

ORDINANCE NO. 28869

An ordinance providing for the abandonment of a portion of an alley located adjacent to City Blocks 1907 and 1908 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to PCB Properties, LLC; 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; providing for the waiver of certain provisions of the Dallas City Code; providing a future effective date for this abandonment; and providing an effective date for this ordinance.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of PCB Properties, LLC, a Texas limited liability company, 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 portion of alley 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 those certain provisions of Section 51A-8.507(b) of the Dallas Development Code regarding dead-end alleys, to the extent not required by state law or City Charter, are hereby waived with respect to this ordinance.

SECTION 2. 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.

SECTION 3. That for and in monetary consideration of the sum of **SEVEN THOUSAND ONE HUNDRED TWENTY AND NO/100 (\$7,120.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 9, 10, 11 and 12, 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 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 4. That upon payment of the monetary consideration set forth in Section 3, **GRANTEE** accepts the terms, provisions, future effective date, and conditions of this ordinance.

SECTION 5. That the City Controller is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 3 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 6. 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 7. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 8. 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 9. That as a condition of this abandonment and as 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.

SECTION 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall contact AT&T for a determination whether AT&T's aerial facilities currently located on the tract of land described in Exhibit A need to be relocated. **GRANTEE** shall, if relocation is required, obtain a custom work order from AT&T setting forth the estimated cost **GRANTEE** must pay to relocate the aerial facilities and deliver if required to AT&T payment for relocation costs before any relocation work is commenced.

SECTION 11. 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 12. 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 area described in Exhibit A in accordance with detailed plans approved by the Director of Department of Sustainable Development and Construction. **GRANTEE's** responsibility for keeping the area described in Exhibit A closed, barricaded and/or the signs in place shall continue until the street improvements and intersection returns are removed by **GRANTEE**, its successors and assigns, to the satisfaction of the Director of Department Sustainable Development and Construction.

SECTION 13. 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 3, 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 14. 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

BY


Assistant Director

Passed _____

DEC 12 2012

ALLEY RIGHT-OF-WAY ABANDONMENT

EUREKA ADDITION

BLOCK 1907

ROBERT RAY SURVEY, ABSTRACT NO. 1242

CITY OF DALLAS, DALLAS COUNTY, TEXAS

28869

Being a 444 square foot tract of land situated in the Robert Ray Survey, Block 1907, Abstract No. 1242, Dallas County, Texas and being a portion of a 9-foot alley dedicated to the City of Dallas, Dallas County, Texas created by the plat Eureka Addition thereof recorded in Volume 2, Page 187, Map Records, Dallas County, Texas; said 444 square foot tract being more particularly described by metes and bounds as follows;

BEGINNING, at a point (1/2-inch iron rod found North 89 degrees 46 minutes 31 seconds West, 0.93 feet) at the southeast corner of Lot 22, Block 1907, Eureka Addition, an addition to the City of Dallas, Dallas County, Texas according to the plat recorded in Volume 2, Page 187, Map Records, Dallas, County Texas; said point also being on the west line of Lot 6, Block 1908, Anna E. Johnson Addition, an addition to the City of Dallas, Dallas County, Texas according to the plat thereof recorded in Volume 1, Page 199, Map Records, Dallas County, Texas; said point also being the northeast corner and terminus of said 9-foot alley;

THENCE, South 00 degrees 07 minutes 01 seconds East leaving the north right-of-way line of said 9-foot alley and with said west line, along the east right-of-way line of said alley, a distance of 9.00 feet to a 5/8-inch iron rod with "GSES INC. RPLS 4804" cap set;

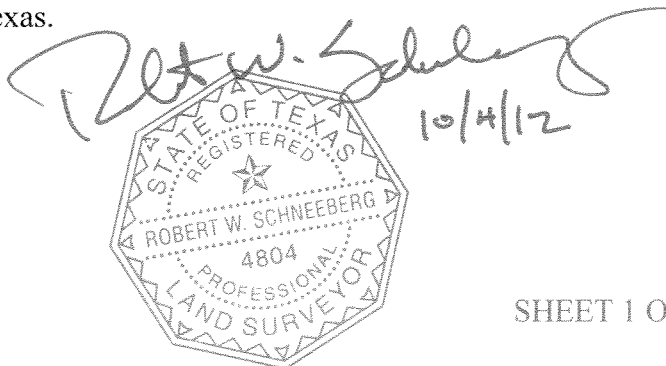
THENCE, North 89 degrees 46 minutes 31 seconds West with the south right-of-way line of said 9-foot alley, along the north line of lot 21, Block 1907, a distance of 49.36 feet (Plat-50.00 ft.) to a 5/8-inch iron rod with "GSES INC. RPLS 4804" cap set; said point also being the northeast corner of Lot 20 and northwest corner of said Lot 21;

THENCE, North 00 degrees 31 minutes 37 seconds West leaving said south right-of-way line, a distance of 9.00 feet to a 5/8-inch iron rod with "GSES INC. RPLS 4804" cap set; said point also being on the north right-of-way line of said 9-foot alley, said point also being the southeast corner of Lot 23 and southwest corner of said Lot 21;

THENCE, South 89 degrees 46 minutes 31 seconds East with the north right-of-way line of said 9-foot alley and the south line of said Lot 22, a distance of 49.43 feet (Plat-50.00 feet) the POINT OF BEGINNING.

