

ORDINANCE NO. 30183

An ordinance providing for the abandonment of portions of Elm Street and Main Street located adjacent to City Blocks 1/481 and B/481 in the City of Dallas and County of Dallas, Texas; subject to a reverter; providing for the quitclaim thereof to Westdale Properties America I, LTD; providing for the terms and conditions of the abandonment and quitclaim made herein; 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.

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WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Westdale Properties America I, LTD, a Texas limited partnership, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim, subject to a reverter interest the hereinafter described tracts of land, and is of the opinion that, subject to the terms conditions and reverter herein provided, said portions of public right-of-way are not needed for public use, and same should be abandoned and quitclaimed to **GRANTEE**, as 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 public will be served by abandoning and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms conditions and reverter, 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, be and the same are abandoned, vacated and closed insofar as the right, title and easement of the public are concerned; subject, however, to the reverter and the conditions hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **EIGHT THOUSAND NINE HUNDRED FIFTY AND NO/100 (\$8,950.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8, 9 and 10, the City of Dallas does by these presents **QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations and exceptions hereinafter made and with the reverter interest herein stated, all its right, title and interest in and to those certain tracts of land hereinabove described in Exhibit A. Provided however, that if the existing encroachments situated on and adjacent to the areas to be abandoned are ever: (i) partially demolished, removed or damaged and is not promptly thereafter repaired or rebuilt; (ii) substantially or totally demolished, removed or damaged; or (iii) abandoned in whole or in part by **GRANTEE**, its successors and assigns, then this ordinance and quitclaim shall be rendered null and void and the right, title and easement of the public shall absolutely revert without any necessity for suit or re-entry by the City; and no act or omission on the part of the City, its successors and assigns, shall be a waiver of the operation or enforcement of this ordinance. **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**.

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 is 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 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, and **GRANTEE's** 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**, and **GRANTEE's** 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**, 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 Liability Act, 42 U.S.C. Section 9601 et seq., as amended, (b) any "hazardous substances": 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 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 tracts 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 areas are 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 contact 1-800-DIG-TEST to have facilities marked and located within affected easements before any excavations are begun.

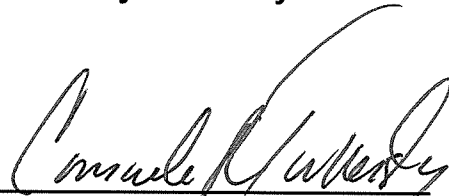
SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee.

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: (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 areas abandoned herein, subject to a reverter interest, 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:
CHRISTOPHER D. BOWERS
Interim City Attorney

DAVID COSSUM
Director of Department of Sustainable
Development and Construction

BY 
Assistant City Attorney

BY 
SR Assistant Director

Passed SEP 14 2016.

LEGAL DESCRIPTION

BEING a 350 square feet (0.008 acres) tract of land situated in the John Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas and being adjacent to City Block B/481, Official City of Dallas Block Number, and being part of Elm Street (a 73-foot wide right-of-way) shown on the plat of Eliza McCoy's Addition, an addition to the City of Dallas, Texas created by the plat thereof recorded in Volume 150, Page 407, Map Records Dallas, County, Texas; and being more particularly described as follow:

COMMENCING at an iron pipe found (controlling monument) for the southeast corner of a tract of land described as Tract 4, Parcel 2 in Special Warranty Deed to Westdale Properties America I, Ltd., recorded in Instrument No. 201300249425, Official Public Records, Dallas County, Texas and being in the west right-of-way line of Malcolm X Boulevard and the east line of Block B/481; from which an "X" cut in concrete found (controlling monument) for the north end of a right-of-way corner clip at the intersection of said west right-of-way line of Malcolm X Boulevard and the north right-of-way line of Main Street (a 67-foot wide right-of-way) bears South 24°55'44" East, a distance of 97.10 feet;

THENCE with said west right-of-way line of Malcolm X Boulevard and said east line of Block B/481, North 24°55'44" West, a distance of 101.92 feet to a point in a building at the intersection of said west right-of-way line of Malcolm X Boulevard and the south right-of-way line of Elm Street for the **POINT OF BEGINNING**;

THENCE with said south right-of-way line of Elm Street and the north line of said Block B/481, South 76°12'46" West, a distance of 200.03 feet to a point in a building for the northwest corner of Lot 52, Block B/481 of said Eliza McCoy's Addition;

THENCE departing said south right-of-way line of Elm Street and said north line of Block B/481, North 14°50'50" West, a distance of 1.75 feet to a "X" cut in concrete set for corner;

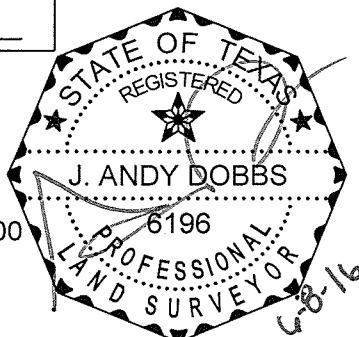
THENCE being parallel and 1.75 feet perpendicular to said south right-of-way line of Elm Street and said north line of Block B/481, North 76°12'46" East, a distance of 199.72 feet to an "X" cut in concrete set for corner;

THENCE South 24°55'44" East, a distance of 1.78 feet to the **POINT OF BEGINNING** and containing 350 square feet or 0.008 acres of land.

