

ORDINANCE NO. 27557

An ordinance providing for the abandonment of a portion of Bedford Street located adjacent to City Blocks A/7238 and C/7238 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Leroy W. Johnson and Holman Boiler Works, Inc.; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for barricading; 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 Leroy W. Johnson, an individual, and Holman Boiler Works, Inc., a Delaware Corporation, hereinafter referred to collectively as **GRANTEE**, deems it advisable to abandon and quitclaim the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portion of Bedford 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 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 tracts of land described in Exhibit A - Tracts 1 and 2, which is attached hereto and made a part hereof, 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 conditions hereinafter more fully set out.

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SECTION 2. That for and in monetary consideration of the sum of **NINETY THOUSAND ONE HUNDRED SEVENTY AND NO/100 (\$90,170.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8, 9 and 10, 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 of its right, title and interest in and to those certain tracts or parcels of land hereinabove described in Exhibit A as follows: unto Leroy W. Johnson, all of its right, title and interest in Exhibit A - Tract 1; unto Holman Boiler Works, Inc., all of its right, title and interest in Exhibit A - Tract 2. **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 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 for all intents and purposes made a part hereof.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, their successors, heirs 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**, their successors, heirs 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 - Tracts 1 and 2 by **GRANTEE**, their successors, heirs 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 - Tracts 1 and 2; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A - Tracts 1 and 2, which **GRANTEE**, their successors, heirs 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 - Tracts 1 and 2. **GRANTEE**, their successors, heirs 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 file a final replat of the adjoining properties prior to the issuance of any building permits affecting the tracts of land abandoned and quitclaimed herein. This final replat shall be recorded by **GRANTEE** in the Deed Records of Dallas County, Texas after its approval by the City Plan Commission of the City of Dallas.

SECTION 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the passage of this ordinance, close, barricade and/or place signs in the areas described in Exhibit A - Tracts 1 and 2 in accordance with detailed plans approved by the Director of Development Services. **GRANTEE's** responsibility for keeping the areas described in Exhibit A - Tracts 1 and 2 closed, barricaded and/or the signs in place shall continue until the street improvements and intersection returns are removed by **GRANTEE**, their successors, heirs and assigns, to the satisfaction of the Director of Development Services.

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SECTION 11. 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: (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 areas abandoned herein, 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 Development Services, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

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:
THOMAS P. PERKINS, JR.
City Attorney

THERESA O'DONNELL
Director of Development Services

BY 
Assistant City Attorney

BY 
Assistant Director

Passed JUN 10 2009 .

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RIGHT-OF-WAY ABANDONMENT

EXHIBIT A-TRACT 1

FOR

PART OF BEDFORD STREET ADJACENT TO BLOCKS A/7238 AND C/7238
COLLEGE PARK ADDITION, VOLUME 84, PAGE 604 - M.R.D.C.T.

BEING LOCATED IN

THE DAVID HUNTER SURVEY, ABSTRACT NO. 606, DALLAS COUNTY, TEXAS

Being 16,000 square feet of land located in the David Hunter Survey, Abstract No. 606, Dallas County, Texas, and being a part of Bedford Street right-of-way dedicated to the City of Dallas by College Park Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 84, Page 604, Map Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner at the intersection of the North line of said Bedford Street, a 40 foot wide public right-of-way, with the West line of Harston Street, a 50 foot wide public right-of-way, same being the Southeast corner of Block A/7238 of said College Park Addition and the Southeast corner of that portion of said Block A/7238 described in deed as Tract 1 to Leroy W. Johnson, recorded in Volume 2002227, Page 8630, Deed Records, Dallas County, Texas;

THENCE South, along said West line, a distance of 40.00 feet to a 1/2" iron rod found at the Northeast corner of Lot 6A, Block C/7238 of Kenlee Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 2005054, Page 68, Map Records, Dallas County, Texas, same being the Northeast corner of that portion of said Block C/7238 described in deed as Tract 2 to Leroy W. Johnson, recorded in Volume 2002227, Page 8630, Deed Records, Dallas County, Texas;

THENCE West, along the South line of said Bedford Street, a distance of 400.00 feet to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set at the Northwest corner of said Lot 6A, same being the Northeast corner of Lot 5 of said Block C/7238, and being the Northeast corner of that portion of said Block C/7238 described in deed as Tract 10 to Holman Boiler Works, Inc., recorded in Volume 95034, Page 217, Deed Records, Dallas County, Texas;

