ORDINANCE NO. 29746

An ordinance providing for the abandonment and relinquishment of portions of a fire lane, access & utility easement, located in City Block A/6051 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Alfred E. Record and Focus Learning Academy, Incorporated; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of new easements to the City of Dallas; providing for the indemnification of the City of Dallas against damages arising out of the abandonments 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 Alfred E. Record, a single person, and Focus Learning Academy, Incorporated, a Texas nonprofit corporation; hereinafter referred to collectively as GRANTEE, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tracts of land to GRANTEE, and is of the opinion that, subject to the terms and conditions herein provided, said easements are 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 tracts 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 Section 8, 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 those certain tracts or parcels of land hereinabove described in Exhibit A as follows: unto Alfred E. Record all of its right, title and interest in Tract I of Exhibit A; unto Focus Learning Academy, Incorporated all of its right, title and interest in Tract II of 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 Chief Financial Officer 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**, their heirs, 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.

That as a condition of this abandonment and as a part of the SECTION 8. consideration for the guitclaim to GRANTEE herein, GRANTEE, their heirs, successors and assigns, agree to indemnify, defend, release and hold harmless the City of Dallas as to 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 areas described in Exhibit A by **GRANTEE**, their heirs, successors 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, (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A, which **GRANTEE**, their heirs, 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 areas set out in Exhibit A. GRANTEE, their heirs, 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 9. That the abandonment, relinquishment and quitclaim made herein shall be subject to **GRANTEE** conveying 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 A/6051 as part of the consideration for the property herein abandoned by the City of Dallas and QUITCLAIMED to the **GRANTEE**. Said property to be conveyed shall be acceptable to the Director of Department of Sustainable Development and Construction of the City of Dallas and contain approximately 8,644 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 10. That at such time as the instrument described in Section 9 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 Department of Sustainable Development and Construction is authorized and directed to record said instrument in the Deed Records of Dallas County, Texas; and the recorded instrument shall be forwarded to the City Secretary for permanent record.

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 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 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 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: WARREN M. S. ERNST City Attorney

DAVID COSSUM

Director of Department of Sustainable Development and Construction

Assistant City Attorney

Assistant Director

Passed _____MAY 2 7 2015

FIRE LANE, ACCESS & UTILITY EASEMENT ABANDONMENT THE SELENA SURVEY PART OF LOT 4A, BLOCK A/6051 CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being 0.194 Acres (8,455 square feet) in the City of Dallas, Dallas County, Texas, being a part of the John Cox Survey, Abstract No. 250, and being a part of Lot 4A, Block A/6051 of The Selena Survey, an addition to the City of Dallas, according to the Plat thereof recorded in Volume 96024, Page 1481, of the Deed Records, Dallas County, Texas, and being a description of a portion of the 30' Fire Lane, Access and Utility Easement shown on Hampton Crossing an addition to the City of Dallas as recorded in Volume 86119, Page 5555, of said Deed Records and being the same tract of land conveyed to Alfred E. Records by deed of record in instrument no. 20080116065, Official Public Records, Dallas County, Texas and being more particularly described as follows:

Commencing at a ½" steel rod found in the South right-of-way line of Ledbetter Drive at the northwest corner of Lot 4A and the northeast corner of Lot 2B of the Focus Center Addition, recorded in Instrument No. 201400322473, Official Public Records, Dallas County, Texas.;

Thence North 89°13'53" East with said South right-of-way line a distance of 73.00 feet to the northwest corner of the herein described tract, the **True Point-of-Beginning**;

Thence North 89°13'53" East continuing with said South right-of-way line, a distance of 30.00 feet to the northeast corner of the herein described tract;

Thence over and across said Lot 4A with the East line of said 30' Fire Lane, Access and Utility Easement the following calls and distances:

South 01°09'07" East a distance of 60.82 feet;

South 45°49'33" East a distance of 61.87 feet;

South 01°09'07" East a distance of 164.42 feet to a point in the South line of said Lot 4A for the southeast corner of the herein described tract;

