

ORDINANCE NO. 29176

A municipal setting designation ordinance prohibiting the use of designated groundwater from beneath property generally located at 840 S. Lamar Street and 503 S. Griffin Street and supporting issuance of a municipal setting designation certificate by the Texas Commission on Environmental Quality; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, Subchapter W, "Municipal Setting Designations," of Chapter 361, "Solid Waste Disposal Act," of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality to create municipal setting designations; and

WHEREAS, Section 51A-6.108, "Municipal Setting Designation Ordinance," of Article VI, "Environmental Performance Standards," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code authorizes municipal setting designation ordinances prohibiting the use of designated groundwater as potable water and thereby enable the Texas Commission on Environmental Quality to certify a municipal setting designation for designated property; and

WHEREAS, the city council finds that:

(1) the eligibility criteria of Section 361.803 of the Texas Health and Safety Code have been met;

(2) this municipal setting designation ordinance will not have an adverse effect on the current or future water resource needs or obligations of the city of Dallas;

(3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property; and

(4) this municipal setting designation ordinance is necessary because the concentration of contaminants of concern exceed ingestion protective concentration levels for human ingestion; and

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the city of Dallas, have given the required notices and have held the required public hearings regarding this municipal setting designation ordinance; Now Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That for purposes of this municipal setting designation ordinance, the “designated property” means the property described in Exhibit A, attached to the ordinance.

SECTION 2. That for purposes of this municipal setting designation ordinance, “designated groundwater” means water below the surface of the designated property to a depth of 200 feet.

SECTION 3. That use of the designated groundwater from beneath the designated property as potable water is prohibited.

SECTION 4. That the use of the designated groundwater from beneath public rights-of-way included in the designated property as potable water is prohibited.

SECTION 5. That the following uses of or contacts with the designated groundwater are prohibited:

- (1) Human consumption or drinking.
- (2) Showering or bathing.
- (3) Cooking.
- (4) Irrigation of crops for human consumption.

SECTION 6. That the following conditions are imposed on the designated property and designated groundwater:

- (1) The potable use of the designated groundwater from beneath the designated property is prohibited.

- (2) The potable use of the designated groundwater from beneath public rights-of-way included in the designated property is prohibited.
- (3) The portion of the designated property assigned VCP No. 2118 must receive a certificate of completion from the Texas Commission on Environmental Quality by no later than October 8, 2016.

SECTION 7. That the city council supports the application to the Texas Commission on Environmental Quality for a municipal setting designation on the designated property, with the following comments:

- (1) The Texas Commission on Environmental Quality, as the state agency chartered to protect human health and the environment, is requested to thoroughly review the conditions of the designated property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

SECTION 8. That the public rights-of-way immediately adjacent to the designated property must be included, at no additional cost to the city of Dallas, in the application to the Texas Commission on Environmental Quality.

SECTION 9. That a state or federal program must address the entire non-ingestion protective concentration level exceedence zone originating from sources on the designated property or migrating from the designated property no later than October 8, 2016. That within this time period, the applicant shall provide the managing director of the office of environmental quality documentation, including a certificate of completion from the Texas Commission on Environmental Quality, that it has been addressed to the satisfaction of the agency administering the program. If it has not been addressed, the managing director of the office of environmental quality may, for good cause, take any of the following actions:

- (1) allow additional time to address the non-ingestion protective concentration level exceedence zone;

- (2) request a review by the Texas Commission on Environmental Quality or the agency administering the program;
- (3) recommend to the city council that this municipal setting designation ordinance be repealed;
- (4) request additional information or documentation from the applicant; or
- (5) pursue other actions that the managing director of the office of environmental quality believes may be warranted.

SECTION 10. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations; all ordinances, rules, and regulations of the city of Dallas; and all environmental regulations, and that this municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

SECTION 11. That any person owning, operating, or controlling any portion of the designated property is responsible for ensuring compliance with this ordinance with respect to their portion of the designated property. Allowing use of designated ground water for potable purposes or failure to provide the managing director of the office of environmental quality with required documentation is a violation of this ordinance and may result in the ordinance being repealed for that portion of the designated property.

SECTION 12. That approval of this municipal setting designation ordinance shall not be construed to subject the city of Dallas to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

SECTION 13. That within 30 days after adoption of this municipal setting designation ordinance, the applicant shall provide the managing director of the office of environmental quality with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the city of Dallas' geographic information system.

SECTION 14. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality shall file a certified copy of this municipal setting designation ordinance in the deed records of the county where the designated property is located.