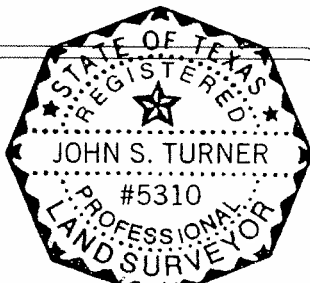
THENCE North, passing through said Bedford Street right-of-way, a distance of 40.00 feet to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set at the Southeast corner of that portion of said Block A/7238 described in deed to Holman Boiler Works, Inc., recorded in Volume 2003074, Page 8893, Deed Records, Dallas County, Texas, same being the Southwest corner of said Tract 1 to Leroy W. Johnson, and being the South common corner of Lots 21 and 22 of said Block A/7238;

THENCE East, along said North line of Bedford Street, a distance of 400.00 feet to the PLACE OF BEGINNING and containing 16,000 square feet or 0.367 of an acre of land.

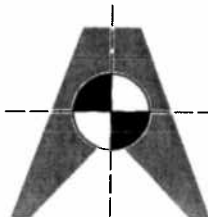
BASIS OF BEARINGS shown hereon are based on the West line of Harston Street, (South), as reported by plat of Kenlee Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 2005054, Page 68, Map Records, Dallas County, Texas.

REVIEWED BY

Dr. J. K.
1-28-2009
1590



John S. Turner
John S. Turner, R.P.L.S. #5310
Date



Analytical Surveys, Inc.

"Registered Professional Land Surveyors"
707 Easy Street (972) 272-6287 Voice
Garland, Texas 75042 (972) 272-8407 Fax
John S. Turner R.P.L.S. 5310
www.analyticalinc.com

Job Number: R-815ABEX1-08 Date: 11-07-08

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RIGHT-OF-WAY ABANDONMENT

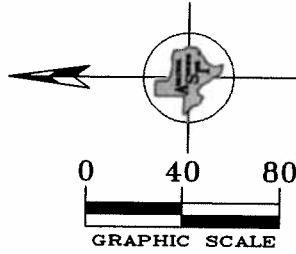
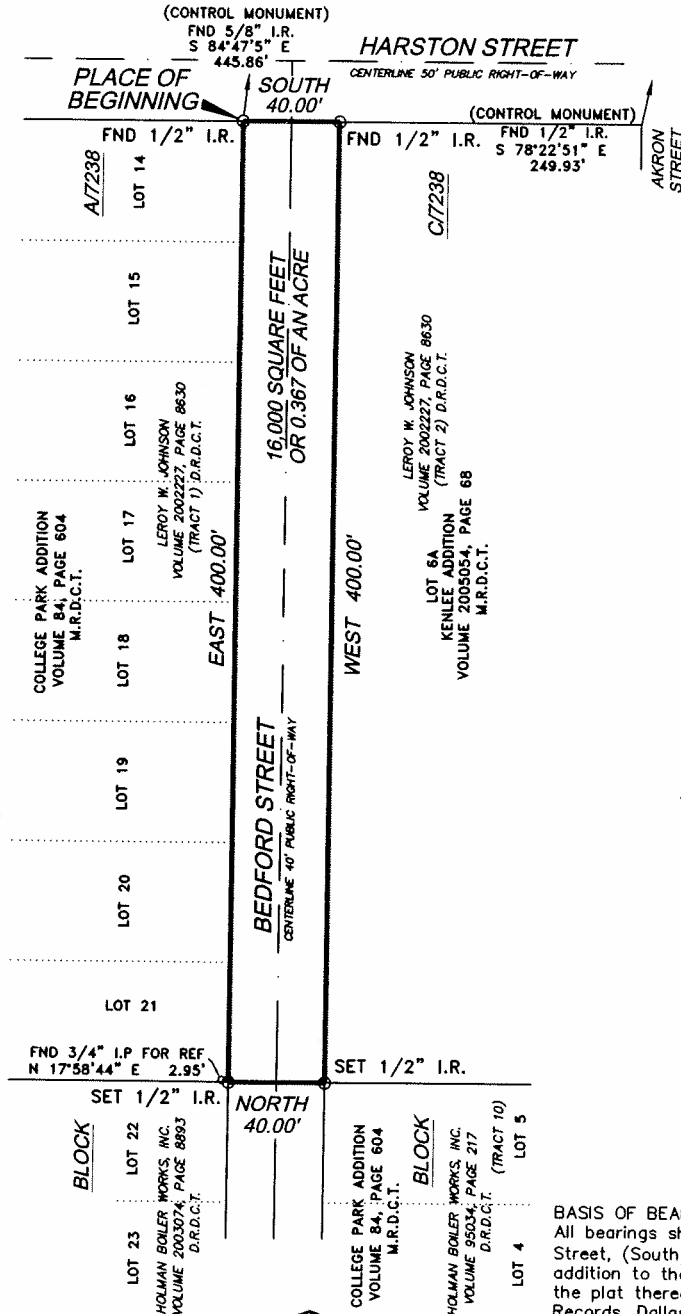
EXHIBIT A-10001 1

