

ORDINANCE NO. 28715

An ordinance providing for the abandonment of portions of Cranfill Street and Gladys Street located adjacent to City Block 1/866 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Atmos Energy Corporation; 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 Atmos Energy Corporation, a Texas corporation, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portions of Cranfill Street and Gladys Street are 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 tract 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 conditions hereinafter more fully set out.

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SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$5,400.00)** paid by **GRANTEE**, and the further consideration described in Sections 8, 9, 10 and 11, 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 the certain tract of land hereinabove described in 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 Sustainable Development and Construction-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 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.

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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 whole and harmless the City of Dallas of, from and 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**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the area set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the area 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 and quitclaim by the City of Dallas of the area 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.

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SECTION 9. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall:

- a) provide a gate that allows for fire apparatus vehicular access into **GRANTEE's** adjoining properties and the existing fire hydrant. The gate must open as wide as the abandoned area and must be secured with a chain and a Knox lock or other approved Knox Company equipment authorized by Dallas-Fire Rescue personnel. **GRANTEE** shall submit plans for review and approval to the Dallas Fire-Rescue Department prior to the installation of the gate.

SECTION 10. 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 tract of land abandoned and quitclaimed herein. This final replat shall be recorded by **GRANTEE** in the official real property records of the county in which the abandoned area is located, after its approval by the City Plan Commission of the City of Dallas.


SECTION 11. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, immediately upon the passage of this ordinance, **GRANTEE** shall discontinue characterization of the area described in Exhibit A as a public street right-of-way in accordance with detailed plans approved by the Director of Department of Sustainable Development and Construction. **GRANTEE's** responsibility for keeping in place the appropriate signage indicating that the area described in Exhibit A is not a public street right-of-way shall continue until the street improvements and intersection returns are removed by **GRANTEE**, their successors and assigns, to the satisfaction of the Director of Department of Sustainable Development and Construction.

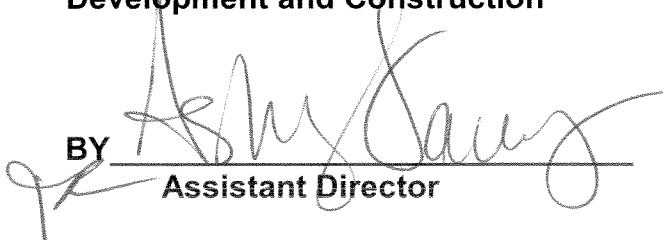
SECTION 12. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the official real property records of the county in which the abandonment area is located, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, 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 Department of Sustainable Development and Construction, 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, 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 Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 13. 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 Department of Sustainable
 Development and Construction

BY 
 Assistant City Attorney
 Passed AUG 08 2012 .

BY 
 Assistant Director

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**ABANDONMENT OF PORTIONS OF
CRANFILL STREET AND GLADYS STREET
CITY OF DALLAS BLOCK 1/866
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

Being a 5,180 square foot tract of land lying and situated in the City and County of Dallas, Texas, the John Grigsby Survey, Abstract No. 495, and being a portion of Cranfill Street (originally Avenue) and a portion of Gladys Street located in City Block 1/866 in Cranfill's Addition, an addition to the City of Dallas according to the map or plat thereof recorded in Volume 1, Page 9, Map Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at 1/2-inch iron rod found at the most westerly terminal corner of Cranfill Street (a 50 foot wide right of way) as established by City of Dallas Ordinance No. 5382 and being the most easterly corner of Lot 6, Block 1/866 of said Cranfill's Addition;

THENCE N 45° 00' 00" E along the northwest right of way line of Cranfill Street, a distance of 100.00 feet to a 1/2-inch iron rod with a red cap stamped "Cornerstone Inc." set and being in the southeast line of Lot 7;

THENCE S 45° 00' 00" E, over and across said Cranfill Street, a distance of 50.00 feet to a cut "X" set on the southeast right of way line of Cranfill Street and being on the northwest line of Lot 19;

THENCE S 45° 00' 00" W along the southeast right of way line of Cranfill Street, a distance of 40.00 feet to a cut "X" set at the most westerly corner of Lot 19 and being in the northeast line of the remainder 3 foot strip of Gladys Street as established by City of Dallas Ordinance No. 19891;

THENCE S 45° 00' 00" E along the southwest line of said Lot 19 and along said northeast line of Gladys Street, a distance of 3.00 feet to an "X" in concrete found at the most northerly corner of the portion of Gladys Street abandoned by City of Dallas Ordinance No. 19891;

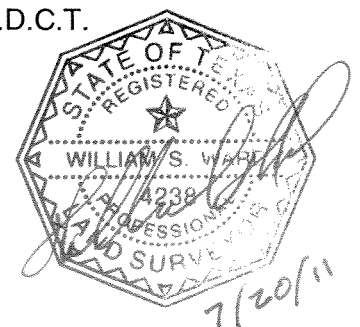
THENCE S 45° 00' 00" W along the northwest line of said abandoned portion of Gladys Street, 60.00 feet to a 1/2-inch iron rod found at the most westerly corner thereof and being on the northeast line of Lot 18;

THENCE N 45° 00' 00" W along said northeast line of Lot 18, and southwest line of the remainder 3 foot strip of Gladys Street, passing the most northerly corner of said Lot 18 at a distance of 3.00 feet and continuing along the southwest terminus of Cranfill Street, in all a distance of 53.00 feet to the POINT OF BEGINNING and containing 5,180 square feet or 0.119 acre of land, more or less.

BEARING BASIS: The northwest line of Logan Street per Deed recorded in Volume 83136, Page 1319 and Volume 2003237, Page 11902 (called S 45° 00' 00" W) D.R.D.C.T.