CONTAINING, 444 square feet of land (0.0102 acres), more or less.

Bearing system for this survey are based upon the south right-of-way line of La Vista Drive, bearing North 90 degrees 00 minutes 00 seconds East, as shown on plat of Lewis Court Townhomes Addition as recorded in Instrument No. 200600098079, Official Public Records, Dallas County, Texas.



SHEET 1 OF 2

(For SPRG use only)

Reviewed by: DBFDate: 10.15.2012SPRG NO: 2431

28869

20.0'

(For SPRG use only)
 Reviewed by: PRF
 Date: 10.15.2012
 SPRG NO: 2431

**BLOCK 1907
EUREKA ADDITION**
 V. 2 P. 187
 M.R.D.C.T.

LOT 24

LOT 23

KENNETH LOCK
 V. 85057, P. 1056
 D.R.D.C.T.

LOT 22

LOT 6

LOT 5

PCB PROPERTIES, LLC.
 INST. NO. 200900251568
 O.P.R.D.C.T.

**CITY OF DALLAS
STREET EASEMENT**
 V. 69168, P. 1486
 D.R.D.C.T.

**BLOCK 1908
ANNA E. JOHNSON
ADDITION**
 V. 1, P. 199
 M.R.D.C.T.

**ABANDONMENT OF A PART
OF A 9' ALLEY**
 444 sq.ft.
 0.0102 acres

**Point of
Beginning**

1/2" IRON ROD
 FOUND & HELD
 FOR LINE (CM)
 (N 89°46'31" W, 0.93')

**9' ALLEY
(V. 2, P. 187)
M.R.D.C.T.**

**LOT 19
CONCEPCION LOPEZ
LOZANO**
 V. 86192, P. 3442
 D.R.D.C.T.

LOT 20

PCB PROPERTIES, LLC.
 INST. NO. 200900251568
 O.P.R.D.C.T.

ALUMINUM MONUMENT
 STAMPED "ARTHUR
 SURVEYING COMPANY"
 FOUND (CM)

LOT 21

**BLOCK 1907
EUREKA ADDITION**
 V. 2 P. 187
 M.R.D.C.T.

**CITY OF DALLAS
STREET EASEMENT**
 V. 69158, P. 1864
 D.R.D.C.T.

LINE TABLE

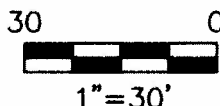
LINE	DISTANCE	BEARING
L1	9.00'	S 00°07'01" E
L2	49.36'	N 89°46'31" W
L3	9.00'	N 00°31'37" W
L4	49.43'	S 89°46'31" E

NOTES:

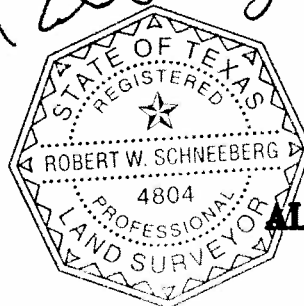
1. Bearing system for this survey are based upon the south right-of-way line of La Vista Drive, bearing North 90 degrees 00 minutes 00 seconds East, as shown on plat of Lewis Court Townhomes Addition as recorded in Instrument No. 200600098079, Official Public Records, Dallas County, Texas.

2. (CM) - Controlling Monument

SHEET 2 OF 2



1"=30'



LEGEND

O.P.R.D.C.T. - Official Public Records Dallas County Texas
 D.R.D.C.T. - Deed Records Dallas County Texas
 M.R.D.C.T. - Map Records Dallas County Texas
 5/8" IRS - 5/8-inch iron rod with GSES INC.,
 RPLS 4804 Cap set
 CM - Controlling Monument

**ALLEY RIGHT-OF-WAY ABANDONMENT
EUREKA ADDITION
BLOCK 1907**

**ROBERT RAY SURVEY, ABSTRACT NO. 1242
CITY OF DALLAS, DALLAS COUNTY, TEXAS
Gonzalez & Schneeberg**

680 N. Central Expressway
 Suite 250, Plano, Texas 75074
 engineers - surveyors (972) 516-8855 Fax: (972) 516-8901
 DATE: JUNE, 2012 PROJ. NO.: 6072-12-06-11 DWG. NO.: alley abandonment

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.