FOR

PART OF BEDFORD STREET ADJACENT TO BLOCKS A/7238 AND C/7238
COLLEGE PARK ADDITION, VOLUME 84, PAGE 604 - M.R.D.C.T.

BEING LOCATED IN

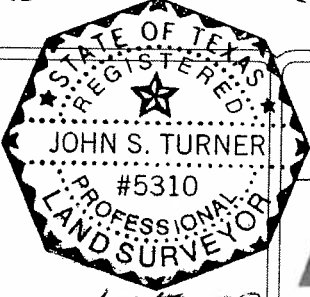
THE DAVID HUNTER SURVEY, ABSTRACT NO. 606, DALLAS COUNTY, TEXAS



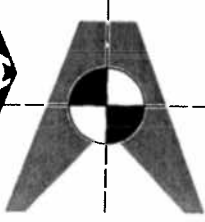
BASIS OF BEARINGS:
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KENLEE

REVIEWED BY
Doug [Signature]
1-28-2009
1590



John S. Turner 1-15-09
John S. Turner, R.P.L.S. #5310 Date



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Page 1 of 2

RIGHT-OF-WAY ABANDONMENT

EXHIBIT A-TRACT 2

FOR

PART OF BEDFORD STREET ADJACENT TO BLOCKS A/7238 AND C/7238 COLLEGE PARK ADDITION, VOLUME 84, PAGE 604 - M.R.D.C.T.

BEING LOCATED IN

THE DAVID HUNTER SURVEY, ABSTRACT NO. 606, DALLAS COUNTY, TEXAS

Being 9,400 square feet of land located in the David Hunter Survey, Abstract No. 606, Dallas County, Texas, and being a part of Bedford Street right-of-way dedicated to the City of Dallas by College Park Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 84, Page 604, Map Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at a 1/2" iron rod found for corner at the intersection of the North line of said Bedford Street, a 40 foot wide public right-of-way, with the West line of Harston Street, a 50 foot wide public right-of-way, same being the Southeast corner of Block A/7238 of said College Park Addition and the Southeast corner of that portion of said Block A/7238 described in deed as Tract 1 to Leroy W. Johnson, recorded in Volume 2002227, Page 8630, Deed Records, Dallas County, Texas;

THENCE West, along the North line of said Bedford Street, a distance of 400.00 feet to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set at the Southwest corner of said Johnson tract, same being the Southeast corner of that portion of said Block A/7238 described in deed to Holman Boiler Works, Inc., recorded in Volume 2003074, Page 8893, Deed Records, Dallas County, Texas, and being the South common corner of Lots 21 and 22 of said Block A/7238 and being the PLACE OF BEGINNING;

THENCE South, passing through said Bedford Street right-of-way, a distance of 40.00 feet to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner in the South line of said Bedford Street, at the Northwest corner of Lot 6A, Block C/7238 of Kenlee Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 2005054, Page 68, Map Records, Dallas County, Texas, same being the Northeast corner of Lot 5 of said Block C/7238, and being the Northeast corner of that portion of said Block C/7238 described in deed as Tract 10 to Holman Boiler Works, Inc., recorded in Volume 95034, Page 217, Deed Records, Dallas County, Texas;

THENCE West, along the South line of said Bedford Street, a distance of 235.00 feet to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner in the East line of City Block 7237, and being that portion of said City Block 7237 described in deed as Tract 16, Parcel C to Holman Boiler Works, Inc., recorded in Volume 95034, Page 217, Deed Records, Dallas County, Texas, same being the Northwest corner of Lot 1 of said Block C/7238 and being described in said deed as Tract 12 to Holman Boiler Works;