SECTION 15. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality shall send a certified copy of this municipal setting designation ordinance to the applicant and the Texas Commission on Environmental Quality, and that the managing director of the office of environmental quality shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 16. That the applicant shall provide the managing director of the office of environmental quality with a copy of the municipal setting designation certificate issued by the Texas Commission on Environmental Quality pursuant to Section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

SECTION 17. That the applicant shall provide the managing director of the office of environmental quality with a copy of the certificate of completion or other documentation issued by the Texas Commission on Environmental Quality showing that any site investigations and response actions required pursuant to Section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the Texas Commission on Environmental Quality within the time period required. The managing director of the office of environmental quality may, for good cause, extend the time for submitting the documentation.

SECTION 18. That the applicant shall notify the managing director of the office of environmental quality in writing if the applicant determines that notice is required to be sent to an owner of other property beyond the boundaries of the designated property under Title 30 Texas Administrative Code, Chapter 30, Section 350.55(b), and provide the name of the property owner, the property address, and a copy of the notice sent to the property owner.

29176

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SECTION 19. That a person violating a provision of this municipal setting designation ordinance, upon conviction, is punishable by a fine not to exceed \$2,000, and that the Texas Commission on Environmental Quality shall be notified of any violations.

SECTION 20. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this municipal setting designation ordinance.

SECTION 21. That the terms and provisions of this municipal setting designation ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 22. That this municipal setting designation 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:

WARREN M. S. ERNST, Interim City Attorney

By  _____
Assistant City Attorney

Passed OCT - 8 2013

29176

LEGAL DESCRIPTION

DESIGNATED PROPERTY
MUNICIPAL SETTING DESIGNATION BOUNDARY

2.9089 Acres in City of Dallas Block 429 and Part of S. Lamar Street and
2.9956 Acres in City of Dallas Block 428 and Part of Memorial Drive and Griffin Street
John Neely Bryan Survey, Abstract No. 149
City of Dallas, Dallas County, Texas

TRACT 1

GIS Approved

BEING a tract of land situated in the John Neely Bryan Survey, Abstract No. 149, City of Dallas, Dallas County, Texas, and being a part of City Block 429, said tract being all called 0.9877 acre tract conveyed to CCH Lamar Partners I, L.P. by deed recorded in County Clerk Instrument No. 20080066032, Deed Records of Dallas County, Texas, and all of a called 2.2754 acre tract of land conveyed to CCH Lamar Partners I, L.P. by deed recorded in County Clerk Instrument No. 20070426170, Deed Records of Dallas County, Texas and part of the right of way for Lamar Street and being more particularly described as follows (the bearing basis for this description is a bearing of N 75°00'00" E for the southeast line of Memorial Drive as indicated in the deed to Ronald A. Weisfeld recorded in Volume 93100, Page 5628, Deed Records of Dallas County, Texas.):

COMMENCING at a found TXDOT monument for a corner, said point being at the intersection of the southwest line of Lamar Street with the northwest line of Interstate Highway 30, and said point being the east corner of Lot 1, Block A/419 of Dallas Convention Center Expansion Addition as recorded in Volume 93248, Page 4820, Deed Records of Dallas County, Texas; Thence, N 49°37'09" W, with the southwest line of S. Lamar Street, a distance of 15.23 feet to the POINT OF BEGINNING;

THENCE, N 49°37'09" W, with the southwest line of S. Lamar Street and the northeast line of said Lot 1, Block A/419, a distance of 344.36 feet to a point for a corner;

THENCE, N 40°22'51" E, crossing the right of way of Lamar Street, a distance of 82.76 feet to a found PK Nail for a corner in the northeast line of S. Lamar Street, said point being in the southwest line of the said 2.2754 acre tract and the south corner of a tract of land conveyed to the City of Dallas by deed recorded in the Deed Records of Dallas County;

THENCE, N 16°58'21" W, departing the northeast line of S. Lamar Street and with the northeast line of the said City of Dallas tract, a distance of 45.14 feet to a fence post for a corner;

29176

LEGAL DESCRIPTION - TRACT 1 (continued)

GIS Approved

THENCE, N 30°01'39" E, with the southeast line of the said City of Dallas tract, a distance of 79.43 feet a found ½ inch iron rod for a corner, said point being the northwest corner of the said 2.2754 acre tract and the southwest corner of a tract of land called Parcel No. OC1-7 as conveyed to Dallas Area Rapid Transit (DART) by deed recorded in Volume 94022, Page 5655, Deed Records of Dallas County, Texas;

THENCE, N 76°57'22" E, departing the southeast line of said City of Dallas tract and with the south line of said DART Parcel OC1-7, a distance of 39.64 feet to a found "x" cut on pavement at the beginning of a non-tangent curve to the right with a central angle of 16°56'38", a radius of 645.00 feet, a chord bearing of N 89°16'28" E and a chord distance of 190.05 feet;