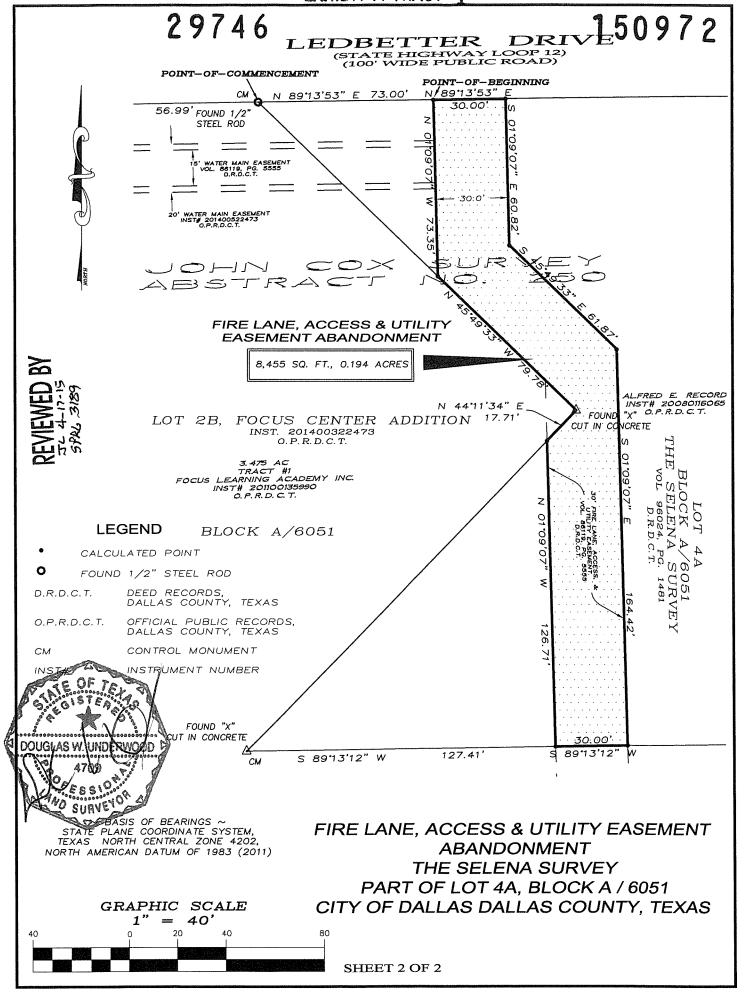
Thence South 89°13'12" West with said South line, a distance 30.00 feet to a point for the southwest corner of the herein described tract;

Thence North 01°09'07" West over and across said Lot 4A, a distance of 126.71 feet to a point in the West line of said Lot 4A the east line of 2B;

Thence North 44°11'34" East with said West common line, a distance of 17.71 feet; Thence North 45°49'33" West with said West common line, a distance of 79.78 feet;

Thence North 01°09'07" West over and across said Lot 4A, a distance of 73.35 feet to the **Point-of-Beginning** and containing **0.194** acres **(8,455 square feet)** of land.

Basis of bearings are State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011)



FIRE LANE, ACCESS & UTILITY EASEMENT ABANDONMENT FOCUS CENTER ADDITION PART OF LOT 2B, BLOCK A/6051 CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being 0.004 Acres (159 square feet) in the City of Dallas, Dallas County, Texas, being a part of the John Cox Survey, Abstract No. 250, and being a part of Lot 2B, Block A/6051 of The Focus Center Addition, an addition to the City of Dallas, according to the Plat thereof recorded by Instrument No. 201400322473, Official Public Records, Dallas County, Texas, and being a description of a portion of the 30' Fire Lane, Access and Utility Easement shown on plat of Hampton Crossing an addition to the City of Dallas as recorded in Volume 86119, Page 5555, of said Deed Records, Dallas County, Texas and being the same tract of land conveyed to Focus Learning Center, Inc. by deed recorded by Instrument No. 201100135990, of said Official Public Records and being more particularly described as follows:

Commencing at a ½" steel rod found in the South right-of-way line of Ledbetter Drive at the northwest corner of Lot 4A of the Selena Survey recorded in Volume 96024, Page 1481, of the Deed Records, Dallas County, Texas and the northeast corner of said Lot 2B;

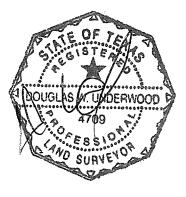
Thence South 45°49'33" East with the east line of said common line of Lot 2B and Lot 4A, a distance of 165.69 feet to the north corner of the herein described tract, the **True Point-of-Beginning**;

Thence South 45°49'33" East continuing with said common line, a distance of 17.92 feet to the east corner of the herein described tract;

Thence South 44°11'34" West continuing with said common line, a distance of 17.71 feet to the south corner of the herein described tract;

Thence North 01°09'07" West, over and across said Lot 2B with the East line of said 30' Fire Lane, Access and Utility Easement, a distance of 25.19 feet to the **Point-of-Beginning** and containing **0.004 acres** (159 square feet) of land.