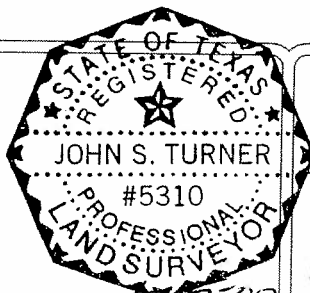
THENCE North, along said East line of said Tract 16, Parcel C, same being the terminus of said Bedford Street, a distance of 40.00 feet to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set at the Southwest corner of that portion of said Block A/7238 described in deed to Holman Boiler Works, Inc., recorded in Volume 89170, Page 4846, Deed Records, Dallas County, Texas, same being the Southwest corner of Lot 26, Block A/7238 of said College Park Addition;

THENCE East, along the North line of said Bedford Street, a distance of 235.00 feet to the PLACE OF BEGINNING and containing 9,400 square feet or 0.216 of an acre of land.

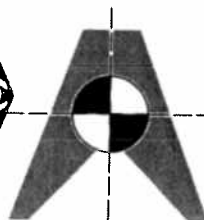
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REVIEWED BY

John S. Turner
1-28-2007
1991



John S. Turner
John S. Turner, R.P.L.S. #5310
Date



Analytical Surveys, Inc.

Registered Professional Land Surveyors
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Job Number: R-815ABEX2-08 Date: 11-07-08

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RIGHT-OF-WAY ABANDONMENT

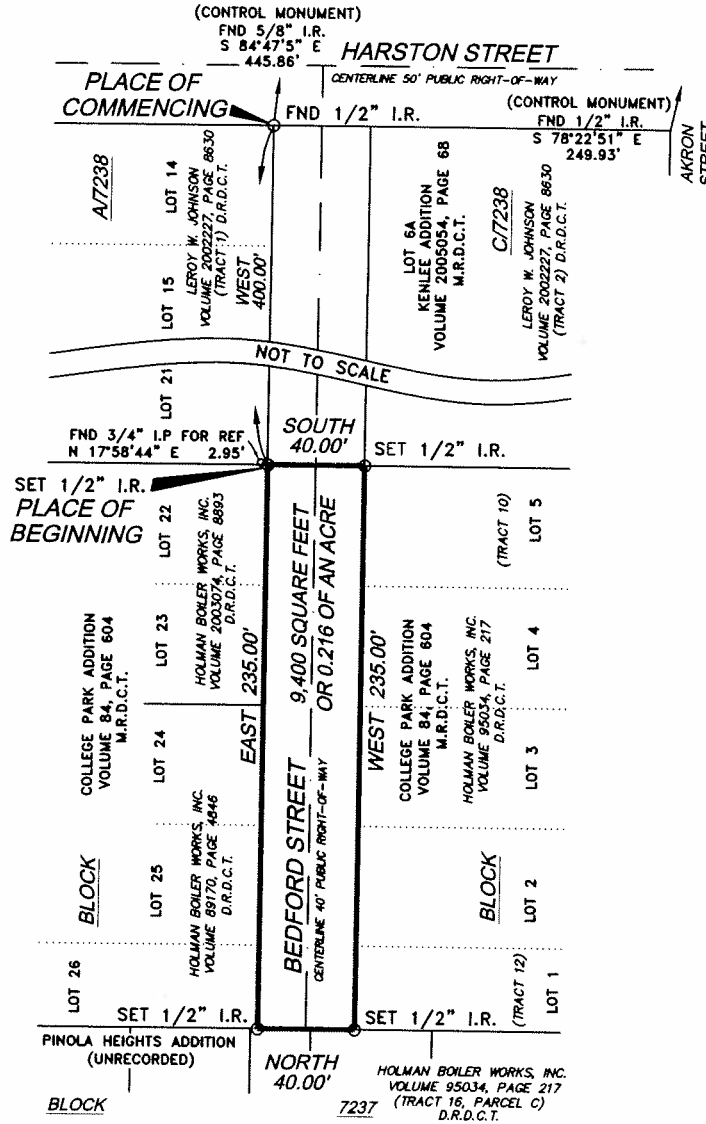
EXHIBIT A-TRACT 2

FOR

PART OF BEDFORD STREET ADJACENT TO BLOCKS A/7238 AND C/7238
COLLEGE PARK ADDITION, VOLUME 84, PAGE 604 - M.R.D.C.T.

