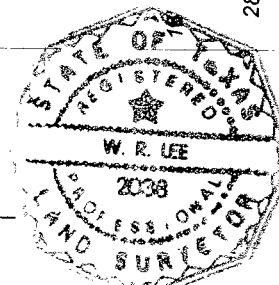
REFERENCE BEARING USED: S 41°42'22" W along southerly northwest line of said Frazier Fellowship West Addition, Phase 3.

MONUMENTS:

Monuments shown with cap hereon are with yellow plastic cap marked "SHIELDS & LEE".

Monuments shown (CM) hereon were used as controlling monuments for purposes of this survey.

W.R. Lee 4-1-09
 W.R. Lee
 Registered Professional Land Surveyor No. 2038



Shields and Lee Surveyors

1421 Ferndale Avenue
 Dallas, Texas 75224
 Phone (214) 942-8496



Job No. X22778-C
 Dec. 11, 2008,
 REV 01-13-2009,
 REV 04-01-2009
Sheet 2 of 2

27554
**ABANDONMENT OF A PORTION OF
A SANITARY SEWER EASEMENT
LOT 4, BLOCK A/2396
CITY OF DALLAS, DALLAS COUNTY, TEXAS
SHEET 1 OF 2**

091442
EXHIBIT A-TRACT 3

BEING a 4.7 square foot tract of land situated in the Thomas Lagow Survey, Abstract No. 759, Dallas County, Texas, and being part of that certain 5 foot wide sanitary sewer easement recorded in Volume 2013, Page 271, Deed Records, Dallas County, Texas, and being part of Lot 4, Block A/2396 of Frazier Fellowship West Addition, Phase 2, an Addition to the City of Dallas, Texas, according to the Map thereof recorded in Instrument No. 20080336686, Deed Records, Dallas County, Texas, and being part of that certain tract of land conveyed to Dallas Neighborhood Alliance For Habitat and Dallas Area Habitat For Humanity, Inc. by Special Warranty Deed recorded in Instrument No. 20080221459, Deed Records, Dallas County, Texas, and being more particularly described as follows:

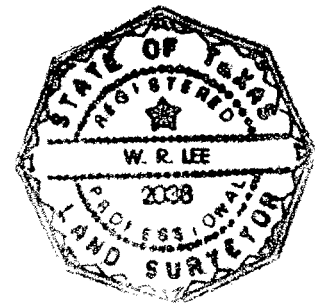
BEGINNING at a 1/2 inch iron rod with yellow plastic cap marked "SHIELDS & LEE" found at the east corner of said Lot 4 and the south corner of Lot 5 of said Addition, same being in the northwesterly line of a 15 foot wide alley;

THENCE South 41 degrees 42 minutes 22 seconds West along the northwesterly line of said alley and the southeasterly line of Lot 4, a distance of 0.70 feet for corner;

THENCE North 45 degrees 17 minutes 59 seconds West passing through Lot 4 and along the southwesterly line of said sanitary sewer easement, a distance of 13.40 feet for corner in the common line of said Lots 4 and 5;

THENCE South 48 degrees 17 minutes 38 seconds East along said common line, a distance of 13.38 feet to the **PLACE OF BEGINNING** and containing 4.7 square feet of land, more or less.

BASIS OF BEARINGS: Plat of Frazier Fellowship West Addition, Phase 2 recorded in Inst. No. 20080336686, DR/DCT.
REFERENCE BEARING USED: S 41°42'22" W along southeast line of Lot 4, Block A/2396.