Basis of bearings are State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011)





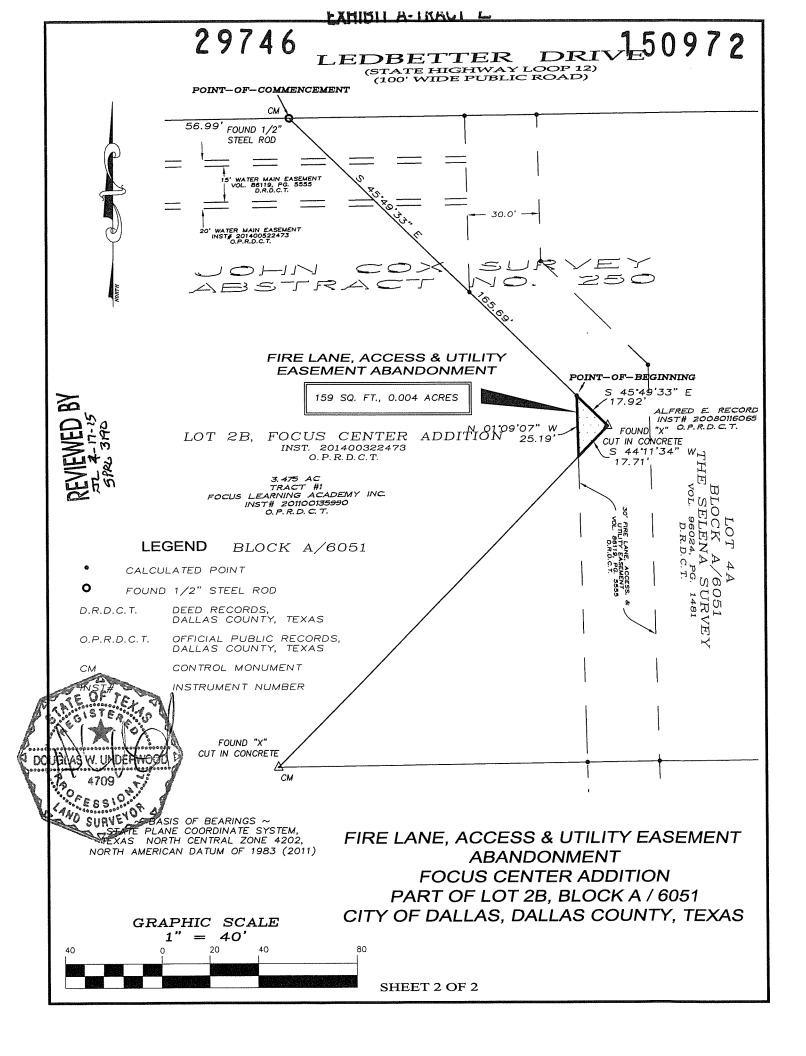


EXHIBIT B TRACT 1

WATER EASEMENT THE SELENA SURVEY PART OF LOT 4A, BLOCK A/6051 CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being 0.194 Acres (8,455 square feet) in the City of Dallas, Dallas County, Texas, being a part of the John Cox Survey, Abstract No. 250, and being a part of Lot 4A, Block A/6051 of The Selena Survey, an addition to the City of Dallas, according to the Plat thereof recorded in Volume 96024, Page 1481, of the Deed Records, Dallas County, Texas, and being a description of a portion of the 30' Fire Lane, Access and Utility Easement shown on Hampton Crossing an addition to the City of Dallas as recorded in Volume 86119, Page 5555, of said Deed Records and being the same tract of land conveyed to Alfred E. Records by deed of record in instrument no. 20080116065, Official Public Records, Dallas County, Texas and being more particularly described as follows:

Commencing at a ½" steel rod found in the South right-of-way line of Ledbetter Drive at the northwest corner of Lot 4A and the northeast corner of Lot 2B of the Focus Center Addition, recorded in Instrument No. 201400322473, Official Public Records, Dallas County, Texas.;

Thence North 89°13'53" East with said South right-of-way line a distance of 73.00 feet to the northwest corner of the herein described tract, the **True Point-of-Beginning**;

Thence North 89°13'53" East continuing with said South right-of-way line, a distance of 30.00 feet to the northeast corner of the herein described tract;

