

ORDINANCE NO. 28868

An ordinance providing for the abandonment and relinquishment of a water main easement, located in City Block 5786 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Northwest Overlake, LLC; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a new easement to the City of Dallas and the relocation of existing facilities; 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 a future effective date for the abandonment, relinquishment and quitclaim made herein; 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 Northwest Overlake, L.L.C., a Texas limited liability company; hereinafter referred to as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said easement is 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 tract of land described in Exhibit A, attached hereto and made a part hereof; subject, however, to the conditions and future effective date

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 Sections 8 and 9, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title and interest in and to that certain tract or parcel 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, 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**, its 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**, its 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**, 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 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 this abandonment, relinquishment and quitclaim of the City's right, title and interest in and to said water easement shall not become effective until and unless: (i) the existing installations and facilities are relocated, at **GRANTEE's** expense, to the new easement to be provided by **GRANTEE** and acceptable to the Director of Department of Sustainable Development and Construction, as is hereinafter provided; and (ii) plans for the construction and relocation of installations within the new easement are approved by the Director of Department of Sustainable Development and Construction; and (iii) said construction and relocation of installations are completed, approved and accepted in writing by the Director of Department of Sustainable Development and Construction. All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 10. That as a condition of this abandonment and as part of the consideration for the quitclaim made herein, **GRANTEE** shall convey to the City of Dallas a water easement, within 90 days of the effective date of this ordinance, in, under, through, across and along certain properties located in City Block B/5786. Said property to be conveyed shall be acceptable to the Director of Sustainable Development and Construction of the City of Dallas and contain approximately 1,674 square feet of land, a description is attached hereto and made a part hereof as Exhibit B. Failure to convey the above described easement as set forth shall render this ordinance null and void and of no further effect.

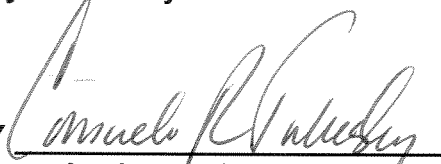
SECTION 11. That at such time as the instrument described in Section 10 above is executed and delivered to the City of Dallas and has been approved as to form by the City Attorney, it be accepted, and thereafter, the Director of Sustainable Development and Construction is authorized and directed to record said instrument in the official real property records of the county in which the subject property is located and the recorded instrument shall be forwarded to the City Secretary for permanent record.

SECTION 12. 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 Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, the recording of the water easement as set forth in Section 10, 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 shall deliver to **GRANTEE** a certified copy of this ordinance. 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

BY


Assistant City Attorney

THERESA O'DONNELL
Director of Department of Sustainable
Development and Construction

BY


Assistant Director

Passed DEC 12 2012.

Abandonment of
10' Water Main Easement and Appurtenances
Third Section of Lake Line Park
Block B/5786
City of Dallas, Dallas County, Texas

28868

BEING a 1,790 square feet tract of land situated in the D. Parker Survey, Abstract No. 1113, City of Dallas Block No. B/5786, City of Dallas, Dallas County, Texas, being part of Lots 3 and 4 of the Third Section of Lake Line Park as recorded in Volume 5, Page 290, Map Records, Dallas County, Texas (M.R.D.C.T.), also being a portion of Tract 1 - Parcel A as described by the Correction Assumption Warranty Deed to Northwest Overlake, LLC as recorded in Instrument No. 20070357301, Official Public Records, Dallas County, Texas (O.P.R.D.C.T.) also being a portion of that tract described in Memorandum of Lease as recorded in Instrument No. 201200294325, O.P.R.D.C.T. and being all of a 10' Water Main and Appurtenance Easement as described by deed to the City of Dallas as recorded in Volume 73131, Page 3137, Deed Records, Tarrant County, Texas and being more particularly described by metes and bounds as follows (basis of bearings is the northwest line of said Parcel A being North 45°00'00" East as recorded in Instrument No. 20070357301, O.P.R.D.C.T.):

