

11-16-17

ORDINANCE NO. 30734

A municipal setting designation ordinance prohibiting the use of designated groundwater from beneath property generally located at 6000 and 5704 Lemmon Avenue; and 3625 and 3717 Inwood Road 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

30734

(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.

30734

- (3) The portion of the designated property assigned VCP Nos. 650 and 1083 must receive a certificate of completion from the Texas Commission on Environmental Quality by no later than December 13, 2023.

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 December 13, 2023. 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.

30734

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.

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.

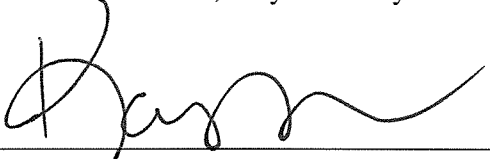
SECTION 20. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this municipal setting designation ordinance.

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:

LARRY E. CASTO, City Attorney

By  _____
Assistant City Attorney

Passed DEC 13 2017

30734

171942
GIS Approved

EXHIBIT A

Page 1 of 5

**20.632 Acres
Being All Of
LOT 1, BLOCK 2/5696
RAYTHEON-DALLAS LEMMON AVENUE ADDITION
And
LOT 3, BLOCK 2/5696
CAMPBELL LEMMON AVENUE ADDITION
And
Adjoining Public Right-of-ways
Miles Bennett Survey, Abstract No. 52
City of Dallas
Dallas County, Texas**

BEING 20.632 acres of land situated in the City of Dallas, in the Miles Bennett Survey, Abstract No. 52 of Dallas County, Texas and being all of Lot 1, Block 2/5696 of RAYTHEON-DALLAS LEMMON AVENUE ADDITION, an addition to the City of Dallas, according to the plat thereof, recorded in Instrument No. 200600036809, Plat Records of Dallas County, Texas (P.R.D.C.T.), all of Lot 3, Block 2/5696 of CAMPBELL LEMMON AVENUE ADDITION, an addition to the City of Dallas, according to the plat thereof, recorded in Instrument No. 200900038703, P.R.D.C.T. and a portion of the right-of-way's of Lemmon Avenue, Atwell Street and Inwood Road that adjoin said Lot 1, Block 2/5696 and Lot 3, Block 2/5696, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for the most Easterly Northeast corner of said Lot 1, Block 2/5696, on the Westerly right-of-way line of Inwood Road (100' wide R.O.W.) and same being the most Southerly corner of that certain tract of land conveyed to Chevelle Apartment Group, LLC, recorded in Instrument No. 201200127888, Official Public Records of Dallas County, Texas (O.P.R.D.C.T.);

THENCE: South 49 deg. 37 min. 27 sec. East, across said Inwood Road, a distance of 100.17 feet to a point for corner on the Easterly right-of-way line of said Inwood Road and same being the Westerly line of City of Dallas Block 2477 and of that certain tract of land conveyed to Fairfax Apartments, Ltd. by deed recorded in Volume 2001059, Page 469, Deed Records of Dallas County, Texas (D.R.D.C.T.) and said point also being in a non-tangent curve to the left, having a radius of 905.37 feet and a chord that bears South 26 deg. 02 min. 48 sec. West - 337.11 feet;

THENCE: Along the common line of said Inwood Road and said Block 2477 and with said curve to the left, through a central angle of 21 deg. 27 min. 31 sec. and along an arc distance of 339.08 feet to a point for corner at the end of said curve;

THENCE: South 15 deg. 13 min. 18 sec. West, continuing along the common line of said Inwood Road and said Block 2477, a distance of 3.83 feet to a point for corner;

30734

THENCE: North 74 deg. 46 min. 18 sec. West, across said Inwood Road, at 100.00 feet, passing a 1/2 inch iron rod found on the Westerly right-of-way line of said Inwood Road and same being a common corner of said Lot 1, Block 2/5696 and that certain tract of land conveyed by deed to Kayceetee Partners, LLC, recorded in Instrument No. 201200379576, O.P.R.D.C.T. and continuing with said common line for a total distance of 289.47 feet to a 1/2 inch iron rod found for an inside ell corner of said Lot 1, Block 2/5696 and the Northwest corner of said Kayceetee tract;