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

(For SPRG use only)
 Reviewed By: JC
 Date: 6-10-16
 SPRG NO: 3555

J. ANDY DOBBS
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 6196
 12750 MERIT DRIVE, SUITE 1000
 DALLAS, TEXAS 75251
 PH. 972-770-1300
 andy.dobbs@kimley-horn.com



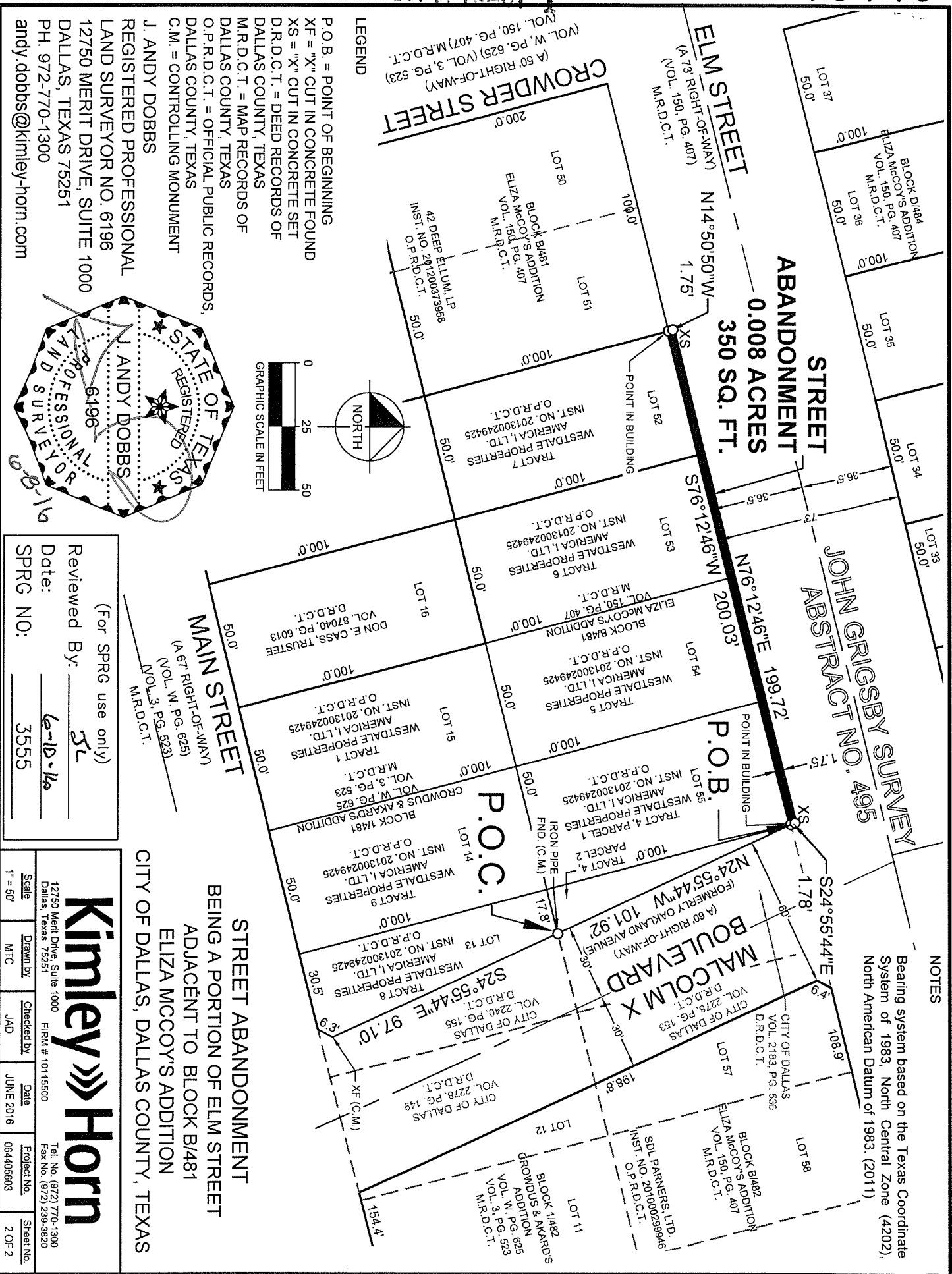
STREET ABANDONMENT
 BEING A PORTION OF ELM STREET
 ADJACENT TO BLOCK B/481
 ELIZA MCCOY'S ADDITION
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