COMMENCING at a found 1/2 inch iron rod for the north corner of said Parcel A also being the west corner of Tract 1 - Parcel B as described by said Correction Assumption Warranty Deed to Northwest Overlake LLC, and on the northwest line of Lot 5 of said Third Section of Lake Line Park, in the southeast right-of-way line of Community Drive (a 60' Right-of-Way) as recorded in Volume 1397, Page 440, Deed Records, Dallas County, Texas (D.R.D.C.T.);

THENCE South 45°00'00" West, with the northwest line of said Parcel A and the southeast right-of-way line of said Community Drive, and the northwest line of said Lot 5, at a distance of 43.27 feet passing the west corner of said Lot 5 also being the north corner of the aforementioned Lot 4, at a distance of 161.53 feet passing a found 5/8 inch iron rod with cap marked "BHB INC" for the north corner of said Memorandum of Lease, continuing for a total distance of 174.59 feet to the **POINT OF BEGINNING**;

THENCE South 45°00'00" East departing the southeast right-of-way line of said Community Drive and with the northeast line of the aforesaid 10' Water Main and Appurtenance Easement, a distance of 179.00 feet to a point for corner;

THENCE South 45°00'00" West, going with the southeast line of said 10' Water Main and Appurtenance Easement, a distance of 10.00 feet to a point for corner;

THENCE North 45°00'00" West, going with the southwest line of said 10' Water Main and Appurtenance Easement, a distance of 179.00 feet to a point in the southeast right-of-way line of the aforementioned Community Drive;

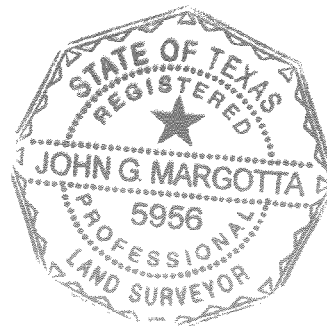
THENCE North 45°00'00" East, going with the northwest line of said 10' Water Main and Appurtenance Easement, also being the southeast right-of-way line of said Community Drive, a distance of 10.00 feet to the **POINT OF BEGINNING** and containing 1,790 square feet or 0.041 acre of land more or less.



John G. Margotta, R.P.L.S. No. 5956

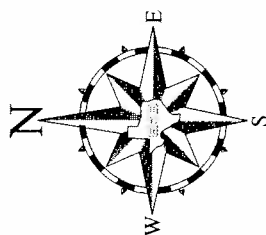
11-15-2012

Date



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JL 11-21-12
SAR 2490

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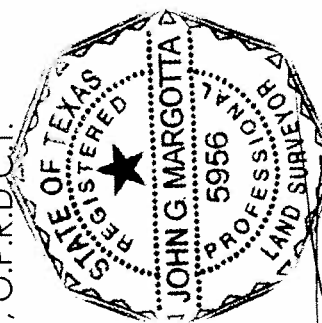
0 30'
SCALE: 1" = 30'

Number	Bearing	Distance
L1	S 45°00'00" W	10.00'
L2	N 45°00'00" E	10.00'