THENCE: South 04 deg. 21 min. 37 sec. East, continuing along the common line of said Lot 1, Block 2/5696 and Kayceetee tract and also with the Westerly line of that certain tract of land conveyed by deed to Kings Road Reality, LTD, recorded in Instrument No. 200600388754, O.P.R.D.C.T., a distance of 192.29 feet to a 1/2 inch iron rod with a plastic cap stamped "RPLS 4701", found for corner;

THENCE: South 48 deg. 47 min. 50 sec. West, continuing along the common line of said Lot 1, Block 2/5696 and Kings Road Reality tract, a distance of 177.93 feet to a 3/8 inch iron rod found for corner on the Northeasterly line of the above described Lot 3, Block 2/5696 of Campbell Lemmon Avenue Addition;

THENCE: South 43 deg. 37 min. 40 sec. East, along the common line of said Lot 3, Block 2/5696 and Kings Road Reality tract, at 178.00 feet, passing the most Easterly corner of said Lot 3, Block 2/5696, at the Westerly right-of-way line of said Inwood Road and continuing on across said Inwood Road for a total distance of 278.11 feet to a point for corner on the Easterly right-of-way line of Inwood Road and same being the Westerly line of Lot 1D, Block A/2476, Lemmonwood Shopping Center, an addition to the City of Dallas, according to the plat thereof, recorded in Volume 93157, Page 4033, P.R.D.C.T.;

THENCE: South 42 deg. 54 min. 34 sec. West, along the common line of said Inwood Road and Lot 1D, Block A/2476 and also Lot 2, Block A/2476, a distance of 178.74 feet to a point for corner;

THENCE: North 46 deg. 09 min. 11 sec. West, across said Inwood Road, a distance of 100.02 feet to the Southerly East corner of the above described Lot 3, Block 2/5696 of Campbell Lemmon Avenue Addition and same being the most Easterly corner of that certain parcel of land described in a deed to Dallas Area Rapid Transit (D.A.R.T.), recorded in Volume 2004205, Page 6111, D.R.D.C.T.;

THENCE: South 89 deg. 10 min. 59 sec. West, along the common line of said Lot 3, Block 2/5696 and D.A.R.T. parcel, a distance of 16.54 feet to the Southerly West corner of said Lot 3, Block 2/5696 and same being the most Westerly corner of said D.A.R.T. parcel and said point also being on the Northeasterly right-of-way line of Lemmon Avenue (100' wide R.O.W.);

THENCE: South 44 deg. 41 min. 47 sec. West, across said Lemmon Avenue, a distance of 100.12 feet to a point for corner on the Southwesterly right-of-way line of said Lemmon Avenue and same being the Northeasterly line of Lot 1, Block A/5716 of Weichsel Farm, an addition to the City of Dallas, according to the plat thereof, recorded in Instrument No. 20070051550, P.R.D.C.T.,

THENCE: North 45 deg. 40 min. 47 sec. West, along the common line of said Lot 1, Block A/5716 and Lemmon Avenue for a distance of 53.17 feet to a point for corner at the beginning of a curve to the right, having a radius of 1,959.86 feet and a chord that bears North 38 deg. 45 min. 42 sec. West – 420.49 feet;

THENCE: Along the common line of said Lemmon Avenue, Lot 1, Block A/5716 and the Northeasterly line of Lot 3, Block A/5716 of Coca Cola Bottling Works Addition, an addition to the City of Dallas, according to the plat thereof, recorded in Volume 80087, Page 1117, P.R.D.C.T. and with said curve to the right, through a central angle of 12 deg. 19 min. 00 sec. and along an arc distance of 421.30 feet to a point for corner at the end of said curve;

THENCE: North 32 deg. 36 min. 21 sec. West, continuing along the common line of said Lemmon Avenue and said Lot 3, Block A/5716, at 491.04 feet, passing the Northeast corner of said Lot 3, Block A/5716 at the intersection of the Southwesterly right-of-way line of said Lemmon Avenue and the Southerly right-of-way line of Atwell Street (50' wide R.O.W.) and continuing across said Atwell Street a total distance of 542.22 feet to a 1 inch iron rod found at the intersection of the Southwesterly right-of-way line of said Lemmon Avenue and the Northerly right-of-way line of said Atwell Street for the Southeasterly corner of Lot 1, Block C/5715 of Haggard Way, an addition to the City of Dallas, according to the plat thereof, recorded in Volume 2004117, Page 11, P.R.D.C.T.;