Kimley»Horn
 12750 Merit Drive, Suite 1000 Dallas, Texas 75251 FIRM # 10115500 Tel. No. (972) 770-1300 Fax No. (972) 239-3820

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MTC	JAD	JUNE 2016	064405603	1 OF 2

NOTES

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983. (2011)

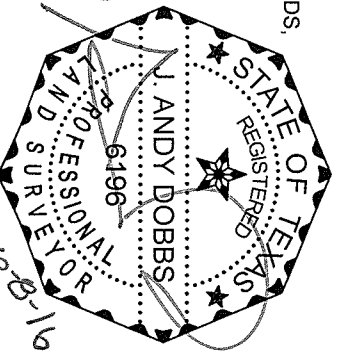


STREET ABANDONMENT
0.008 ACRES
350 SQ. FT.

JOHN GRIGSBY SURVEY
ABSTRACT NO. 495

MALCOLM X BOULEVARD
 (FORMERLY OAKLAND AVENUE)
 (A 60' RIGHT-OF-WAY)
N24°55'44"W 101.92'
S24°55'44"E 97.10'

STREET ABANDONMENT
 BEING A PORTION OF ELM STREET
 ADJACENT TO BLOCK B/481
 ELIZA MCCOY'S ADDITION
 CITY OF DALLAS, DALLAS COUNTY, TEXAS



LEGEND
 P.O.B. = POINT OF BEGINNING
 X F = "X" CUT IN CONCRETE FOUND
 X S = "X" CUT IN CONCRETE SET
 D.R.D.C.T. = DEED RECORDS OF DALLAS COUNTY, TEXAS
 M.R.D.C.T. = MAP RECORDS OF DALLAS COUNTY, TEXAS
 O.P.R.D.C.T. = OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS
 C.M. = CONTROLLING MONUMENT
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 REGISTERED PROFESSIONAL
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 andy.dobbs@kimley-horn.com



(For SPRG use only)
 Reviewed By: SL
 Date: 6-10-14
 SPRG NO.: 3555

Kimley»Horn
 12750 Merit Drive, Suite 1000
 Dallas, Texas 75251
 Firm # 10115500
 Tel. No. (972) 770-1300
 Fax No. (972) 239-3820
 Scale 1" = 50'
 Drawn by MTC
 Checked by JAD
 Date JUNE 2016
 Project No. 064405603
 Sheet No. 2 OF 2

BEING a 130 square feet (0.003 acres) tract of land situated in the John Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas and being adjacent to City Block 1/481, Official City of Dallas Block Number, and being part of Main Street (a 67-foot wide right-of-way) shown on the plat of Crowdus & Akard's Addition, an addition to the City of Dallas, Texas created by the plat thereof recorded in Volume W, Page 625, and Volume 3, Page 523, Map Records of Dallas County, Texas; and being more particularly described as follows:

BEGINNING at an "X" cut in concrete found (controlling monument) for the south end of a right-of-way corner clip at the intersection on the west right-of-way line of Malcolm X Boulevard (a 60-foot wide right-of-way) and the north right-of-way line of said Main Street and the south line of said Block 1/481; from said point an "X" cut in concrete found (controlling monument) at the north end of said right-of-way corner clip bears North 27°57'25" East, a distance of 6.33 feet;

THENCE departing said north right-of-way line of Main Street and said south line of Block 1/481, South 27°57'25" West, a distance of 1.34 feet to an "X" cut in concrete set for corner;

THENCE being parallel and 1.00 feet perpendicular to said north right-of-way line of Main Street, South 76°12'46" West, a distance of 129.65 feet to an "X" cut in concrete set for corner;

THENCE North 14°50'50" West, a distance of 1.00 feet to a point in a building for corner and being in said north right-of-way line of Main Street and said south line of Block 1/481;

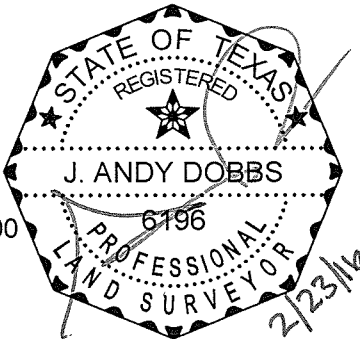
THENCE with said north right-of-way line of Main Street and said south line of Block 1/481, North 76°12'46" East, a distance of 130.56 feet to the **POINT OF BEGINNING** and containing 130 square feet or 0.003 acres of land.