Legend

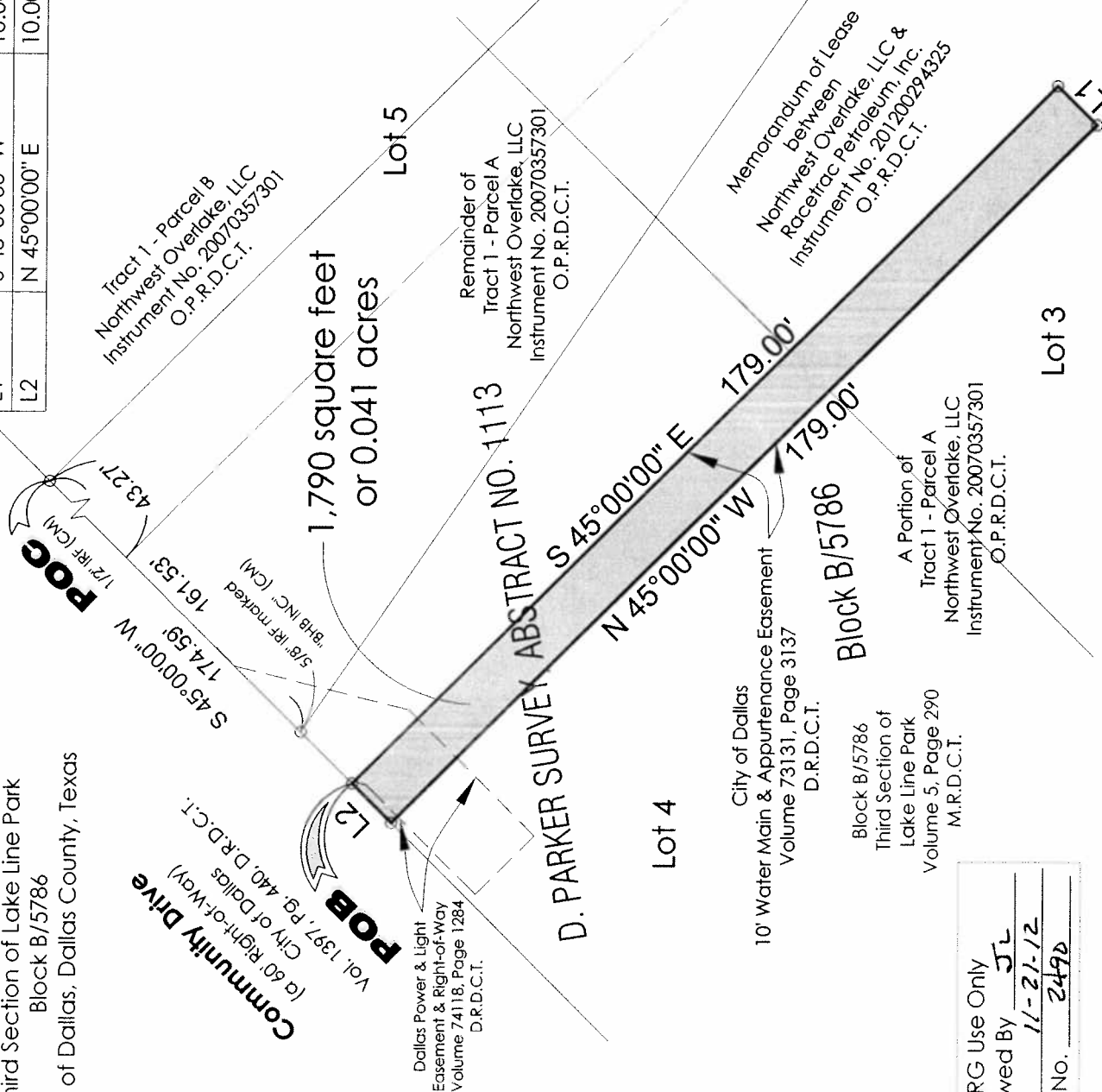
D.R.D.C.T. Deed Records, Dallas County, Texas
 M.R.D.C.T. Map Records, Dallas County, Texas
 O.P.R.D.C.T. Official Public Records, Dallas County, Texas
 CM Control Monument
 IRF iron rod found
 POC Point of Commencing
 POB Point of Beginning

Basis of bearing is the northwest line of Tract 1 - Parcel A (North 45°00'00" East) as recorded in Instrument No. 20070357301, O.P.R.D.C.T.



11-15-2012

John G. Margotta, R.P.L.S. Date



Abandonment of
 10' Water Main Easement and
 Appurtenances
 Third Section of Lake Line Park
 Block B/5786
 City of Dallas, Dallas County, Texas

For SPRG Use Only

Reviewed By JLDate 11-21-12SPRG No. 2490

B B Baird, Hampton & Brown, Inc.
 Engineering & Surveying
 4550 S.W. 360, Ste. 180, Gresham, OR 97030
 Phone: (503) 725-8550 Fax: (503) 725-8810 E-Mail: Survey@bbbs.com