THENCE: North 51 deg. 20 min. 40 sec. East, across said Lemmon Avenue, a distance of 100.82 feet to a point at the intersection of the Northeasterly right-of-way line of Lemmon Avenue and the Northerly right-of-way line of said Atwell Street for the Southwesterly corner of Lot 1, Block 1/5696 of Home Depot Intown Addition, an addition to the City of Dallas, according to the plat thereof, recorded in Volume 97124, Page 4453, P.R.D.C.T.;

THENCE: North 57 deg. 21 min. 30 sec. East (Reference Bearing), along the common line of said Atwell Street and Lot 1, Block 1/5696 and Lot 3, Block 1/5696 of Prescott Interests Atwell Addition, an addition to the City of Dallas, according to the plat recorded in Volume 2005075, Page 58, P.R.D.C.T. and a tract of land conveyed to Bordeaux Village Condominiums by deed recorded in Volume 2003196, Page 4392, Deed Records of Dallas County, Texas (D.R.D.C.T.), a distance of 965.29 feet to a point for corner at the beginning of a curve to the right, having a radius of 456.23 feet and a chord that bears North 79 deg. 14 min. 17 sec. East – 340.04 feet;

THENCE: Continuing along the common line of said Atwell street and Bordeaux Village Condominiums tract and with said curve to the right, through a central angle of 43 deg. 45 min. 34 sec. and along an arc distance of 348.44 feet to a point for corner at the beginning of a non-tangent curve to the left, having a radius of 496.48 feet and a chord that bears South 26 deg. 33 min. 30 sec. West - 410.36 feet;

THENCE: Across said Atwell Street along said curve to the left, through a central angle of 48 deg. 49 min. 17 sec., at an arc distance of 64.24 feet, passing an X found in concrete for the most Northerly Northeast corner of said Lot 1, Block 2/5696, on the Southerly right-of-way line of said Atwell Street and same being the Northwest corner of that certain tract of land conveyed to Chevelle Apartment Group, LLC, recorded in Instrument No. 201200127888, Official Public Records of Dallas County, Texas (O.P.R.D.C.T.) and continuing along the common line of said Lot 1, Block 2/5696 and Chevelle Apartment Group tract and with said curve to the left for a

total arc distance of 423.05 feet to a 1/2 inch iron rod with a plastic cap, stamped "West 682", found for corner at the end of said curve and same being the beginning of another non-tangent curve to the left, having a radius of 127.31 feet and a chord that bears South 22 deg. 47 min. 04 sec. East - 115.31 feet;

THENCE: Continuing along the common line of said Lot 1, Block 2/5696 and Chevelle Apartment Group tract and with said curve to the left, through a central angle of 53 deg. 51 min. 22 sec. and along an arc distance of 119.67 feet to a 1/2 inch iron rod with a plastic cap, stamped "West 682", found for corner at the end of said curve;

THENCE: South 49 deg. 37 min. 27 sec. East, continuing along the common line of said Lot 1, Block 2/5696 and Chevelle Apartment Group tract, a distance of 87.75 feet to the POINT OF BEGINNING and containing 898,745 square feet or 20.632 acres of land.

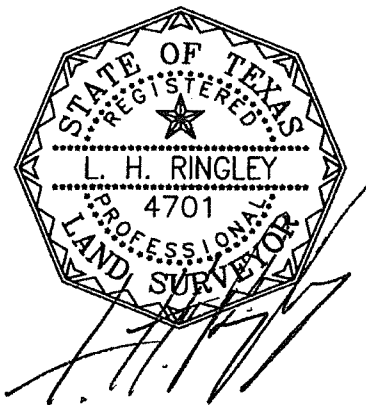
Note:

1. The Reference Bearing for the above prepared metes & bounds description is North 57 deg. 21 min. 30 sec. East, along the Southerly right-of-way line of Atwell Street as shown on the plat of Raytheon-Dallas Lemmon Avenue Addition, recorded in Instrument No. 200600036809 of the Plat Records of Dallas County, Texas.
2. This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.
3. A drawing exhibit of equal date, accompanies this metes & bounds description

Prepared Under My Hand and Seal,
This 30th Day of June, 2014.