Thence over and across said Lot 4A with the East line of said 30' Fire Lane, Access and Utility Easement the following calls and distances:

South 01°09'07" East a distance of 60.82 feet;

South 45°49'33" East a distance of 61.87 feet;

South 01°09'07" East a distance of 164.42 feet to a point in the South line of said Lot 4A for the southeast corner of the herein described tract;

Thence South 89°13'12" West with said South line, a distance 30.00 feet to a point for the southwest corner of the herein described tract;

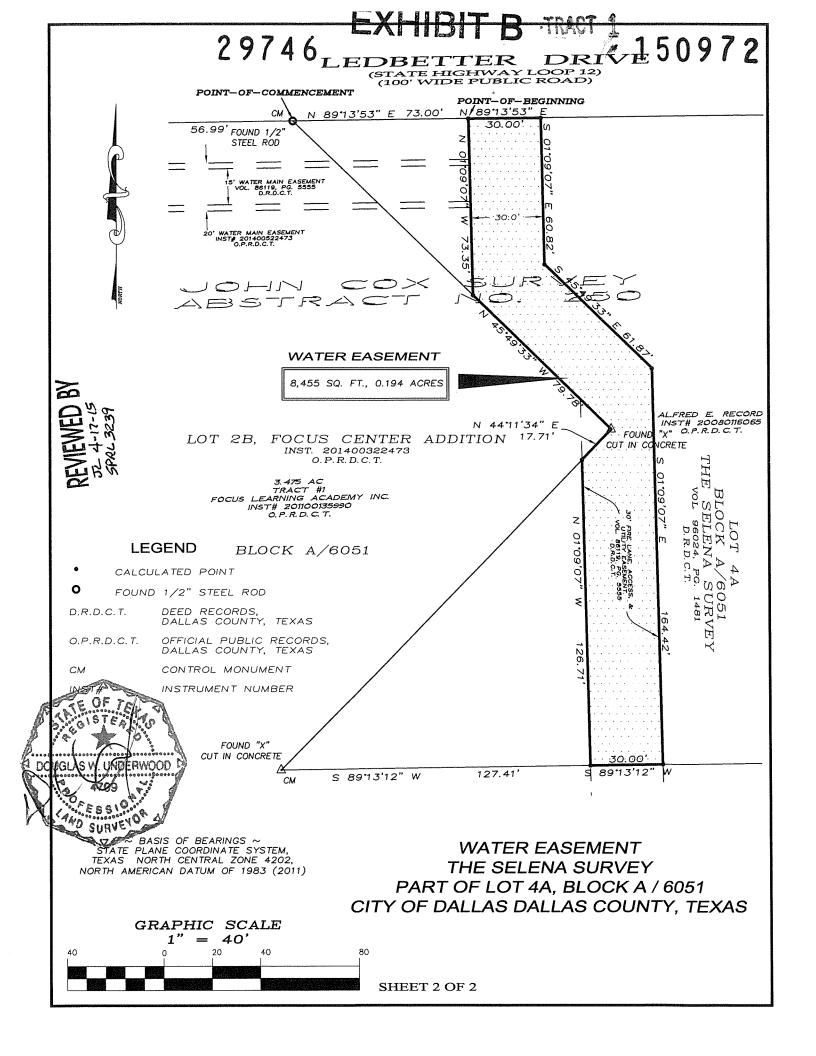
Thence North 01°09'07" West over and across said Lot 4A, a distance of 126.71 feet to a point in the West line of said Lot 4A the east line of 2B;

Thence North 44°11'34" East with said West common line, a distance of 17.71 feet; Thence North 45°49'33" West with said West common line, a distance of 79.78 feet;

Thence North 01°09'07" West over and across said Lot 4A, a distance of 73.35 feet to the **Point-of-Beginning** and containing **0.194 acres (8,455 square feet)** of land.