Water Easement
Third Section of Lake Line Park
Lot 4, Block B/5786
City of Dallas, Dallas County, Texas

28868

BEING a 1,674 square feet tract of land situated in the D. Parker Survey, Abstract No. 1113, City of Dallas Block No. B/5786, City of Dallas, Dallas County, Texas, being part of Lot 4 of the Third Section of Lake Line Park as recorded in Volume 5, Page 290, Map Records, Dallas County, Texas (M.R.D.C.T.), also being a portion of Tract 1 - Parcel A as described by the Correction Assumption Warranty Deed to Northwest Overlake, LLC as recorded in Instrument No. 20070357301, Official Public Records, Dallas County, Texas (O.P.R.D.C.T.) also being a portion of that tract described in Memorandum of Lease as recorded in Instrument No. 201200294325, O.P.R.D.C.T. and being more particularly described by metes and bounds as follows (basis of bearings is the northwest line of said Parcel A being North 45°00'00" East as recorded in Instrument No. 20070357301, O.P.R.D.C.T.):

COMMENCING at a found 1/2 inch iron rod for the north corner of said Parcel A also being the west corner of Tract 1 - Parcel B as described by said Correction Assumption Warranty Deed to Northwest Overlake LLC, and on the northwest line of Lot 5 of said Third Section of Lake Park, in the southeast right-of-way line of Community Drive (a 60' Right-of-Way) as recorded in Volume 1397, Page 440, Deed Records, Dallas County, Texas;

THENCE South 45°00'00" West, with the northwest line of said Parcel A and the southeast right-of-way line of said Community Drive, and the northwest line of said Lot 5, at a distance of 43.27 feet passing the west corner of said Lot 5 also being the north corner of the aforementioned Lot 4, continuing for a total distance of 133.71 feet to a set 5/8 inch iron rod with cap marked "BHB INC" (hereon referred to as set iron rod) for the **POINT OF BEGINNING**;

THENCE South 55°31'05" East departing the southeast right-of-way line of said Community Drive, a distance of 68.18 feet to a set iron rod;

THENCE South 34°28'55" West, a distance of 38.24 feet to a set iron rod;

THENCE North 55°31'05" West, a distance of 15.00 feet to a set iron rod;

THENCE North 34°28'55" East, a distance of 18.24 feet to a set iron rod;

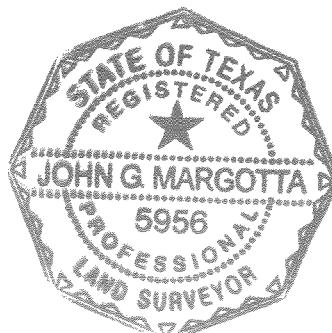
THENCE North 55°31'05" West, a distance of 56.89 feet to a set iron rod in the northwest line of the aforementioned Parcel A also being southeast right-of-way line of the aforementioned Community Drive from which a found 5/8 inch iron rod with cap marked "BHB INC" for the north corner of said Memorandum of Lease bears South 45°00'00" West, a distance of 7.48 feet;

THENCE North 45°00'00" East, with the northwest line of said Parcel A and the southeast right-of-way line of said Community Drive, a distance of 20.34 feet to the **POINT OF BEGINNING** and containing 1,674 square feet or 0.038 acre of land more or less.


John G. Margotta, R.P.L.S. No. 5956

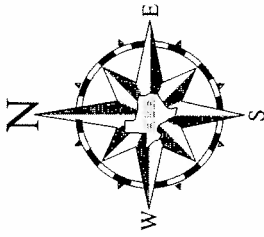
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1 of 2



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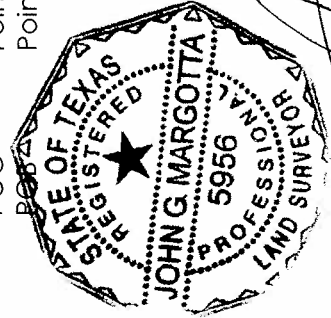


0 30'
SCALE: 1" = 30'

Number	Bearing	Distance
L1	S 45°00'00" W	7.48'
L2	N 45°00'00" E	20.34'
L3	N 55°31'05" W	15.00'
L4	N 34°28'55" E	18.24'

Basis of bearing is the northwest line of Tract 1 - Parcel A, Northwest Overlake, LLC (North 45°00'00" East) as recorded in Instrument No. 20070357301, O.P.R.D.C.T.