LOGANSTREETAB

REVIEWED BY

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BEARING BASIS:

THE NORTHWEST LINE OF LOGAN STREET PER
DEED RECORDED IN VOL. 83136, PG. 1319 AND
VOL. 2003237, PG. 11902 (CALLED S 45°00'00" W)
D.R.D.C.T.

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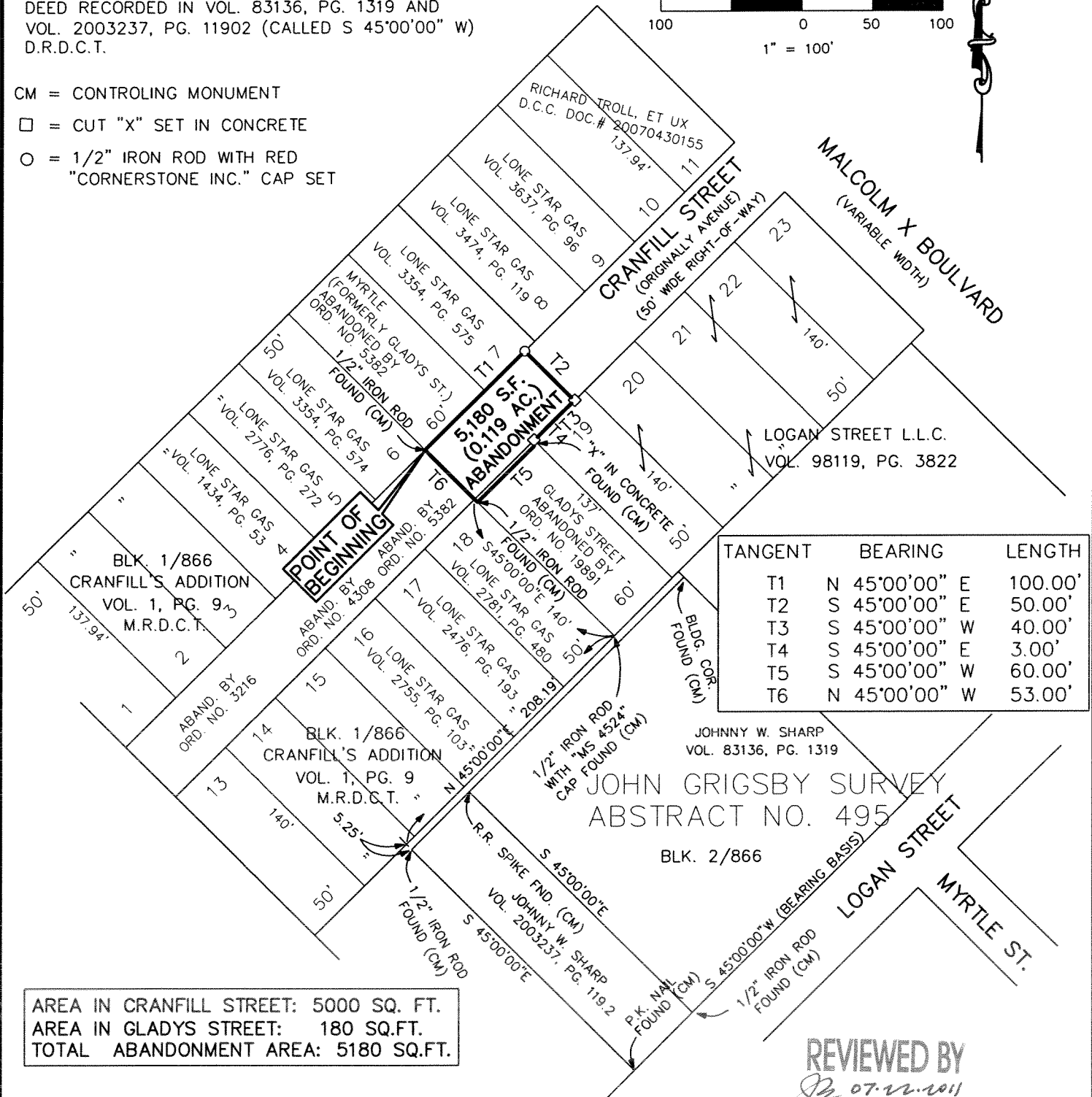
GRAPHIC SCALE

100 0 50 100

1" = 100'

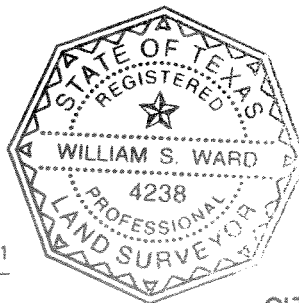
CM = CONTROLLING MONUMENT

□ = CUT "X" SET IN CONCRETE

○ = 1/2" IRON ROD WITH RED
"CORNERSTONE INC." CAP SET

AREA IN CRANFILL STREET: 5000 SQ. FT.
AREA IN GLADYS STREET: 180 SQ. FT.
TOTAL ABANDONMENT AREA: 5180 SQ. FT.

CORNERSTONE SURVEYING, INC.
200 W. MARSHALL, P.O. BOX 699
PALMER, TEXAS 75152
TEL. 972-845-2505



07/20/2011

WILLIAM S. WARD
REGISTERED PROFESSIONAL SURVEYOR NO. 4238

ABANDONMENT OF PORTIONS
OF CRANFILL STREET
AND GLADYS STREET
CITY OF DALLAS BLOCK 1/866
CITY OF DALLAS, DALLAS COUNTY, TEXAS
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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.