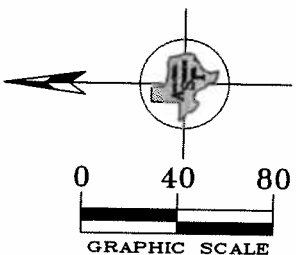
BEING LOCATED IN

THE DAVID HUNTER SURVEY, ABSTRACT NO. 606, DALLAS COUNTY, TEXAS



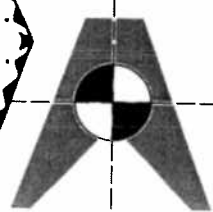
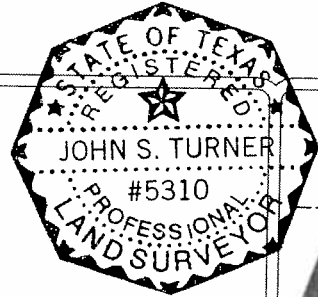
REVIEWED BY

 1-28-2009
 1591



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HOLMAN



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John S. Turner, R.P.L.S. #5310
 Date: 1-15-09

Job Number: R-815ABEX2-08 Date: 11-07-08

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EXHIBIT B

ADDITIONAL ABANDONMENT PROVISIONS

That as a condition hereof, this abandonment is subject to any utilities or communication facilities, including without limitation water and wastewater lines, gas lines, and storm sewers, ("Facilities") presently located within the abandoned area described in Exhibit "A", owned and/or operated by the City of Dallas or any utility or communications company, public or private, ("Utility") and to the rights of any Utility for the use of the abandoned area for its Facilities. It is the intent of the foregoing to confirm and maintain and there is hereby reserved and excepted unto the City of Dallas, and not abandoned or conveyed hereunder, an easement (to which this abandonment is made expressly subject) over, upon, under, through, in, and across the abandoned area for each Utility for its respective Facilities located therein at the time of this abandonment, together with the right to make any subsequent alterations, additions, expansions, upgrades or modifications to such Facilities as may, from time to time be deemed necessary or convenient by the Utility owning and/or operating same. No buildings, structures (above or below ground) or trees shall be constructed or placed within the abandoned area without written consent of each affected Utility. Each Utility shall have the full right to remove and keep removed all or part of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective Facilities lying within the abandoned area and shall at all times have the full right of ingress and egress to or from and upon the abandoned area for the purposes of reconstructing, removing, relocating, inspecting, patrolling, maintaining, expanding, upgrading, and/or adding to all or part of its Facilities without the necessity at any time of procuring the permission of anyone. The easement reserved hereunder and the conditions and restrictions to which this abandonment is subject shall remain for the benefit of the applicable Utility and/or operators of the Facilities until said Facilities are removed and relocated from the abandoned area. The relocation, removal or adjustment of any or all such Facilities, if made necessary by GRANTEE'S (whether one or more natural persons or legal entities) use of the abandonment area, shall be at the expense of GRANTEE herein, or GRANTEE'S successors and assigns. Should GRANTEE'S relocation or removal of the Facilities require the obtaining of new easements, the acquisition of same shall be at the expense of GRANTEE, GRANTEE'S successors and assigns. If any of the Facilities (or relocations thereof) are allowed to remain on any part of the abandoned area, the easements and buildings restrictions provided herein shall remain thereon. Upon removal or relocation of all of the Facilities, any easements reserved or created herein relating to such removed or relocated Facilities shall terminate, and any building restrictions herein created shall cease.

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: June 10, 2009
COUNCIL DISTRICT(S): 3
DEPARTMENT: Department of Development Services
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 44N

SUBJECT

An ordinance abandoning a portion of Bedford Street to Leroy W. Johnson and Holman Boiler Works, Inc., the abutting owners, containing a total of approximately 25,400 square feet of land, located near its intersection with Harston Street and authorizing the quitclaim - Revenue: \$90,170 plus the \$20 ordinance publication fee

BACKGROUND

This item authorizes the abandonment of a portion of Bedford Street to Leroy W. Johnson and Holman Boiler Works, Inc., the abutting owners. The area will be included with the property of the abutting owners to eliminate parking and landscaping encroachments. The abandonment fee is based on an independent appraisal.

Notices were sent to 32 property owners located within 300 feet of the proposed abandonment area. There were no responses received in opposition to this request.