Basis of bearings are State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011)





WATER EASEMENT FOCUS CENTER ADDITION PART OF LOT 2B, BLOCK A/6051 CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being 0.004 Acres (159 square feet) in the City of Dallas, Dallas County, Texas, being a part of the John Cox Survey, Abstract No. 250, and being a part of Lot 2B, Block A/6051 of The Focus Center Addition, an addition to the City of Dallas, according to the Plat thereof recorded by Instrument No. 201400322473, Official Public Records, Dallas County, Texas, and being a description of a portion of the 30' Fire Lane, Access and Utility Easement shown on plat of Hampton Crossing an addition to the City of Dallas as recorded in Volume 86119, Page 5555, of said Deed Records, Dallas County, Texas and being the same tract of land conveyed to Focus Learning Center, Inc. by deed recorded by Instrument No. 201100135990, of said Official Public Records and being more particularly described as follows:

Commencing at a 1/2" steel rod found in the South right-of-way line of Ledbetter Drive at the northwest corner of Lot 4A of the Selena Survey recorded in Volume 96024, Page 1481 of the Deed Records, Dallas County, Texas and the northeast corner of said Lot 2B;

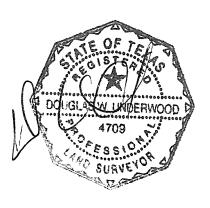
Thence South 45°49'33" East with the east line of said common line of Lot 2B and Lot 4A, a distance of 165.69 feet to the north corner of the herein described tract, the True Point-of-Beginning;

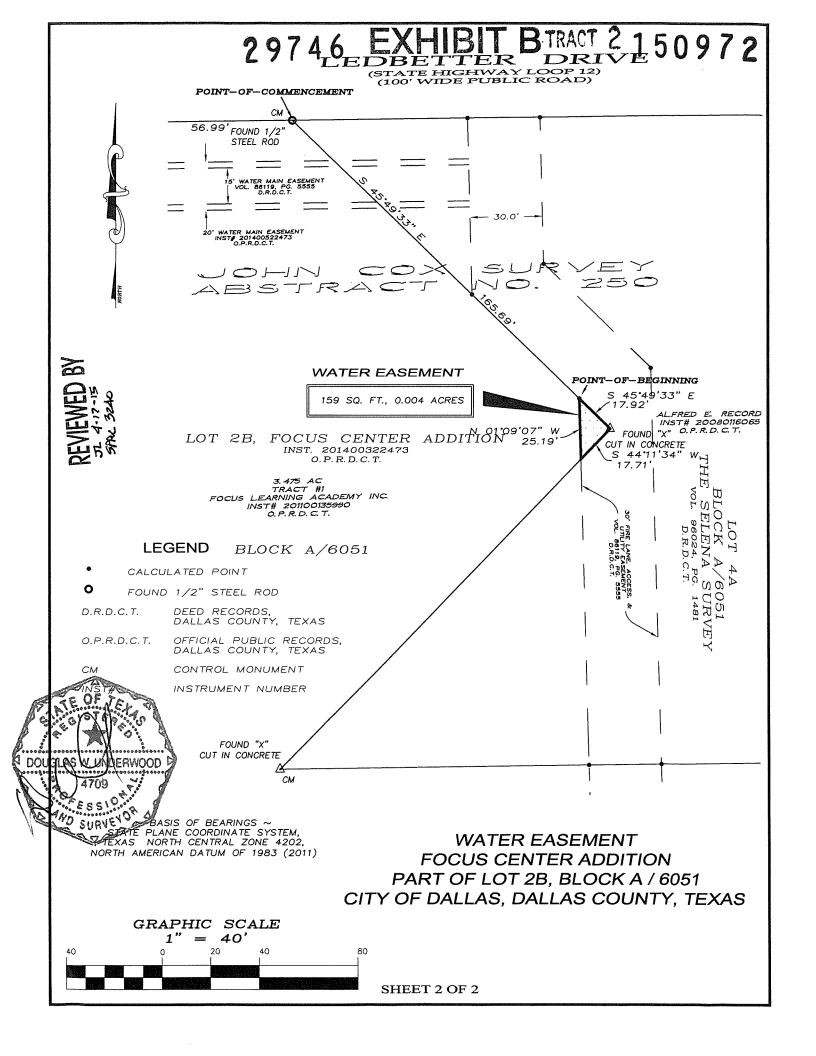
Thence South 45°49'33" East continuing with said common line, a distance of 17.92 feet to the east corner of the herein described tract;

Thence South 44°11'34" West continuing with said common line, a distance of 17.71 feet to the south corner of the herein described tract;

Thence North 01°09'07" West, over and across said Lot 2B with the East line of said 30' Fire Lane, Access and Utility Easement, a distance of 25.19 feet to the Point-of-Beginning and containing 0.004 acres (159 square feet) of land.

Basis of bearings are State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011)







PROOF OF PUBLICATION - LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY O	COUNCIL MAY 27 2015
ORDINANCE NUMBER	29746
DATE PUBLISHED	MAY 30 2015

ATTESTED BY:

Losa G. Lies