THENCE Northeasterly, continuing with the south line of said DART Parcel No. OC1-7, and along said curve, an arc distance of 190.75 feet to a found ½ inch iron rod for a corner at the east corner of said DART Parcel No. OC1-7, and lying in the south line of a tract of land identified as Parcel No. OC1-5 in deed to the Dallas Area Rapid Transit (DART) recorded in Volume 94029, Page 4071, Deed Records, Dallas County, Texas, and said point the beginning of a non-tangent curve to the right with a central angle of 07°01'05", a radius of 1,146.28 feet, a chord bearing of S 75°33'25" E and a chord distance of 140.32 feet;

THENCE Southeasterly, with the south line of said DART Parcel No. OC1-5 and along said curve, an arc distance of 140.41 feet a found ½ inch iron rod for a corner, said point being the northwesterly corner of a called 0.0806 acre tract conveyed to 944 South Lamar Associates by deed recorded in Volume 85236, Page 1607, Deed Records of Dallas County, Texas;

THENCE, S 17°57'08" W, with the west line of the said 0.0806 acre tract, a distance of 25.33 feet to a found 60d nail for a corner at the southwest corner of the said 0.0806 acre tract and the northwest corner of a called 0.8778 acre tract of land conveyed to 944 Lamar Associates by deed recorded in Volume 83095, Page 3547, Deed Records of Dallas County, Texas;

THENCE, S 49°37'09" E, with the north line of the said 0.8778 acre tract, a distance of 93.97 feet to a point for a corner;

29176

LEGAL DESCRIPTION - TRACT 1 (continued)

GIS Approved

THENCE, S 40°22'51" W, with the northwest line of the said 0.8778 acre tract, passing at a distance of 380.00 feet the northeast line of S. Lamar Street, continuing across S. Lamar Street in all a distance of 380.00 feet to the Point of Beginning and Containing 126,710 square feet or 2.9089 acres of land.

LEGAL DESCRIPTION – TRACT 2

GIS Approved

BEING a tract of land situated in the John Neely Bryan Survey, Abstract No. 149, City of Dallas, Dallas County, Texas, and being a part of City Block 428, said tract being all of a called 0.9877 acre tract conveyed to CCH Lamar Partners I, L.P. by deed recorded in County Clerk Instrument No. 20080066032, Deed Records of Dallas County, Texas, and part of the right of way for Memorial Drive and S. Griffin Street and being more particularly described as follows (the bearing basis for this description is a bearing of N 75°00'00" E for the southeast line of Memorial Drive as indicated in the deed to Ronald A. Weisfeld recorded in Volume 93100, Page 5628, Deed Records of Dallas County, Texas.):

BEGINNING at a found "x" cut on concrete pavement for a corner at the intersection of the southwest line of S. Griffin Street (a variable width right of way) with the northwest line of Interstate Highway 30 (R. L. Thornton Freeway, a variable width right of way), said point being in the northeast line corner of a tract of land called Parcel No. OC1-5 as conveyed to of Dallas Area Rapid Transit (DART) by deed recorded in Volume 94029, Page 4071, Deed Records of Dallas County, Texas, said point the beginning of a curve to the left with a central angle of 05°36'00", a radius of 1,171.28 feet, a chord bearing of N 62°27'42" W and a chord distance of 114.43 feet;

THENCE, Northwesterly, with the northeast line of DART Parcel No. OC1-5 and along said curve, an arc distance of 114.48 feet to a found 5/8 inch iron rod for a corner, said point being the east corner of a called 4,350 square feet tract of land called Parcel No. OC1-6 as conveyed to Dallas Area Rapid Transit by deed recorded in Volume 94126, Page 628, Deed Records of Dallas County, Texas;

29176

LEGAL DESCRIPTION - TRACT 2 (continued)

GIS Approved

THENCE, the following courses and distances with the northeast line of the said DART Parcel No. OC1-6:

- N 56°14'39" W, , a distance of 11.73 feet to a found 5/8 inch iron rod for a corner;
- N 61°52'32" W, a distance of 44.53 feet to a found 5/8 inch rod at the beginning of a curve to the left with a central angle of 31°02'44", a radius of 681.50 feet, a chord bearing of N 77°23'53" W and a chord distance of 364.77 feet;
- Northwestery, along said curve, an arc distance of 369.27 feet to found PK nail for a corner in the east line of a tract of land conveyed to the City of Dallas by deed recorded in Volume 91083, Page 3845, Deed Records of Dallas County, Texas and said point lying in the common line of said Block 429 and Block A/428;