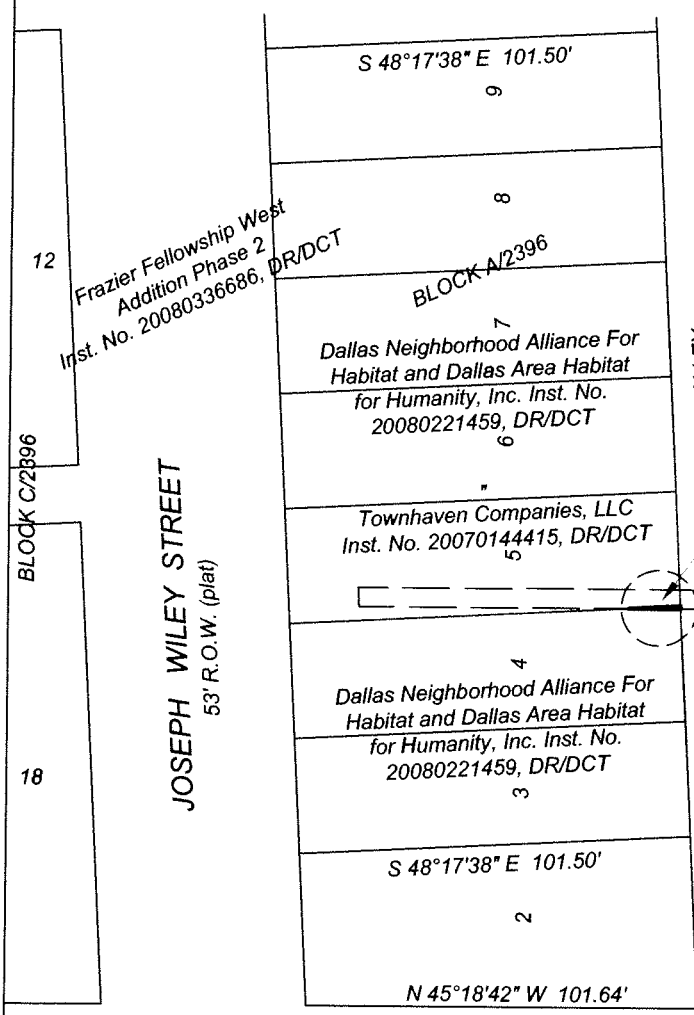
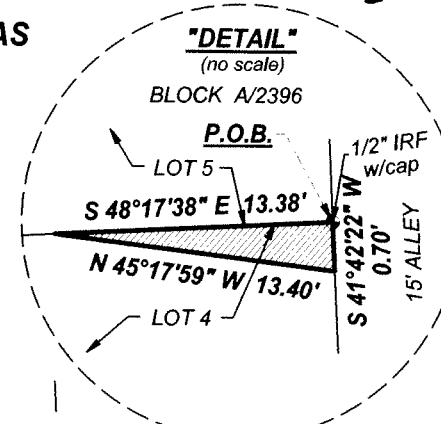
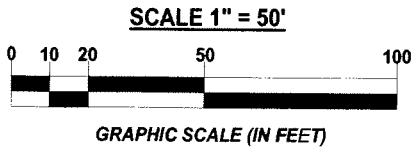
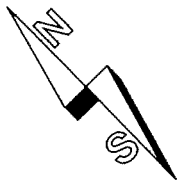


2-2-2009

(For SPRG use only)	
Reviewed By:	<u>D. J. [Signature]</u>
Date:	<u>2-12-2009</u>
SPRG NO.:	<u>1609</u>

27554
**ABANDONMENT OF A PORTION OF
 A SANITARY SEWER EASEMENT
 LOT 4, BLOCK A/2396
 CITY OF DALLAS, DALLAS COUNTY, TEXAS
 SHEET 2 OF 2**

091442
EXHIBIT A-TRACT 3



Water Esmt. plat Inst. No.
 200600178783, DR/DCT

Lot 1, Block A/2396
 Frazier Fellowship West Addition, Phase 3
 Inst. No. 200600178783, DR/DCT
 The Housing Authority of the City of Dallas
 Vol. 2279, Pg. 413, Vol. 2279, Pg. 469, Vol. 2272, Pg. 328,
 Vol. 2292, Pg. 100, Vol. 2880, Pg. 261, Vol. 2270, Pg. 467, Vol. 2284,
 Pg. 264, Vol. 2279, Pg. 124 and Vol. 2285, Pg. 193, DR/DCT, and
 Vol. 29, Pg. 640 and Vol. 30, Pg. 47, Dallas County Courts at Law No.1,
 Dallas County, Texas

**Portion of 5' San. Sewer Esmt.
 Vol. 2013, Pg. 271, DR/DCT
 (4.7 SQ FT) TO BE ABANDONED
 SEE "DETAIL"**

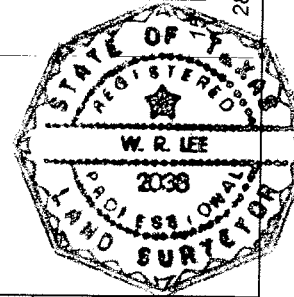
Remainder 5' San. Sewer Esmt.
 Vol. 2013, Pg. 271, DR/DCT

1/2" IRF w/cap (CM)
 13' R.O.W. Dedication by plat
 Inst. No. 200600178783, DR/DCT

LYONS STREET

(For SPRG use only)
 Reviewed By: *[Signature]*
 Date: 2-12-2009
 SPRG NO.: 1609

[Signature] 2-2-2009
 W.R. Lee
 Registered Professional Land Surveyor No. 2038



BASIS OF BEARINGS: Plat of Frazier Fellowship West Addition, Phase 2 recorded in Inst. No. 20080336686, DR/DCT.
REFERENCE BEARING USED: S 41°42'22" W along southeast line of Lot 4, Block A/2396.
MONUMENTS:
 Monuments shown with cap hereon are with yellow plastic cap marked "SHIELDS & LEE".
 Monuments shown (CM) hereon were used as controlling monuments for purposes of this survey.

Shields and Lee Surveyors
 1421 Ferndale Avenue
 Dallas, Texas 75224
 Phone (214) 942-8496



Job No. X22778-C
 Dec. 11, 2008,
 REV 01-13-2009,
 REV 02-02-2009
Sheet 2 of 2