Legend
D.R.D.C.T. Deed Records, Dallas County, Texas
M.R.D.C.T. Map Records, Dallas County, Texas
O.P.R.D.C.T. Official Public Records, Dallas County, Texas
CM Control Monument
IRS 5/8" set iron rod with cap marked "BHB INC"
IRF iron rod found
POC Point of Commencing
POB Point of Beginning



11-15-2012
John G. Margotta, R.P.L.S. Date

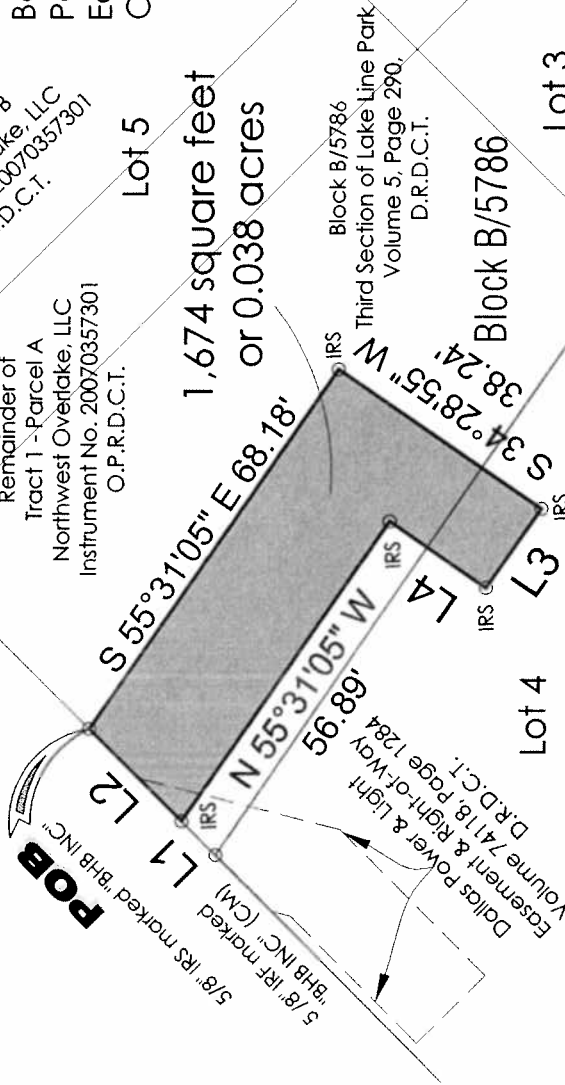
For SPRG Use Only
Reviewed By JL
Date 11-21-12
SPRG No. 2491

Water Easement
Third Section of Lake Line Park
Lot 4, Block B/5786
City of Dallas, Dallas County, Texas

Community Drive
(a 60' Right-of-Way)
City of Dallas
Vol. 1397, Pg. 440, D.R.D.C.T.
S 45°00'00" W 133.77'
POC 1/2" IRF (CM)
43.27'

Remainder of
Tract 1 - Parcel A
Northwest Overlake, LLC
Instrument No. 20070357301
O.P.R.D.C.T.

Tract 1 - Parcel B
Northwest Overlake, LLC
Instrument No. 20070357301
O.P.R.D.C.T.



D. PARKER SURVEY ABSTRACT NO. 1113

Memorandum of Lease
between
Northwest Overlake, LLC &
Racetrac Petroleum, Inc.
Instrument No. 20120024325
O.P.R.D.C.T.

A Portion of
Tract 1 - Parcel A
Northwest Overlake, LLC
Instrument No. 20070357301
O.P.R.D.C.T.

Found "X" in
concrete