This transaction is consistent with the recommendations of the Real Estate Task Force.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

FISCAL INFORMATION

Revenue: \$90,170 plus the \$20 ordinance publication fee

OWNERS

Holman Boiler Works, Inc.

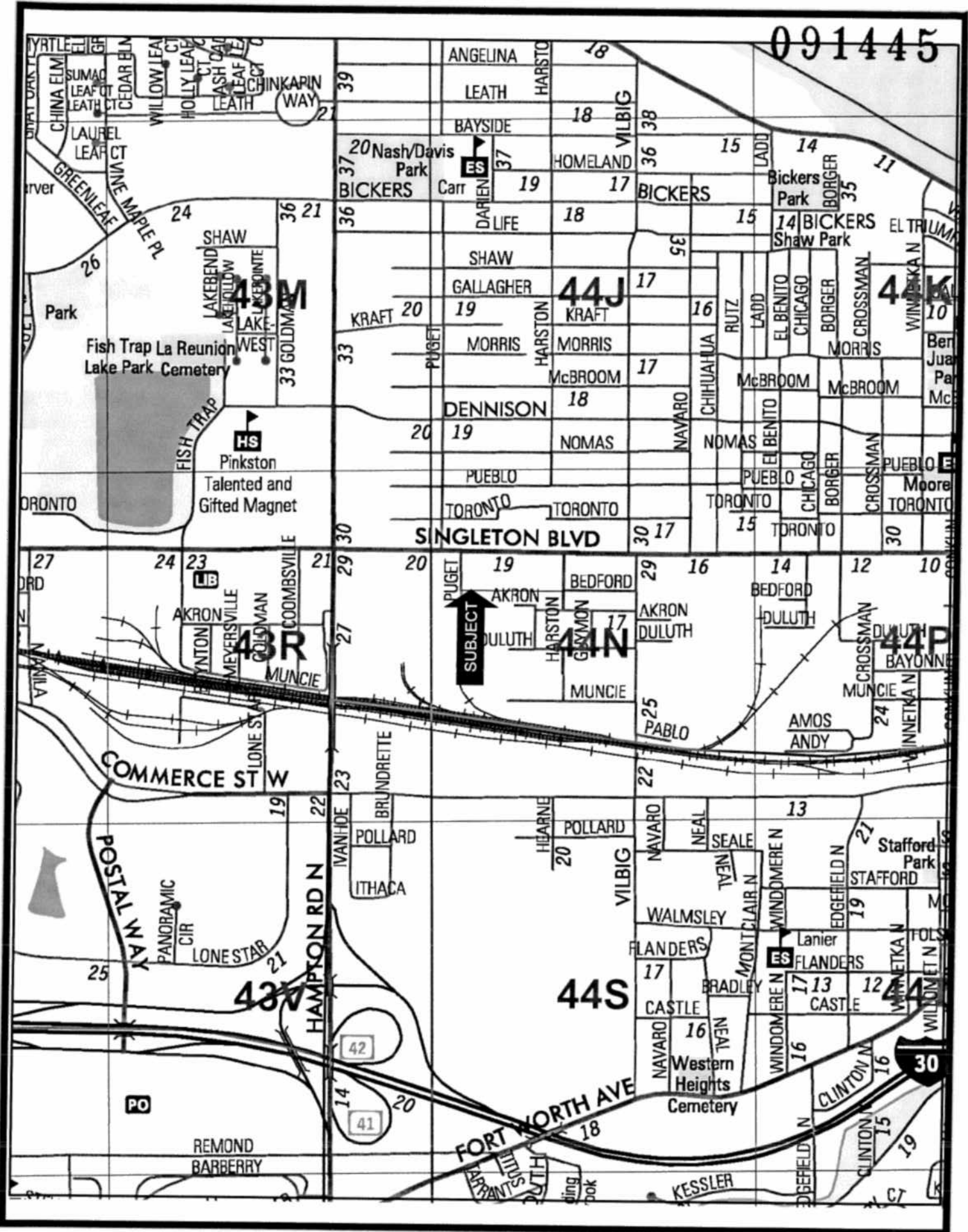
John Campolo, President/CEO
Leroy W. Johnson

09-1445

MAPS

Attached

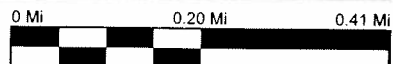
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Mapasco 44N



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