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983. (2011)

(For SPRG use only)
 Reviewed By: JD
 Date: 2-24-16
 SPRG NO: 3554

RIGHT-OF-WAY ABANDONMENT
 BEING A PORTION OF MAIN STREET
 ADJACENT TO BLOCK 1/481
 CROWDUS & AKARD'S ADDITION
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

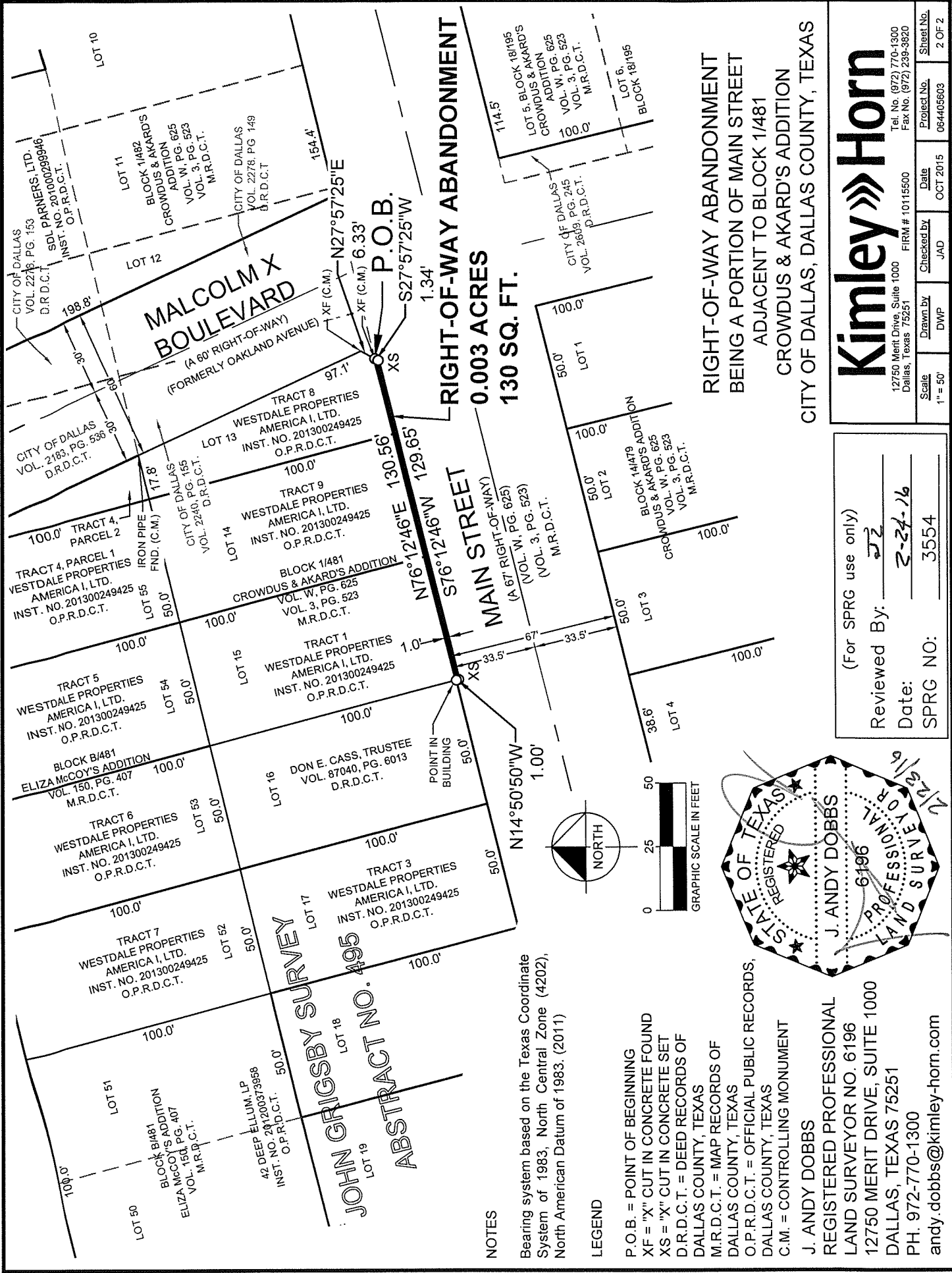
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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	DWP	JAD	OCT 2015	064405603	1 OF 2



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Dallas, Texas 75251
FIRM # 10115500
Tel. No. (972) 770-1300
Fax No. (972) 239-3820

Scale	1" = 50'
Drawn by	DWP
Checked by	JAD
Date	OCT 2015
Project No.	064405603
Sheet No.	2 OF 2

(For SPRG use only)

Reviewed By: JZ

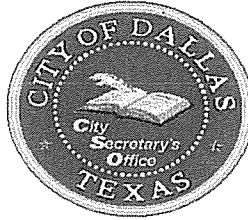
Date: 2-24-16

SPRG NO: 3554

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.



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 SEP 14 2016

ORDINANCE NUMBER 30183

DATE PUBLISHED SEP 17 2016

ATTESTED BY:

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