

ORDINANCE NO. 29776

An ordinance providing for the abandonment of a portion of an alley easement and two fire lane easements located in City Blocks 2/2463, 4/2475, and 10/2471 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to CND-Cityville, 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; 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 CND-Cityville, LLC, a Texas limited liability company, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portion of an alley easement and two fire lane easements 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 tracts 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 2.** That for and in monetary consideration of the sum of **FIFTEEN THOUSAND SEVEN HUNDRED EIGHTY AND NO/100 DOLLARS (\$15,780.00)** 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, 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 tracts 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 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 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 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 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 harmless the City of Dallas as to any 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 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**, 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 areas 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 9.** That as a condition of the abandonment of Exhibit A, Tract I and as a part of the consideration for the quitclaim of Exhibit A, Tract I made herein, **GRANTEE** shall file a final replat of the properties adjoining Exhibit A, Tract I prior to the issuance of any building permits affecting Exhibit A, Tract I 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 of Exhibit A, Tract I is located after its approval by the City Plan Commission of the City of Dallas.

**SECTION 10.** 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, Tract I 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, Tract I 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 of Sustainable Development and Construction.

**SECTION 11.** 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 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

BY   
Assistant City Attorney

BY   
Assistant Director

Passed         JUN 17 2015        .

ALLEY EASEMENT ABANDONMENT  
ELSMERE ADDITION  
PORTION OF LOT 12, BLOCK 10/2471  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

**BEING** a 519 square foot (0.012 acre) tract of land situated in the CRAWFORD GRIGSBY SURVEY, ABSTRACT NO. 532, City of Dallas Block No. 10/2471, City of Dallas, Dallas County, Texas and being part of Lot 12, Block 10/2471 of ELSMERE ADDITION, an Addition to the City of Dallas, Dallas County, Texas according to the Plat thereof recorded in Volume 1, Page 42, Map Records, Dallas County, Texas, and being part of that tract of land described as Tract 3 in Special Warranty Deed to CND-Cityville, LLC, as recorded in Document Number 201400086379, Official Public Records, Dallas County, Texas, and being all of that Alley Easement as created in Volume 957, Page 1358, Deed Records, Dallas County, Texas and being more particularly described as follows:

**COMMENCING** at a 5/8 inch iron rod with a red plastic cap found for the intersection of the southeast line of Wheeler Street, a 50 foot right-of-way, with the southwest line of Gilbert Avenue, a variable width right-of-way, for the original north corner of said Lot 12;

**THENCE** South 44 degrees 23 minutes 29 seconds West, with said southeast line, a distance of 7.00 feet to the **POINT OF BEGINNING** of the tract of land herein described;

**THENCE** South 45 degrees 09 minutes 33 seconds East, leaving said southeast line and with the northeast line of the above mentioned Lot 12, a distance of 138.26 feet to a point for corner in the southeast line of said Lot 12, from which point a 5/8 inch iron rod with a red plastic cap found for the original east corner of said Lot 12 bears North 44 degrees 26 minutes 02 seconds East, 7.00 feet;

**THENCE** South 44 degrees 26 minutes 02 seconds West, with the southeast line of Lot 12, a distance of 2.10 feet to a point for corner;

**THENCE** North 46 degrees 31 minutes 36 seconds West, leaving said southeast line and across the above mentioned Lot 12, a distance of 138.28 feet to a point for corner in the above mentioned southeast line of Wheeler Street;

**THENCE** North 44 degrees 23 minutes 29 seconds East, with said southeast line, a distance of 5.40 feet to the **POINT OF BEGINNING** and containing 519 square feet or 0.012 acres of land, more or less.

TPY  
02-11-2015  
SPRG NO.: 3044

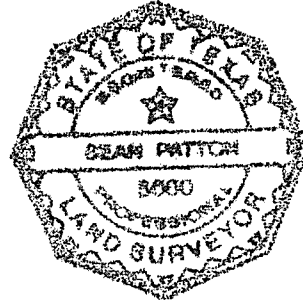
ALLEY EASEMENT ABANDONMENT  
ELSMERE ADDITION  
PORTION OF LOT 12, BLOCK 10/2471  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

(A plat of even survey date herewith accompanies this description.)