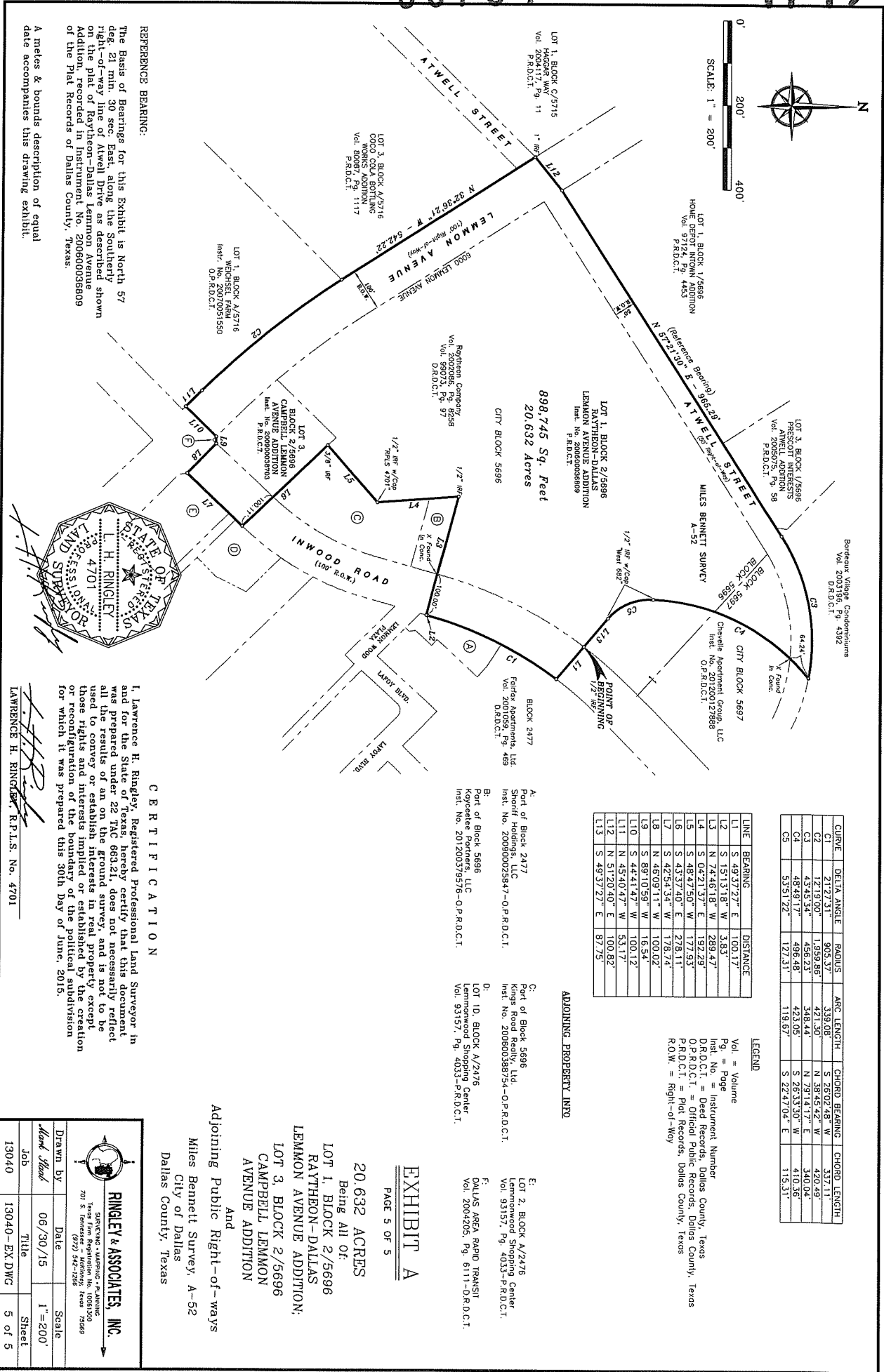


Lawrence H. Ringley, R.P.L.S.
State of Texas, No. 4701



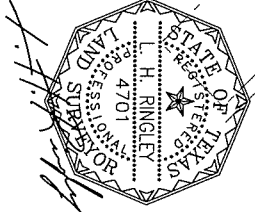
Prepared By:

RINGLEY & ASSOCIATES, INC.
Texas Firm No. 10061300
701 S. Tennessee Street
McKinney, Texas 75069
972-542-1266



REFERENCE BEARING:
 The Basis of Bearings for this Exhibit is North 57 deg 21 min 30 sec East along the southerly right-of-way line of Atwell Street as shown on the plat of Raytheon-Dallas Lemmon Avenue Addition, recorded in Instrument No. 200600058909 of the Plat Records of Dallas County, Texas.