THENCE, N 14°59'12" W, with the said City of Dallas tract and Block line, a distance of 75.08 feet to a found ½ inch iron rod in the southeast line of Memorial Drive (variable width right of way), said point being the northwest corner of the said 0.9877 acre tract;

THENCE, N 15°00'00"W, crossing Memorial Drive, a distance of 110.12 feet to a point for a corner in the northwest line of Memorial Drive;

THENCE, N 75°00'00" E, with the northwest line of Memorial Drive, passing at the distance of 53.17 feet the west corner of a circular right of way clip at the intersection of the northwest line of Memorial Drive with the southwest line of S. Griffin Street (a variable width right of way), continuing across the right of way of S. Griffin Street, in all a distance of 216.85 feet to a point for a corner in the northeast line of S. Griffin Street, said point the beginning of a non-tangent curve to the left with a central angle of 30°22'55", a radius of 400.00 feet, a chord bearing of S 56°33'48" E and a chord distance of 209.63 feet;

THENCE, the following courses and distances with the northeast line of S. Griffin Street:

- Southeasterly, along said curve, an arc distance of 212.11 feet to the point of tangency;

29176

LEGAL DESCRIPTION - TRACT 2 (continued)

GIS Approved

- S 71°45'15" E, a distance of 200.05 feet to the beginning of a tangent curve to the right with a central angle of 02°39'23", a radius of 1,201.45 feet, a chord bearing of S 70°25'34" E and a chord distance of 55.70 feet;
- Southeasterly, along said curve, an arc distance of 55.70 feet to the beginning of a reverse curve to the left with a central angle of 06°59'59", a radius of 632.50 feet, a chord bearing of S 72°35'52" E and a chord distance of 77.22 feet;
- Southeasterly, along said curve, an arc distance of 77.27 feet to a point for a corner;
- S 66°11'50" E, a distance of 18.91 feet to a point for a corner;
- S 89°05'30" E, a distance of 34.87 feet to a point for a corner at the intersection of the north line of S. Griffin Street with the northwest line of Interstate Highway 30;

THENCE, the following courses and distances with the northwest line of Interstate Highway 30:

- S 51°10'52" W, crossing the right of way of S. Griffin Street, a distance of 177.08 feet to a point for a corner;
- S 47°10'52" W, continuing across the right of way of S. Griffin Street, a distance of 82.29 feet to Point of Beginning and Containing 130,491 square feet or 2.9957 acres of land.

(The bearing basis for this survey is a bearing of N 75°00'00" E for the southeast line of Memorial Drive as indicated in the deed to Ronald A. Weisfeld by deed recorded in Volume 93100, Page 5628, Deed Records of Dallas County, Texas.)

29176

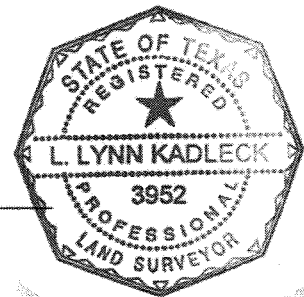
SURVEYOR'S CERTIFICATION

The undersigned hereby certifies the legal description hereon is accurate and was prepared from an on ground survey performed in October 2007 through January 2008, under the supervision of the undersigned, and using information from the surrounding property deeds.

Dated: May 29, 2008
Job No.: 2962-MSD



L. Lynn Kadleck
Registered Professional
Land Surveyor No. 3952



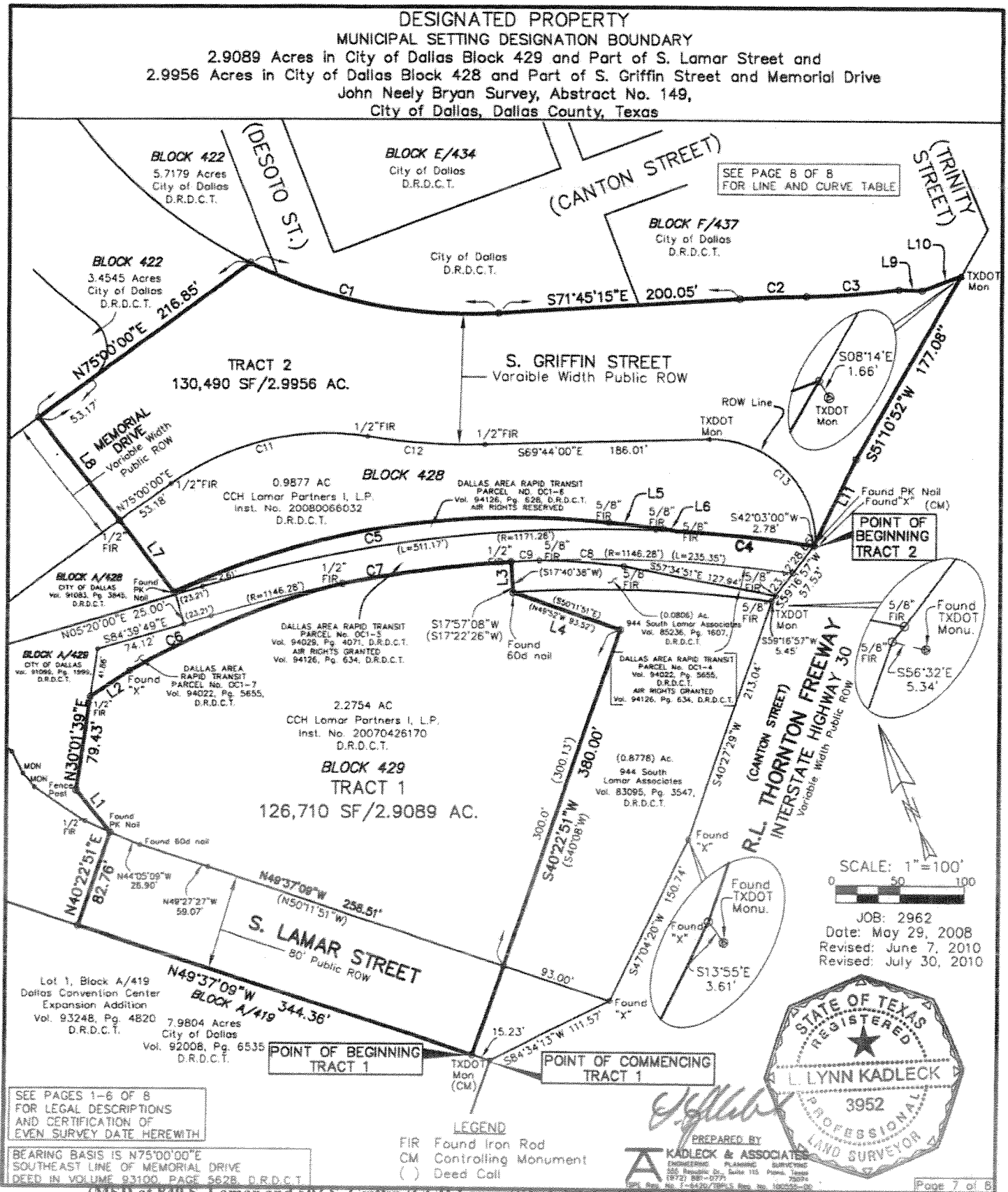
REVISED: March 7, 2009: Revised drawing and legal description to delete DART property.

REVISED: May 15, 2009: Revised drawing and legal description for Tract 1.

REVISED: June 7, 2010: Create letter size exhibits of drawing and legal descriptions.

REVISED: August 3, 2010; Revise legal description of Tract 1 and 2.

29176



29176

DESIGNATED PROPERTY

MUNICIPAL SETTING DESIGNATION BOUNDARY

2.9089 Acres in City of Dallas Block 429 and Part of S. Lamar Street and
 2.9956 Acres in City of Dallas Block 428 and Part of S. Griffin Street and Memorial Drive
 John Neely Bryan Survey, Abstract No. 149,
 City of Dallas, Dallas County, Texas

LINE AND CURVE TABLES

NUM	BEARING	DISTANCE
L1	N16°58'21"W	45.14'
L2	N76°57'22"E	39.64'
L3	S17°57'08"W	25.33'
L4	S49°37'09"E	93.97'
L5	N61°52'32"W	44.53'
L6	N56°14'39"W	11.73'
L7	N14°59'12"W	75.08'
L8	N15°00'00"W	110.12'
L9	S66°11'50"E	18.91'
L10	S89°05'30"E	34.87'
L11	S47°10'52"W	82.29'

NUM	DELTA	ARC	RADIUS	BEARING	DISTANCE
C1	30°22'55"	212.11'	400.00'	S56°33'48"E	209.63'
C2	02°39'23"	55.70'	1201.45'	S70°25'34"E	55.70'
C3	06°59'59"	77.27'	632.50'	S72°35'52"E	77.22'
C4	05°36'00"	114.48'	1171.28'	N62°27'42"W	114.43'
C5	31°02'44"	369.27'	681.50'	N77°23'53"W	364.77'
C6	16°56'38"	114.48'	645.00'	N89°16'28"E	190.05'
C7	07°01'05"	140.41'	1146.28'	S75°33'25"W	140.32'