Basis of Bearings derived from Texas State Plane Coordinate System, North Central Zone (4202), NAD83 (CORS96).



Sean Patton January 15, 2015  
Texas Registration No. 5660

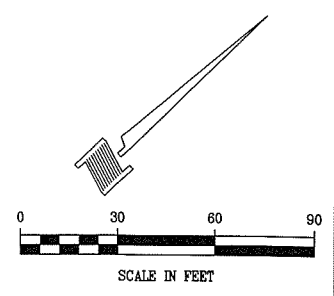


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02-11-2015  
SPRG NO.: 3044

ALLEY EASEMENT ABANDONMENT  
ELSMERE ADDITION  
PORTION OF LOT 12, BLOCK 10/ 2471  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

LINE TABLE

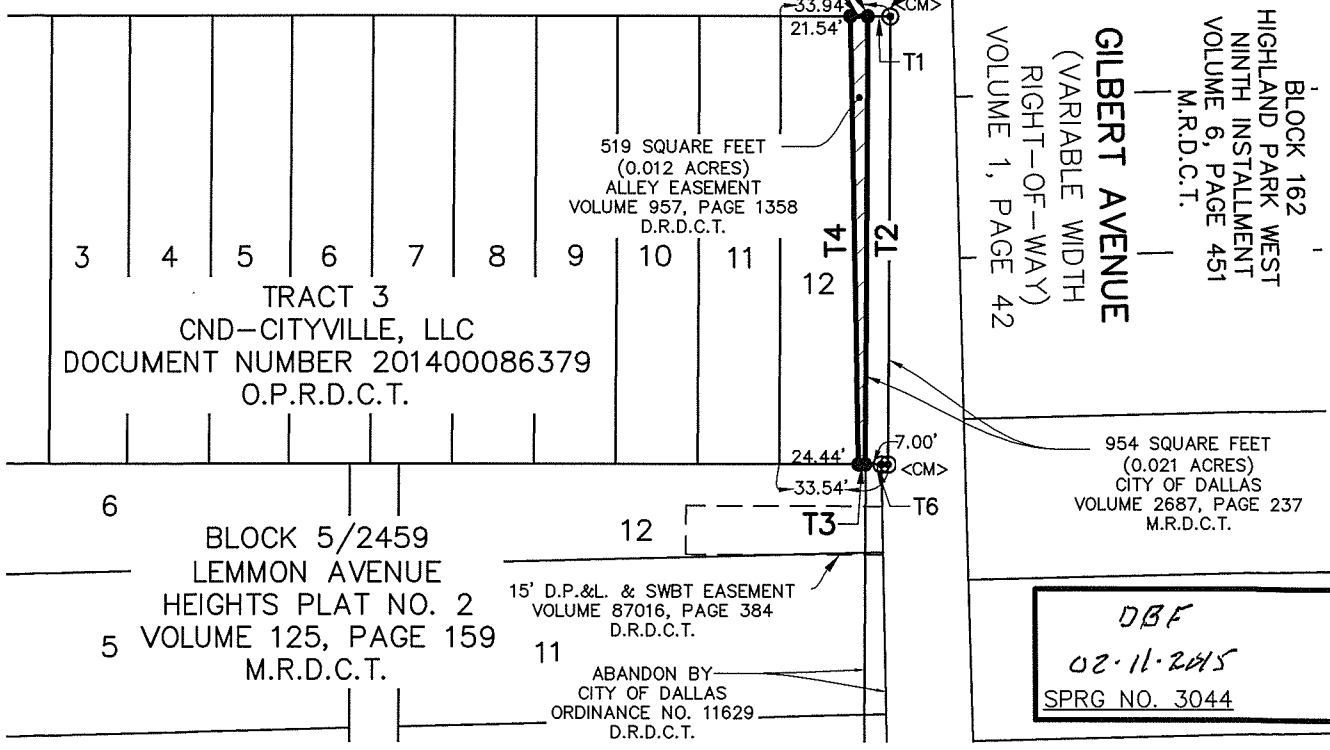
LINE	BEARING	LENGTH
T1	S44°23'29"W	7.00'
T2	S45°09'33"E	138.26'
T3	S44°26'02"W	2.10'
T4	N46°31'36"W	138.28'
T5	N44°23'29"E	5.40'
T6	N44°26'02"E	7.00'



WHEELER STREET  
(50' RIGHT-OF-WAY)  
VOLUME 1, PAGE 42

POINT OF BEGINNING

POINT OF COMMENCING



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" IRON ROD FOUND W/ A RED PLASTIC CAP (UNLESS OTHERWISE NOTED)
- = POINT FOR CORNER
- D.P.&L. = DALLAS POWER AND LIGHT
- SWBT = SOUTHWESTERN BELL TELEPHONE

GENERAL NOTES:

1) BASIS OF BEARINGS DERIVED FROM TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202), NAD83 (CORS96)

**DOWDEY, ANDERSON & ASSOCIATES, INC.**  
5225 Village Creek Drive, Suite 200 Plano, Texas 75093  
Phone 972-931-0694 Fax 972-931-9538

*(Signature)*  
**Sean Patton**  
Registered Professional Land Surveyor  
No. 5660  
1.15.15



S:\PROJECTS\C3D\13049\dwg\13049-ESMT06-ALLEY ABANDONMENT.dwg, LTR P, 1/14/2015 5:39:10 PM, ealvarez, Dowdey, Anderson & Associates, Inc., EA



**FIRE LANE EASEMENT ABANDONMENT  
ELSMERE ADDITION  
PORTION OF LOTS 9-10, BLOCK 2/2463  
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

**BEING** a 500 square feet (0.012 acres) tract of land situated in the CRAWFORD GRIGSBY SURVEY, ABSTRACT NO. 532, City of Dallas Block No. 2/2463, City of Dallas, Dallas County, Texas and being part of Lots 9 & 10, Block 2/2463 of the ELSMERE ADDITION, an Addition to the City of Dallas, Dallas County, Texas according to the Plat thereof recorded in Volume 1, Page 42, Map Records, Dallas County, Texas, and being part of that tract of land described as Tract 4 in Special Warranty Deed to CND-Cityville, LLC, as recorded in Document Number 201400086379, Official Public Records, Dallas County, Texas and being all of that Fire Lane Easement, described as "Tract No. II", as recorded in Volume 68053, Page 940, Deed Records, Dallas County, Texas being more particularly described as follows:

**COMMENCING** at a 3/4 inch iron pipe found for the intersection of the southwest line of Holland Avenue, a 50 foot right-of-way, with the northwest line of Miles Street, a 50 foot right-of-way;

**THENCE** South 44 degrees 22 minutes 52 minutes West, with said northwest line, a distance of 76.50 feet to the **POINT OF BEGINNING** of the tract of land herein described;

**THENCE** South 44 degrees 22 minutes 52 seconds West, continuing with said northwest line, a distance of 20.00 feet to a point for corner from which point an "X" found in concrete at the south corner of Lot 1 Block 2/2463 of the above mentioned ELSMERE ADDITION, bears South 44 degrees 22 minutes 52 seconds East, 248.34 feet;

**THENCE** North 45 degrees 37 minutes 08 seconds West, leaving said northwest line, a distance of 25.00 feet to a point for corner;

**THENCE** North 44 degrees 22 minutes 52 seconds East, a distance of 20.00 feet to a point for corner;

**THENCE** South 45 degrees 37 minutes 08 seconds East, a distance of 25.00 feet to the **POINT OF BEGINNING** and containing 500 square feet or 0.012 acres of land, more or less.

<p style="text-align:center"><i>DBF</i> 02-11-2015 SPRG NO. <u>3045</u></p>
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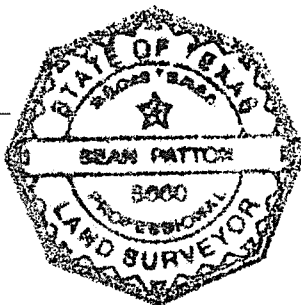
FIRE LANE EASEMENT ABANDONMENT  
ELSMERE ADDITION  
PORTION OF LOTS 9-10, BLOCK 2/2463  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

(A plat of even survey date herewith accompanies this description.)

Basis of Bearings derived from Texas State Plane Coordinate System, North Central Zone (4202), NAD83 (CORS96).



Sean Patton                      January 15, 2015  
Texas Registration No. 5660

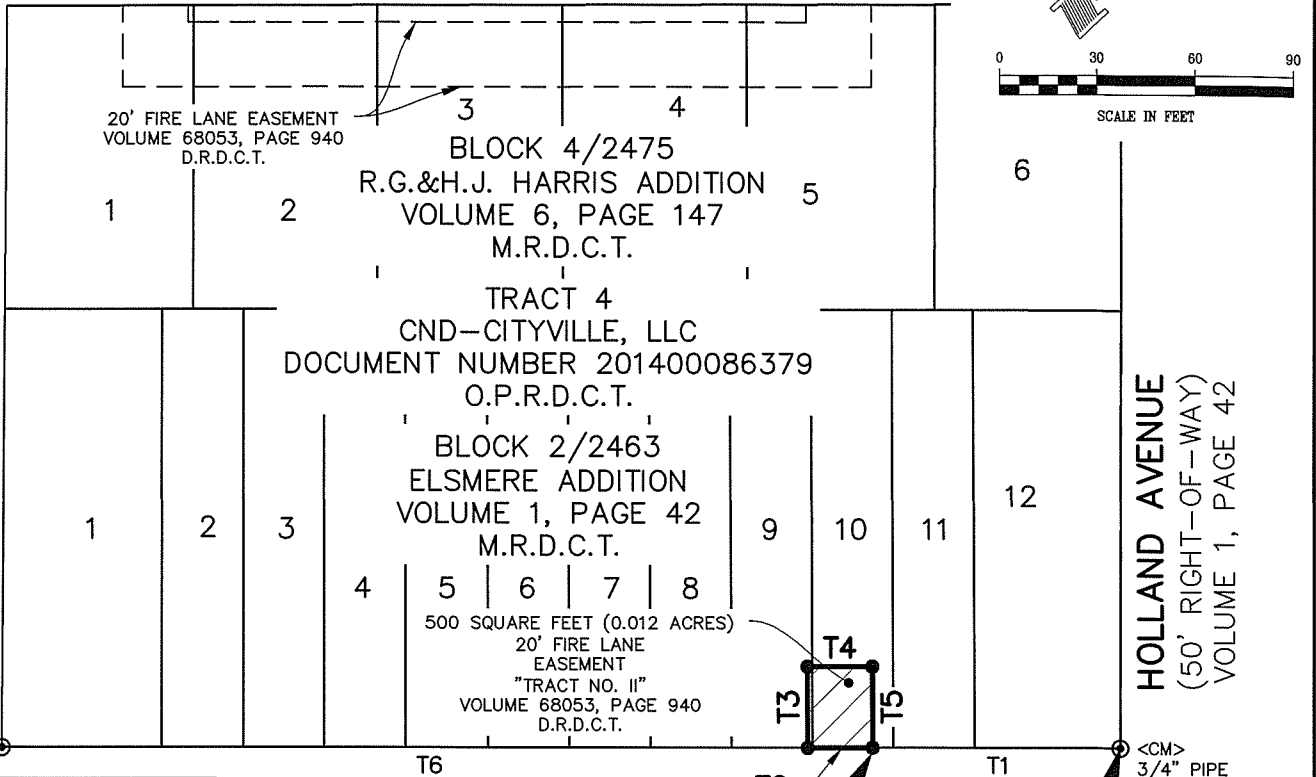


DBF  
02-11-2015  
SPRG NO. 3045

29776

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FIRE LANE EASEMENT ABANDONMENT  
ELSMERE ADDITION  
PORTION OF LOTS 9-10, BLOCK 2/2463  
CITY OF DALLAS, DALLAS COUNTY, TEXAS



BOWSER STREET  
(50' RIGHT-OF-WAY)  
VOLUME 1, PAGE 42

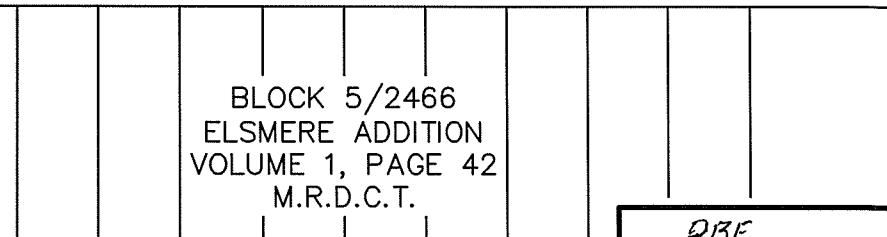
HOLLAND AVENUE  
(50' RIGHT-OF-WAY)  
VOLUME 1, PAGE 42

LINE TABLE		
LINE	BEARING	LENGTH
T1	S44°22'52"W	76.50'
T2	S44°22'52"W	20.00'
T3	N45°37'08"W	25.00'
T4	N44°22'52"E	20.00'
T5	S45°37'08"E	25.00'
T6	S44°22'52"W	248.34'

MILES STREET  
(50' RIGHT-OF-WAY)  
VOLUME 1, PAGE 42

POINT OF BEGINNING

POINT OF COMMENCING



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" IRON ROD FOUND W/ A RED PLASTIC CAP (UNLESS OTHERWISE NOTED)  
● = POINT FOR CORNER

GENERAL NOTES:

1) BASIS OF BEARINGS DERIVED FROM TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202), NAD83 (CORS96)

**DOWDEY, ANDERSON & ASSOCIATES, INC.**  
5225 Village Creek Drive, Suite 200 Plano, Texas 75093  
Phone 972-931-0694 Fax 972-931-9538

Sean Patton  
Registered Professional Land Surveyor  
No. 5660  
1.15.15



FIRE LANE EASEMENT ABANDONMENT  
R.G.&H.J. HARRIS ADDITION  
PORTION OF LOTS 1-5, BLOCK 4/2475  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

**BEING** a 4,820 square foot (0.111 acre) tract of land situated in the CRAWFORD GRIGSBY SURVEY, ABSTRACT NO. 532, City of Dallas Block No. 4/2475, City of Dallas, Dallas County, Texas and being part of Lots 1-5, Block 4/2475 of the R.G.&H.J. HARRIS ADDITION, an Addition to the City of Dallas, Dallas County, Texas according to the Plat thereof recorded in Volume 6, Page 147, Map Records, Dallas County, Texas, and being part of that tract of land described as Tract 4 in Special Warranty Deed to CND-Cityville, LLC, as recorded in Document Number 201400086379, Official Public Records, Dallas County, Texas and being all of that Fire Lane Easement as recorded in Volume 68053, Page 940, Deed Records, Dallas County, Texas and being more particularly described as follows:

**COMMENCING** at a 1/2 inch iron found for the intersection of the northeast line of Bowser Street, a 50 foot right-of-way, with the southeast line of Dorothy Avenue, a 50 foot right-of-way, for the most westerly corner of said Lot 1;

**THENCE** North 44 degrees 14 minutes 08 seconds East, with said southeast line, a distance of 36.50 feet to the **POINT OF BEGINNING** of the tract of land herein described;

**THENCE** North 44 degrees 14 minutes 08 seconds East, continuing with said southeast line, a distance of 20.00 feet to a point for corner;

**THENCE** South 45 degrees 45 minutes 52 seconds East, leaving said southeast line, a distance of 5.00 feet to a point for corner;

**THENCE** North 44 degrees 14 minutes 08 seconds East, a distance of 191.00 feet to a point for corner;

**THENCE** North 45 degrees 45 minutes 52 seconds West, a distance of 5.00 feet to a point for corner in the above mentioned southeast line of Dorothy Avenue;

DBF  
02-11-2015  
SPRG NO. 3046

FIRE LANE EASEMENT ABANDONMENT  
R.G.&H.J. HARRIS ADDITION  
PORTION OF LOTS 1-5, BLOCK 4/2475  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

**THENCE** North 44 degrees 14 minutes 08 seconds East, with said southeast line, a distance of 20.00 feet to a point for corner from which point a 5/8 inch iron rod with a yellow plastic cap stamped "KADLECK" found for the common north corner of Lot 5 and west corner of Lot 6 of the above mentioned R.G.&H.J. HARRIS ADDITION, bears North 44 degrees 14 minutes 08 seconds East, 19.85 feet;

**THENCE** South 45 degrees 45 minutes 52 seconds East, leaving said southeast line, a distance of 25.00 feet to a point for corner;

**THENCE** South 44 degrees 14 minutes 08 seconds West, a distance of 231.00 feet to a point for corner;

**THENCE** North 45 degrees 45 minutes 52 seconds West, a distance of 25.00 feet to the **POINT OF BEGINNING** and containing 4,820 square feet or 0.111 acres of land, more or less.

(A plat of even survey date herewith accompanies this description.)

Basis of Bearings derived from Texas State Plane Coordinate System, North Central Zone (4202), NAD83 (CORS96).

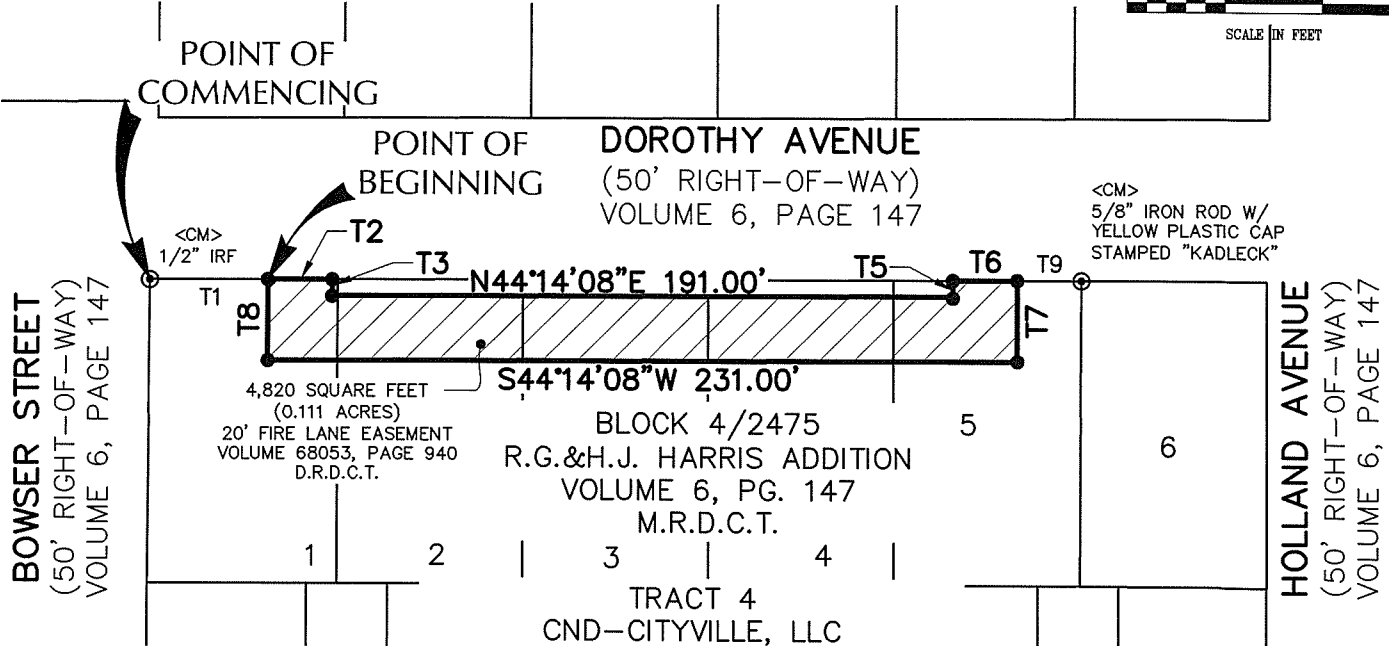
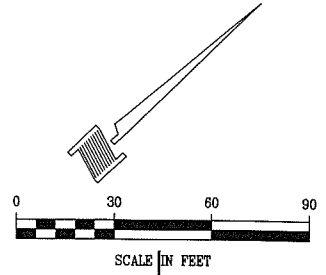


Sean Patton January 15, 2015  
Texas Registration No. 5660



DBF  
02-11-2015  
SPRG NO. 3046

FIRE LANE EASEMENT ABANDONMENT  
 R.G.&H.J. HARRIS ADDITION  
 PORTION OF LOTS 1-5, BLOCK 4/2475  
 CITY OF DALLAS, DALLAS COUNTY, TEXAS



BOWSER STREET  
 (50' RIGHT-OF-WAY)  
 VOLUME 6, PAGE 147

HOLLAND AVENUE  
 (50' RIGHT-OF-WAY)  
 VOLUME 6, PAGE 147

4,820 SQUARE FEET  
 (0.111 ACRES)  
 20' FIRE LANE EASEMENT  
 VOLUME 68053, PAGE 940  
 D.R.D.C.T.

BLOCK 4/2475  
 R.G.&H.J. HARRIS ADDITION  
 VOLUME 6, PG. 147  
 M.R.D.C.T.

TRACT 4  
 CND-CITYVILLE, LLC  
 DOCUMENT NUMBER 201400086379  
 D.R.D.C.T.

BLOCK 2/2463  
 ELSMERE ADDITION  
 VOLUME 1, PG. 42  
 M.R.D.C.T.

20' FIRE LANE EASEMENT  
 VOLUME 68053, PAGE 940  
 D.R.D.C.T.

LINE TABLE		
LINE	BEARING	LENGTH
T1	N44°14'08"E	36.50'
T2	N44°14'08"E	20.00'
T3	S45°45'52"E	5.00'
T5	N45°45'52"W	5.00'
T6	N44°14'08"E	20.00'
T7	S45°45'52"E	25.00'
T8	N45°45'52"W	25.00'
T9	N44°14'08"E	19.85'

LEGEND

*DIBF*  
*02.11.2015*  
 SPRG NO.: 3046

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 IRON ROD W/ A RED PLASTIC CAP FOUND (UNLESS OTHERWISE NOTED)  
 ● = POINT FOR CORNER

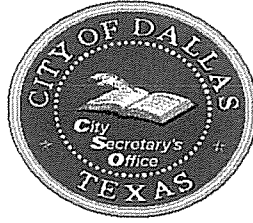
GENERAL NOTES:  
 1) BASIS OF BEARINGS DERIVED FROM TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202), NAD83 (CORS96)

**DOWDEY, ANDERSON & ASSOCIATES, INC.**  
 5225 Village Creek Drive, Suite 200 Plano, Texas 75093  
 Phone 972-931-0694 Fax 972-931-9538

*[Signature]*  
**Sean Patton**  
 Registered Professional Land Surveyor  
 No. 5660  
 1.15.15



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## 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 COUNCIL JUN 17 2015

ORDINANCE NUMBER 29776

DATE PUBLISHED JUN 20 2015

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose C. Sims".