A meter & bounds description of equal date accompanies this drawing exhibit.



CERTIFICATION
 I, Lawrence H. Ringley, Registered Professional Land Surveyor in and for the State of Texas, hereby certify that this document was prepared under 22 TAC 663.21, does not necessarily reflect all the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared this 30th Day of June, 2015.

Lawrence H. Ringley
 R.P.L.S. No. 4701

LINE	BEARING	DISTANCE
L1	S 49°37'27" E	100.17'
L2	S 15°13'18" W	3.83'
L3	N 74°46'18" W	289.47'
L4	S 04°21'37" E	197.29'
L5	S 48°47'50" W	177.93'
L6	S 43°37'40" E	278.11'
L7	S 42°54'34" W	176.74'
L8	N 48°09'11" W	100.02'
L9	S 89°10'59" W	16.54'
L10	S 44°41'47" W	100.12'
L11	N 45°40'47" W	53.17'
L12	N 51°20'40" E	100.82'
L13	S 49°37'27" E	87.75'

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	21°27'31"	905.37'	339.08'	S 26°02'48" W	337.11'
C2	1°41'19.00"	1,959.86'	421.30'	N 38°45'42" W	420.49'
C3	48°44'37"	458.43'	448.44'	N 26°31'07" E	340.04'
C4	48°44'37"	458.43'	448.44'	S 26°31'07" W	410.93'
C5	53°31'22"	123.31'	119.87'	S 22°47'04" E	115.31'

LEGEND
 Vol. = Volume
 Pg. = Page
 Inst. No. = Instrument Number
 D.R.D.C.T. = Deed Records, Dallas County, Texas
 O.P.R.D.C.T. = Official Public Records, Dallas County, Texas
 P.R.D.C.T. = Plat Records, Dallas County, Texas
 R.O.W. = Right-of-Way

- ADJOINING PROPERTY INFO**
- A: Port of Block 2477
 Sheriff Holdings, LLC
 Inst. No. 20090025947-O.P.R.D.C.T.
 - B: Port of Block 5696
 Keycelee Promeris, LLC
 Inst. No. 2012005193978-O.P.R.D.C.T.
 - C: Port of Block 5696
 Kings Road Realty, Ltd.
 Inst. No. 200800359547-O.P.R.D.C.T.
 - D: LOT 10, BLOCK A/2476
 Lemmonwood Shopping Center
 Vol. 93157, Pg. 4033-P.R.D.C.T.
 - E: LOT 2, BLOCK A/2476
 Lemmonwood Shopping Center
 Vol. 93157, Pg. 4033-P.R.D.C.T.
 - F: DALLAS AREA RAPID TRANSIT
 Vol. 2004205, Pg. 6111-D.R.D.C.T.

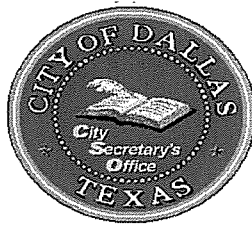
EXHIBIT A
 PAGE 5 OF 5

20.632 ACRES
 Being All of:
 LOT 1, BLOCK 2/5696
 RAYTHEON-DALLAS
 LEMMON AVENUE ADDITION;
 LOT 3, BLOCK 2/5696
 CAMPBELL LEMMON
 AVENUE ADDITION

and
 Adjoining Public Right-of-ways
 Miles Bennett Survey, A-52
 City of Dallas
 Dallas County, Texas

RINGLEY & ASSOCIATES, INC.
 Surveying • Mapping • Planning
 701 S. Frenkel - McKinney, Texas 75069
 (972) 542-1266

Drawn by	Date	Scale
Mark Wood	06/30/15	1"=200'
Job	Title	Sheet
13040	13040-EX.DWG	5 of 5



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 DEC 13 2017

ORDINANCE NUMBER 30734

DATE PUBLISHED DEC 16 2017

ATTESTED BY: